



Corporate Report

PDC DEC 3 2012

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DATE: November 13, 2012

TO: Chair and Members of Planning and Development Committee
Meeting Date: December 3, 2012

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Proposed Amendments to the City of Mississauga
Telecommunication Tower/Antenna Facilities Protocol
(Interim)**

- RECOMMENDATION:**
1. That the Report dated November 13, 2012 from the Commissioner of Planning and Building entitled "Proposed Amendments to the City of Mississauga Telecommunication Tower/Antenna Facilities Protocol (Interim)", be received for information.
 2. That the revised "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol" dated November 13, 2012, attached as Appendix 7 to the Report dated November 13, 2012, from the Commissioner of Planning and Building entitled "Proposed Amendments to the City of Mississauga Telecommunication Tower/Antenna Facilities Protocol (Interim)", be adopted to replace the "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol (Interim)" dated March 5, 2012.
 3. That the fee of \$2,500.00 for the processing and consultation required for Telecommunication Tower/Antenna Facilities Request Forms be increased to \$5,000.00 where a public information session is required and \$4,000.00 where a public

information session is not required and that the necessary amendment to the City's General Fees and Charges By-law be brought forward to Council for consideration.

4. That a fee of \$300.00 be approved for the processing and review required for issuing a Notice of Telecommunication Tower/Antenna Facility Exclusion and that the necessary amendment to the City's General Fees and Charges By-law be brought forward to Council for consideration.

**REPORT
HIGHLIGHTS:**

- Responses are provided to the Wireless Carriers' comments regarding the City's interim Telecommunication Tower/Antenna Facilities Protocol;
- Comments are provided on the Town of Oakville's revised protocol requirements;
- The role of the Federation of Canadian Municipalities Antenna Tower Working Group is summarized;
- Proposed amendments to the City's interim protocol dated March 5, 2012 are outlined; and
- Proposed changes to the processing fees for telecommunication tower/antenna facility requests are detailed.

BACKGROUND:

On March 7, 2012, City Council adopted the recommendations in Resolution 0046-2012 attached as Appendix 1 regarding Telecommunication Tower/Antenna Facilities ("tower facility(ies)"), including an interim protocol to improve the public consultation process.

Presentation to Resident Associations (MIRANET)

In May 2012, the Mississauga Residents' Associations Network (MIRANET) held a roundtable meeting regarding tower facilities. The agenda included a presentation by Planning and Building Department staff regarding the City's interim protocol and a presentation titled "Telecom 101" by a wireless carrier

representative. The City's interim protocol was well received by the audience and no written comments were received from the resident associations.

Wireless Carriers' Comments Regarding the Interim Protocol

Mr. Stephen D'Agostino, solicitor for Bell Canada, Rogers Communications and Telus Communications, provided a letter dated May 18, 2012 outlining comments regarding the City's interim protocol. The letter is attached as Appendix 2.

The wireless carriers are supportive of many elements of the interim protocol. However, they have concerns with several other elements that they believe will impact their ability to continue to provide high speed wireless networks that residents and businesses rely on.

Hydro One's Moratorium

In April 2012, Hydro One representatives met with Mississauga representatives, including a local Member of Parliament (MP), a local Member of Provincial Parliament (MPP), Ward Councillors and City staff to discuss Hydro One's moratorium on locating telecommunication antennas on existing hydro infrastructure. Hydro One explained that they are working with the wireless carriers to upgrade their networks on existing sites, but limiting the installation of antennas on new sites. The primary reason for limiting the installation of antennas is related to Hydro One's focus on their core business, the delivery of electricity. Hydro One's letter (undated) outlining their position is attached as Appendix 3.

Industry Canada's Exclusion Criteria

To date, there has been no response from the Minister of Industry and Minister of State (Agriculture) regarding the City's request that Industry Canada reconsider their exclusion criteria for tower facilities less than 15 m (49.2 ft.) in height.

COMMENTS:**Town of Oakville Protocol**

In May 2012, the Town of Oakville revised their protocol incorporating a new provision requiring a letter of endorsement from the local MP in order for the Town to consider the application complete and ready for processing. The Town's protocol also maintains a 200 m (656.2 ft.) separation distance from sensitive land uses, despite Oakville staff's recommendation to reduce the separation distance to 20 m (65.6 ft.).

Industry Canada's position regarding a minimum 200 m (656.2 ft.) separation distance to sensitive land uses and requiring a letter of endorsement from the local MP is outlined in a letter dated September 5, 2012 attached as Appendix 4.

Letter of Endorsement from local Member of Parliament

As part of the procedures regarding tower siting, which are under federal jurisdiction, proponents are required to undertake local consultation with Land Use Authorities (LUA) that govern land use issues. These procedures do not have a formal requirement to involve the local MP in the consultation process.

The requirement of a letter of endorsement from the local MP could be considered by the City, however the likelihood of receiving a letter would be minimal. This would affect the LUA consultation process by stopping or delaying the process. Should the LUA consultation process be stopped or delayed due to the requirement of a letter of endorsement from the local MP, the City would not be provided with an opportunity to:

- a) Influence the siting and design of a tower facility;
- b) Communicate any particular amenities, sensitivities, planning priorities and other relevant characteristics of the area; and/or
- c) Provide written comments to the proponent and Industry Canada, including any objections to a tower facility proposal.

The interim protocol requires the proponent to notify the local MP of a tower facility proposal and request that the MP convene an open house where a tower facility is located within or near a residential area. Should the local MP decide not to convene an open house, the proponent is required to do so.

Industry Canada has advised that should the City attempt to hinder the development of a federally regulated undertaking by requiring a letter of endorsement from the local MP and stopping or delaying the LUA consultation process, they would advise proponents to proceed with public consultation excluding the City from the process. Upon the proponent completing public consultation, Industry Canada would review all relevant information and decide whether the installation or modification of the tower facility could proceed without the City's participation.

It is recommended that a Letter of Endorsement from the local MP not be required in the protocol.

200 m (656.2 ft.) Separation Distance from Sensitive Land Uses

Wireless carriers have advised that due to the current demand for wireless service, a new tower facility would likely provide sufficient coverage within a distance of approximately 1 km (0.62 mile) from a lower tower and approximately 2 km (1.24 miles) from a taller tower. The reference map attached as Appendix 5 illustrates the effect of a 200 m (656.2 ft.) separation distance on coverage within the City. The map shows that approximately three-quarters of the City's land area would be excluded from the potential placement of a tower facility.

Industry Canada has indicated that such a restriction would serve to unduly hinder the development of a federally regulated undertaking. Industry Canada has also pointed out that they have adopted Health Canada's guidelines (i.e. Safety Code 6) for the purpose of protecting the general public, if the intent of the separation distance is to deal with perceived health concerns. Therefore, it is Industry Canada's position that a separation distance is not required.

It is recommended that a minimum 200 m (656.2 ft.) separation distance from sensitive land uses not be incorporated in the protocol.

Federation of Canadian Municipalities Antenna Tower Working Group

In June 2012, the Federation of Canadian Municipalities (FCM) established an antenna tower working group consisting of FCM staff and municipal staff across Canada, including City of Mississauga Planning and Building Department staff. The purpose of this working group is to discuss current challenges related to tower siting, share best practices and provide technical input into the development of a FCM /Canadian Wireless Telecommunication Association joint protocol template which includes general location and design guidelines. The joint protocol template is intended to serve as a resource for municipalities that are looking to develop a protocol. This process is also intended to support FCM's work with Industry Canada to revise the federal government's legislative and regulatory framework regarding tower siting, including Industry Canada's exclusion criteria for towers less than 15 m (49.2 ft.) in height.

The protocol template is currently being developed and the final product is estimated to be released in early 2013. When the template is released, staff will review the content of the template and determine if any changes to the City's protocol will be necessary.

Proposed Amendments to the Interim Protocol

Planning and Building Department staff have evaluated other municipal protocols, including various best practices shared through the FCM working group. In addition, staff have considered comments received from the wireless carriers and Industry Canada, and are recommending changes to the interim protocol, where appropriate. The recommendations are contained in a Response to Comments Table attached as Appendix 6, and the recommendations are reflected and shaded grey in the Proposed Revised Protocol attached as Appendix 7.

The recommendations do not include editorial changes, matters of style or organization, changes to the arrangement of text, or minor rewording that do not alter the intent of the applicable provision.

The format of the proposed revised protocol has been reorganized, therefore, the section numbers in the proposed revised protocol have been renumbered accordingly. The Response to Comments Table includes both references to the existing interim protocol section and the revised protocol section.

Key changes to the interim protocol are:

1. Replacing the City's internal process for tower facility proposals that are less than 15 m (49.2 ft.) high with a Confirmation of Exclusion process.
2. Clarification that any additional increase in height to an existing tower facility that was previously excluded from the consultation process will be subject to the consultation process.
3. New provisions regarding tower facility requests located on City owned properties.
4. New provisions regarding amateur radio operators proposing radiocommunication antenna systems (AKA ham radio towers) in residential areas.
5. Clarification that the City will issue a Letter of Comment that may indicate that the consultation process has been concluded or that there are objections to the proposal which may include outstanding concerns/issues.
6. New provisions regarding post construction requirements of notifying the owner/operator of a non-conforming tower facility and verifying the height of a tower facility.
7. New provisions regarding redundant tower facilities.

There are no major changes to the public consultation process. Minor changes include clarification of provisions and the addition

of new provisions, such as a structured public information session including a presentation by the proponent rather than an open house drop-in format.

Fees and Staff Resources

Tower Facility Request Fee

The current fee for a tower facility request is \$2,500.00. Staff have reviewed the tasks and the amount of effort spent based on the interim protocol. Additional time is spent on tower facilities proposed within or in proximity to residential areas which require a public information session, compared to proposals that are located in employment areas. Therefore, the following fees are recommended:

- \$5,000.00 for tower facility requests requiring a public information session; and
- \$4,000.00 for tower facility requests not requiring a public information session.

Oakville recently increased their fee from \$3,825.00 to \$5,000.00. These recommended fees are also comparable to fees charged in Brampton and Toronto of \$3,832.00 and \$4,500.00, respectively. It will be necessary to amend the General Fees and Charges By-law to revise the fee.

Confirmation of Facility Exclusion Fee

The new proposed Confirmation of Exclusion process for excluded tower facilities will require staff to review these proposals, including the issuance of a Notice of Tower Facility Exclusion. This new process would be equivalent to a Site Plan Approval Express. Therefore, it is recommended that a similar fee of \$300.00 be approved in order to recover costs for this new process. It will be necessary to amend the City's General Fees and Charges By-law to incorporate this fee.

Staff Resources

During 2011 approximately 25 tower facility requests were reviewed by Planning and Building staff. Since City Council adopted the interim protocol in March 2012, there have been a total of 6 tower facility requests submitted. Although the number of requests has decreased, the amount of time spent by staff per request has increased based on the interim protocol. Staff will monitor the implications on staff resources resulting from the proposed revised protocol and the volume of tower facility requests and exclusions.

FINANCIAL IMPACT: It is estimated that approximately 8 to 10 tower facility requests and 10 tower facility exclusions will be submitted each year. The estimated yearly cost recovery revenue would be approximately \$35,000.00 to \$45,000.00 and \$3,000.00, respectively.

CONCLUSION: One of the main objectives of the City's protocol is to ensure that proper notification and consultation is provided to local residents affected by a proposed tower facility, where the tower facility is not excluded from public consultation.

The proposed revised protocol is in line with various municipal protocols across Canada, including best practices shared through the FCM working group, and maintains more rigorous consultation requirements for proponents than Industry Canada's default public consultation process. Furthermore, it establishes a local land use consultation framework that ensures the City contributes local knowledge that facilitates and influences the location and design of tower facilities.

The proposed revised protocol represents a balance between the telecommunications needs of business and residents, and the concerns of landowners, while taking into account the jurisdiction of the federal government.

ATTACHMENTS:

- Appendix 1: Resolution 0046-2012 adopted by City Council at its meeting on March 7, 2012
- Appendix 2: Letter dated May 18, 2012, from Wireless Carriers
- Appendix 3: Letter from Hydro One (undated)
- Appendix 4: Letter dated September 5, 2012, from Industry Canada
- Appendix 5: Reference Map – 200 m (656.2 ft.) Separation Distance
- Appendix 6: Response to Comments Table
- Appendix 7: Proposed Revised Protocol dated November 13, 2012

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Timothy Lee, Planner, Planning Services Centre



RESOLUTION 0046-2012
adopted by the Council of
The Corporation of the City of Mississauga
at its meeting on March 7, 2012

0046-2012 Moved by: Pat Saito

Seconded by: Katie Mahoney

1. That the Report dated March 5, 2012 from the Commissioner of Planning and Building entitled "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol", be received for information.
2. That the revised "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol" attached as Appendix 2 in the Report dated March 5, 2012, from the Commissioner of Planning and Building entitled "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol", be adopted as an interim protocol.
3. That the Report dated March 5, 2012, from the Commissioner of Planning and Building entitled "City of Mississauga Telecommunication Tower/Antenna Facilities Protocol" and resolution of Council be circulated to all Mississauga wireless service providers, local Members of Parliament and Ratepayer Associations in Mississauga.
4. That a fee of \$2,500.00 be approved for the processing and consultation required for Telecommunications Tower/Antenna Facilities Request Forms and that the necessary amendment to the City's Fees and Charges By-law be brought forward to Council for consideration.
5. That a fee of up to \$4,000.00 plus 15% administration fee be approved for the purposes of retaining a consultant, when and if required, to assist with the review and consultation required for Telecommunication Tower/Antenna Facilities requests and that the necessary amendment to the City's fees and Charges By-law be brought forward to Council for consideration.
6. That the Commissioner of Planning and Building report back on the effectiveness of the new process by December 31, 2012.

7. That the City of Mississauga request that the Association of Municipalities of Ontario (AMO) work with municipalities across the Province of Ontario and wireless service providers to request that Hydro One reconsider its moratorium on the location of telecommunication antennas on existing hydro infrastructure.
8. That the City of Mississauga staff meet with AMO officials as soon as possible in view of Mississauga's and other municipalities' growing need to have Hydro One change its practice; and that the local Members of Parliament and local Members of Provincial Parliament are asked to support this request by writing to AMO, the Province of Ontario and Hydro One.
9. That the City of Mississauga request that Industry Canada reconsider the exclusion criteria established in their document CPC-2-0-03, Section 6, to require proponents to consult with the Land Use Authority and the public for new telecommunication towers with a height of less than 15m (49.2ft.) above ground level.

THOMSON ROGERS

LAWYERS

Stephen J. D'Agostino

416-868-3126

sdagostino@thomsonrogers.com

SENT BY E-MAIL

May 18, 2012

Mr. Timothy Lee
City of Mississauga
Development and Design Division
Planning and Building Department
300 City Centre Drive
Mississauga, Ontario
L5B 3C1

Dear Mr. Lee:

**Comments Concerning City of Mississauga
Telecommunications Tower/Antenna Facilities Protocol (Interim)
Our File No. 050739**

We are the solicitors for Bell, Rogers Communications and TELUS (the "Wireless Carriers") in connection with the City of Mississauga's ("Mississauga") Telecommunication Tower/Antenna Facilities Interim Protocol ("Protocol"). We are writing to you further to our attendance at Development Committee and our subsequent e-mail exchanges with you. Given the nature of the Protocol, our clients have chosen to collaborate on their response so that the City of Mississauga has the benefit of their collective experience.

As you will see in the following paragraphs, the Wireless Carriers are strong supporters of the concept of a protocol designed to reflect local planning preferences provided it respects Industry Canada's requirements. Having devised the concept of a protocol in the mid 1990's, the Wireless Carriers have a wealth of experience working with municipalities developing policies that meet the needs of all stakeholders. The Wireless Carriers also have a long history of working with Mississauga to assist in the development of an antenna siting protocol. For example, they met with City Staff in 1992 and 2008 advocating that a protocol be developed. Although we have substantial concerns with the Protocol, we believe that it is important that Mississauga take steps to formally identify a process and

siting preferences within Industry Canada's policy frame work. Please accept the following and related appendices as our clients' comments on the Protocol.

At the outset, and on behalf of the Wireless Carriers, we wish to thank the City of Mississauga for consulting with interested stakeholders. We look forward to the opportunity to review further drafts and answer questions as they arise.

While there is much in the Protocol that the Wireless Carriers can support, they have concerns with several important elements in the Protocol which if unaddressed will negatively impact their ability to provide the high speed wireless networks that your residents and businesses have come to rely on. These concerns include:

1. The Protocol does not respect Industry Canada's mandatory exclusions from the requirement to consult with Municipalities or the public. These exclusions may be augmented but may not be restricted (see the Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols attached as Appendix 5 at s. 3.1 page 5 which addresses this issue);
2. The documentary requirements related to pre-consultation are too onerous. The purpose of pre-consultation is to provide a sanctioned forum for the exchange of information before the proponent crystallizes its siting decision. Requiring substantial site specific documentation at this point will diminish the likelihood that the municipality will be able to influence siting decisions as the proponent may become committed to the site.
3. Many of the provisions will be impossible for proponents to address given restrictions in siting technology. We regularly provide municipal staff with a short presentation entitled Telecom 101 which addresses these siting constraints. We would be pleased to facilitate such a presentation to interested staff and councilors in Mississauga based in part on the slides attached as Appendix 8;
4. The Protocol requires notice and suggested separation distances based on the greater of 120 metres or three times the height of the tower. In our experience such an approach results in higher towers on average since there is no process advantage to any proposal less than 40 metres in height. In addition, the requirement violates Industry Canada's notice provisions which we understand to be a maximum. Attached as Appendix 7 is a copy of a ruling by Industry Canada concerning the Township of King Protocol as an example;

5. Siting requirements that suggest facilities should be located away from the street edge are problematic. The practical effect of such a policy will be to increase tower heights when they are being proposed at the lower end of the range. This is as a result of shadowing by buildings located between the antenna and the street edge (see Appendix 8);
6. Provisions that suggest a peer review could be required as part of the process is of concern. In our experience such a requirement is unprecedented with respect to telecommunication facilities and is unjustified given the modest land use impact associated with these facilities;
7. Provisions in the Protocol that require that the public open house be organized by the local MP are impractical and may result in less information flowing to the public since the proponent will not be in control of the information or how it is presented. By analogy, we suggest that a similar result would occur if the Region of Peel was required to hold Mississauga's local official plan meetings. On reflection we think everyone will agree that the best open house is one organized and controlled by the proponent;
8. The requirement for notice signs in addition to other forms of notice is unjustified and constitutes an undue burden on proponents contrary to Industry Canada's Guide to Municipalities (see the Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols attached as Appendix 5 at s. 2.1 which addresses this issue);
9. The Protocol emphasizes co-location without regard to proximity to residential uses. Co-located facilities are more visually intrusive than single carrier facilities. As a result, we suggest that the Protocol express a preference for non co-located facilities when they are located in or near residential zones;
10. The Protocol does not provide for a clear concurrence statement to Industry Canada. Rather, it provides for comment. Given the nature of spectrum licensing (discussed below), it is imperative that Mississauga either concur or not concur with reasons. The provision of comments is not contemplated by Industry Canada's process; and
11. The requirement for a second round of public notice, after 270 days, is unfair and unjustified and an undue burden on proponents contrary to Industry Canada's requirements.

In order to assist you in understanding our comments in context, we have embedded them into the Protocol which is attached as Appendix 1.

Our Clients' Commitments

The Wireless Carriers are committed to providing local policy makers and citizens with a better understanding of the issues related to telecommunications antennas and their support structures. This information can help the public, the wireless industry and government policy makers ensure that every community maintains its quality of life while enjoying the benefits of wireless service. *Our clients' record in this regard far exceeds the expectations set out in the federal government's policy documents.*

The Wireless Carriers are also committed to meaningful land use consultation with local municipal governments on land use issues related to the siting and mitigation of wireless telecommunication facilities.

Background

The ongoing evolution of telecommunications, sparked by the rapid development of wireless technology, offers many benefits to Canadians. More than 25.1 million Canadians rely on wireless voice and data communications to enhance their personal security and safety using services such as 911 and *CAA in addition to the advantages wireless communications have for more frequent contact with friends and family members, and to make more productive use of their personal and professional time. Governments and public sector emergency response agencies such as police, fire and ambulance services also rely on wireless telecommunications to meet the critical response times they are mandated to achieve in the public interest. At a national level, Canada's wireless carriers invest more than \$1 billion dollars each year in infrastructure alone and employ approximately 261,000 Canadians. In our view, wireless telecommunications have become an essential service in cities such as Mississauga and an important part of Mississauga's economic success.

The wireless industry is attempting to build and expand the infrastructure necessary to satisfy the enormous demand for high quality, reliable wireless service. We recognize that government officials are trying to make policy decisions that protect the public interest in the provision of wireless services without undue land-use impacts while balancing the need for technological innovation and economic growth. We believe that close co-operation among wireless service providers, government officials at all levels and the general public is needed to ensure that the benefits of wireless communications are fully realized.

Spectrum Licenses

The Wireless Carriers operate their networks based on spectrum licenses issued by the Federal government. We note however, that the Protocol suggests that Industry Canada makes a decision with respect to these licenses and specific sites. That is not usually the case. A spectrum license provides pre-approval for the construction of wireless facilities within a specific geographic area at a specific frequency. The Wireless Carriers are subject to conditions of license similar to conditions of draft approval of a subdivision. Once the conditions have been satisfied, the carrier is free to construct wireless facilities in accordance with its spectrum license. Industry Canada is only involved in decision making where an impasse has arisen that requires their determination related to a specific site. Compliance with the CPC including the requirement to obtain municipal concurrence is a condition of those licenses.

The Constraints on Site Selection

It is important to note that site selection of wireless telecommunications facilities does not occur randomly. Among the factors considered by the Wireless Carriers are:

1. expected usage patterns of wireless service including proximity to users;
2. local terrain and building types which can be a significant challenge as a result of shadowing;
3. interaction with existing radio base stations;
4. line of site requirements for high quality communications;
5. opportunities to use existing structures;
6. the availability of a willing landlord; and
7. the Industry's commitment to high service standards and customer satisfaction.

You may recall from our presentation to Council that the biggest challenge facing the Wireless Carriers in Mississauga, is provision of sufficient capacity rather than coverage. In that regard we provided Council with illustrations demonstrating that the Wireless Carriers' Networks are dynamic such that the area being serviced by any facility effectively contracts once it reaches capacity. This results in areas of poor or no coverage appearing in the network. Once these areas of poor or no coverage become sustaining, as a result of the density of use, the Wireless Carriers have no choice but to construct a new facility within the affected area. Generally, the new facility can be smaller in size given its more modest radio network objectives.

Given the pattern of wireless usage experienced in Canada, it is inevitable that these areas of poor or no coverage will appear in Mississauga's residential areas. Since wireless technology must be located proximate to its users, new facilities will be required in the residential areas to meet the demand emanating from them.

These technical constraints are graphically illustrated in the diagrams attached to this letter as Appendix 8. The Wireless Carriers are prepared to meet with City staff and interested Councilors to describe how the wireless systems work in detail and how the constraints affect their siting decisions in order to assist in the development of this Protocol.

Key Elements of the New CPC

On June 28, 2007, Industry Canada issued notice of Issue 4 of CPC-2-0-03 ("CPC") in the Canada Gazette. Compliance with the CPC is a condition of the Wireless Carriers Spectrum licenses.

The CPC contains default municipal and land use authority consultation provisions as well as technical requirements. The CPC requires that the Wireless Carriers follow its default consultation provisions unless the council of the municipality has adopted a protocol establishing a local wireless telecommunications process. In some respects, protocols are permitted to influence processes or influence siting decisions to accommodate local preferences. In others, they are not. As well, the CPC contains provisions which indicate that Industry Canada will overrule protocols where they are unreasonable thus ensuring balance in the protocol process.

The CPC contains explicit exemptions from the usual requirement to consult with the public or municipal governments. We note that Industry Canada's exemptions may not be constrained by a protocol. They may only be expanded (see Appendix 5 s. 3.1). In our experience, the use of expanded exemptions to municipal and public consultation has been effective in many municipalities to encourage modification to the Wireless Carriers siting and design decisions. An example of a useful exemption would be a complete exemption for any wireless facility located within a road allowance or on other city owned land. Since infrastructure in a road allowance is already subject to the municipality's access agreement process, there is no need to require a second yet similar process under the Protocol. An extract from the recently adopted Ottawa Protocol, attached as Appendix 3 is an example of such an approach.

In order to understand the scope of a protocol, it is noteworthy that since the latest version of the CPC came into force in January 2008, Industry Canada has overruled provisions in a number of protocols including:

1. The City of Toronto (Industry Canada overruled the City's of Toronto's protocol concerning limits on enhancements to Health Canada's Safety Code 6, and public consultation notification distances beyond three times the tower height measured from the base of the tower);
2. Town of East Gwillimbury, (related to notice provisions which exceeded three times the tower height measured from the base of the tower);
3. King Township (related to notice provisions to property owners which exceeded three times the tower height measured from the base of the tower as well as a notice provision to adjacent municipalities);
4. The Niagara Escarpment Commission (with respect to provisions which encroached on Industry Canada's exclusion for the placement of new antenna structures on existing structures which do not increase the overall height above 25% of the original structure's height); and
5. The Town of Richmond Hill (Industry Canada overruled a council endorsed moratorium on new towers).

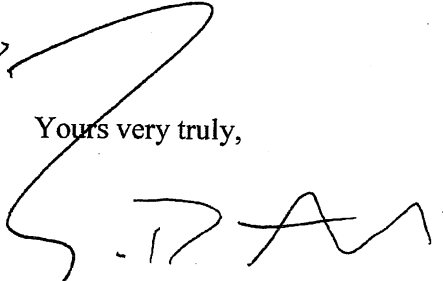
We note that the CPC contains options that could be reflected in the Protocol in order to avoid triggering the CPC's default requirements to reflect local preferences. We have included a list of options at Appendix 2 together with our observations concerning their applicability to this Protocol.

Conclusion

We are grateful for this opportunity to provide input into Mississauga's Protocol. We hope our comments have been helpful.

As you can see from these comments, our clients have substantial experience in municipal consultation matters. We would be happy to work with you to develop specific language based on these comments. To that end, Bell, Rogers Communications and TELUS request the opportunity to meet with you to discuss the proposed Protocol and explain the constraints they face in the deployment of their wireless networks.

Yours very truly,



Stephen J. D'Agostino

Stephen Joseph D'Agostino Law Professional Corporation

SJD/aph

Attachments

- Appendix 1 – Draft Protocol with embedded comments
- Appendix 2 – CPC options for municipal policies
- Appendix 3 – Extracts from the protocols of the cities of Ottawa, Hamilton, Waterloo, Toronto,
- Appendix 4 – Extracts from City of Ottawa Protocol
- Appendix 5 – Industry Canada's Guide to Assist Land-use Authorities in Developing Antenna Siting Protocols
- Appendix 6 – Extract from City of Ottawa Protocol
- Appendix 7 – Industry Canada Letter re: King Township Protocol
- Appendix 8 – Extract Telecom 101 Slides
- Appendix 9 – Extract from City of Ottawa Protocol
- Appendix 10 – Extract from Town of Markham

c. Ms. Marilyn Ball
Director, Development & Design
City of Mississauga
Planning and Building Department

Hydro One Networks Inc.
483 Bay Street
South Tower, 6th Floor
Toronto, Ontario M5G 2P5
www.HydroOne.com

Tel: (416)345-6431

Spencer Gill
Corporate Affairs
Manager – Government Relations



Karen,

As a follow up to our discussion and your May 24th, 2012 email to Mike Sheehan, VP Real Estate and Facilities, I would like to explain Hydro One's position with respect to the installation of cellular infrastructure on our transmission and distribution assets. In addition to this I would like to provide an update on discussions we have had with City of Mississauga officials.

Transmission Towers:

Hydro One has cellular infrastructure installed on approximately 100+ transmission towers throughout the province. At this time we are prepared to work with carriers under commercial terms to upgrade to 4G capabilities only on towers with existing cellular infrastructure.

The primary reason for limiting the installation of cellular equipment on our towers is related to a renewed focus on our core business, and driving productivity and efficiencies for what we do best, which is the safe and reliable delivery of electricity. As such our crews which are capable of performing such work are in high demand and are being directed to perform critical work elsewhere on our network.

Distribution Poles:

Hydro One Networks Inc. (HONI) will consider attaching antennas onto HONI structures. However, we are limiting the antenna to be in the telecom space on a pole, which is below the primary neutral and below the "separation space". Essentially where wire telecom conductors are located. Any agreements with carriers to accommodate antennas would have to ensure the safety for all workers with respect to hazards associated with such things as frequency, radiation and climbing obstructions.

City of Mississauga:

On April 12 Mike Sheehan, VP of Real Estate and Facilities, and I met with several Mississauga representatives, including the MP, MPP and local city councillor. At this meeting we discussed our existing policy pertaining to cellular infrastructure on our transmission towers. We also discussed the likelihood that 4G cellular infrastructure installed only on local transmission towers would not likely provide adequate coverage to support a 4G network in the area.

This meeting was subsequent to the City's resolution which you had forwarded to Mike Sheehan on May 24th. We believe the issue with respect to the use of cellular infrastructure on our transmission towers was addressed at this meeting.

Please feel free to contact me if you have any further questions,

A handwritten signature in black ink, appearing to read "S. Gill".

Warm regards,
Spencer Gill



Industry Canada
Spectrum, Information Technologies
and Telecommunications
55 St. Clair Avenue East
Room 909, 9th Floor
Toronto, Ontario
M4T 1M2

Industrie Canada
Spectre, technologies de l'information
et télécommunications
55 est, avenue St. Clair
Bureau 909, 9^e étage
Toronto, Ontario
M4T 1M2

September 5, 2012

Timothy Lee
Planner, Planning Services Centre
Development and Design Division
Planning and Building Department
City of Mississauga

SENT BY EMAIL

Dear Mr. Lee:

This is further to your email of August 22, 2012 requesting Industry Canada's position with respect to potential changes being considered by the City of Mississauga to its interim telecommunication tower/antenna facility protocol of March 5, 2012.

Specifically, you requested comments on incorporating, into a revised protocol, the following two requirements:

- 1) a restriction for a minimum 200 m setback to sensitive land uses; and*
- 2) a requirement for a letter of endorsement from the applicable MP in order for the Town to consider the application complete and to process it.*

Industry Canada position

The following will provide Industry Canada's position in terms of the applicability of the above items as part of the local consultation process as intended in our antenna tower siting procedures, as well as the guidance we will provide to proponents if these are incorporated into a revised protocol.

/...2

1) A restriction for a minimum 200 m setback to sensitive land uses

Industry Canada's antenna tower siting procedures are outlined in CPC-2-0-03 (Issue 4) - "Radiocommunication and Broadcasting Antenna Systems".

As part of the antenna tower siting procedures, there is no requirement for setback distances as such proposed restrictions would serve to unduly hinder the development of federally regulated radiocommunication facilities. I would refer you to the attachment map provided with your email of August 22, 2012 which clearly shows that new towers would be prohibited in most areas of the City of Mississauga if a 200 m setback was applied in the protocol.

Further, if the proposed use of setbacks is to deal with the perceived health concerns, I would like to confirm with you that Industry Canada has adopted Health Canada's Safety Code 6 for the purpose of protecting the general public, and as such, Industry Canada requires that all radiocommunication installations respect the Safety Code 6 Guideline, "*Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 KHz to 300 GHz*". It is therefore Industry Canada's position that this federal standard should be applied consistently on a national level and that setbacks are not required.

2 A requirement for a letter of endorsement from the applicable MP in order for the Town to consider the application complete and to process it.

The antenna tower siting procedures are outlined in CPC-2-0-03 (Issue 4) Radiocommunication and Broadcasting Antenna Systems. As part of these procedures, proponents are required to undertake local consultation with the Land-Use Authorities (LUA). For the purposes of the antenna tower siting procedures, LUA means any local authority that governs land-use issues and includes a municipality, town council, regional commission, development authority, township boards, band council or other similar body.

In the antenna tower siting procedures, there is no formal requirement for the involvement of the local federal Member of Parliament (MP), nor is it envisioned that such a requirement would be enacted via LUA local protocols.

Industry Canada Guidance

Should the City of Mississauga's protocol attempt to hinder the development of federally regulated telecommunication facilities through the use of blanket setbacks in its protocol, and/or should the consultation process be delayed/stopped as a result of the lack of an endorsement letter from the local Member of Parliament, Industry Canada will advise proponents to ensure that they follow all other aspects of the City's protocol and proceed with the public notification components.

After the consultation period, proponents would attempt to conclude the consultation process with the City of Mississauga. In the absence of a concurrence or non-concurrence, and if a request for further guidance is made by the proponents, Industry Canada would review all relevant material, request any further information it deems pertinent, and may then decide that the proponent has met all the consultation requirements of the antenna tower siting procedures and that the installation or modification may proceed.

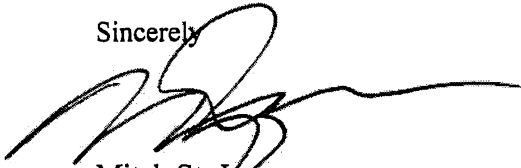
In closing, I trust this will provide specific guidance to the City of Mississauga on the above two matters as it deliberates possible changes to its interim protocol. LUA's are encouraged to develop protocols that are clear and within their area of responsibility while not being more burdensome for proponents than the processes and responsibilities set out in CPC-2-0-03.

Please note, the Department has produced a guide to assist the local Land Use Authorities develop protocols which is available at:

<http://www.ic.gc.ca/epic/site/smt-gst.nsf/en/sf08839e.html>

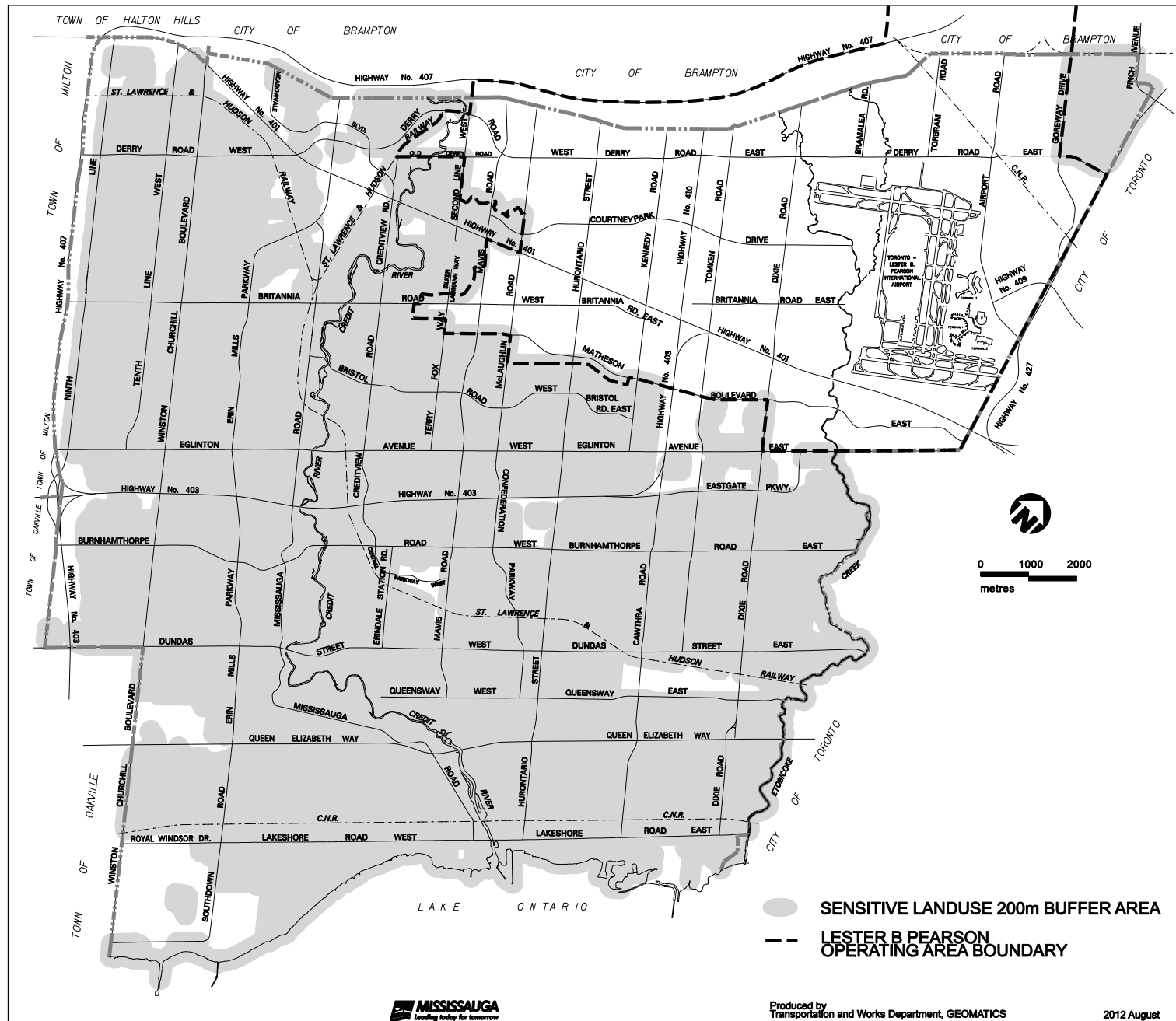
If you have any questions regarding this or any other matter related to our antenna tower siting procedures, please feel free to contact Mike Lang at 905-428-7028 or by e-mail at mike.lang@ic.gc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mitch St. Jacques', with a long horizontal flourish extending to the right.

Mitch St. Jacques
Director, Operations
Toronto District

APPENDIX 5



Response to Comments Table

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Jurisdiction and Roles						
1	Planning and Building	N/A	3.2	The protocol does not indicate all other applicable federal regulations and guidelines that tower facilities must adhere to, such as Health Canada' Safety Code 6 – Limits of Human Exposure to Radiofrequency Electromagnetic Fields.	A list of applicable Federal regulations and guidelines should be included in the protocol to provide additional information for the public.	That Section 3.2 be added listing other applicable federal legislation.
2	Planning and Building	11	1 and 3.3	The role of the Land Use Authority is not clear.	The role of the Land Use Authority (LUA) is to provide input and comments to the proponent and Industry Canada with respect to land use compatibility and indicate how the proponent has complied with the public consultation requirements outlined in the protocol. The LUA also communicates the particular amenities, sensitivities, planning priorities and other relevant characteristics of the subject area. This information should be included in the protocol to provide clarity.	That Section 1 be revised to clarify the Land Use Authority definition. That Section 3.3 be added clarifying the role of the Land Use Authority.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Exclusions						
3	Planning and Building	6.1 (b)	4.1(b)	Industry Canada's exclusion for additions and modifications to existing towers that are less than 25% of the existing tower's height is not clear.	<p>Industry Canada's exclusion for additions that increase the height of the existing tower by 25% or less should only apply once. Subsequent additions to the same structure should be subject to a consultation process.</p> <p>Industry Canada excludes towers that are less than 15 m (49.2 ft.) in height from consultation. However, any additions to existing towers 15 m (49.2 ft.) or less in height that increase the height of the existing tower above 15 m (49.2 ft.) should be subject to a consultation process.</p>	That Section 4.1(b) be revised to clarify the 25% height limit exclusion.
4	Wireless Carriers <i>Comment No. 1, page 2*</i>	2.2 5.1 6.2	4.2	The protocol does not respect Industry Canada's mandatory exclusion (i.e. towers that are less than 15 m (49.2 ft.) in height) from the requirement to consult with municipalities or the public. This exclusion may be augmented, but may not be restricted.	Various municipal protocols include a provision that proponents must contact the Land Use Authority prior to the installation of an excluded tower facility and confirm that the proposed installation meets the exclusion criteria. Given the Federal jurisdiction over tower facilities, a confirmation of exclusion process would be more appropriate.	That the applicable Sections requiring proponents to consult with the City be deleted and that Section 4.2 be added regarding a confirmation of exclusion process.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Siting on City Owned Properties						
5	Planning and Building	N/A	5	Proponents are unclear on how to make a request to install a tower facility on City owned properties.	<p>A Telecommunication Tower/Antenna Working Group consisting of various staff from each of the four Departments has been formed. One of the main objectives of the working group was to establish an internal City process for any requests to install a tower facility on City owned property.</p> <p>Not all City owned properties would be an appropriate location from a land use planning perspective, such as historic or environmental areas of importance. However, if a proponent requests to install a tower facility on City owned properties, appropriate staff will evaluate the proposal. If the proposal is determined to have merit, staff will present the proposal to the Ward Councillor for his/her consideration.</p>	That Section 5 be added to identify the initial City contact and process for tower facility requests on City owned properties.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Location and Design Guidelines						
6	Wireless Carriers <i>Comment No. 9, page 3*</i>	3.1	6.1	The protocol emphasizes co-location without regard to proximity to residential uses. Co-located facilities are more visually intrusive than single carrier facilities. The protocol should indicate a preference for non co-located facilities when they are located in or near residential zones.	Co-located tower facilities can be less visually intrusive when they are located in high profile/sensitive areas (including residential areas) where proper design and screening mitigation measures have been undertaken by wireless carriers. This is consistent with Policy 10.6.20 of Mississauga Official Plan which indicates that tower facilities, including buildings and related structures, satellite dishes and cellular antennas should be designed and located to minimize visual impact in high profile and sensitive areas. Minimizing the construction of unnecessary towers is one of the primary goals of the City's protocol; therefore co-location is the preferred option in all areas.	No change.
7	Wireless Carriers <i>Comment No. 5, page 3*</i>	3.4 (d)	6.4 (a)	The practical effect of locating towers away from street edge will increase tower heights when they are being proposed at the lower end of the height range because of the shadowing by buildings located between the tower and the street edge.	Similar to development applications, each proposal is reviewed on a case-by-case basis. As a general rule, towers should not be located in the front of the building as it visually detracts from the streetscape. There are alternatives to increasing tower heights or placing facilities in the front yards, such as antenna attachments on street light poles and building or structures, including rooftop installations, provided that it meets all other applicable location and design guidelines in the protocol.	No change.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Location and Design Guidelines						
8	Planning and Building	N/A	6.7 (a) and (b)	The colour and lighting of new tower facilities may visually impact adjacent land owners and the travelling public.	In order to mitigate the visual impact of a new tower facility, additional design guidelines should be incorporated into the protocol, including the use of non-reflective surfaces, neutral colours and no illumination except where Transport Canada requirements are identified.	That Sections 6.7(a) and (b) be added regarding the colour and lighting for tower facilities.
9	Planning and Building	N/A	1 and 6.8	An amateur radio operator was planning to construct a 21 m (68 ft.) high radiocommunication tower (AKA ham radio tower) in a residential area. These facilities are also regulated by Federal legislation under the <i>Radiocommunication Act</i> and administered by Industry Canada.	Where amateur radio operators plan to install a radio communication tower in a residential area, the tower should be designed and sited to minimize visual impact from the surrounding properties. Therefore, new location and design guidelines should be incorporated into the protocol to encourage radiocommunication towers in residential areas to be lower in height (i.e. less than 15 m (49.2 ft.)) and to be located in the rear yard.	That Section 1 be revised to add a radiocommunication tower definition. That Section 6.8 be added regarding location and design guidelines for amateur radio operators planning to install a radiocommunication tower in residential areas.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Preliminary Land Use Authority Consultation						
10	Wireless Carriers <i>Comment No. 2, page 2*</i>	5.2	7.2	The required documents related to pre-consultation are too onerous. The purpose of pre-consultation should provide a sanctioned forum for the exchange of information before the proponent crystallizes its siting decision. Requiring substantial site specific documentation at this point will diminish the likelihood that the municipality will be able to influence siting decisions as the proponent may become committed to the site.	The preliminary consultation requirements are similar to Site Plan Approval applications. Details of the proposal are required in order to execute a meaningful and productive preliminary meeting. Proponents are welcome to contact the Development and Design Division of the Planning and Building Department to discuss siting options and preferred locations, prior to providing the required preliminary consultation documentation. This customer service is similar to any development proposal.	No change.
11	Wireless Carriers <i>Comment No. 6, page 3*</i>	5.1	7.1	Provisions suggesting a peer review could be required as part of the consultation process is of concern. Such a requirement is unprecedented with respect to telecommunication facilities and is unjustified given the modest land use impact associated with these facilities.	A peer review may be required if the Director, Development and Design (Director), (or designate) determines that the site selection/justification report provided by the proponent has insufficient information and is lacking proper justification.	No change.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Public Consultation						
12	Wireless Carriers <i>Comment No. 4, page 2*</i>	7.5.1	9.2	The public notification distance of the greater of 120 m (393.7 ft.) or three times the height of the tower would result in higher towers on average since there is no process advantage to any proposal less than 40 m (131.2 ft.) in height. In addition, the requirement violates Industry Canada's notice provisions which the wireless carriers understand to be a maximum.	Both residents and Council were dissatisfied with Industry Canada's default public consultation process. As a result, Council adopted an interim protocol in March 2012. One of the main objectives of the City's protocol is to ensure that proper notification is provided to residents and property owners affected by a proposed tower facility, where applicable. The public notification requirement is similar to the <i>Planning Act</i> requirements for public notification of a zoning by-law amendment or official plan amendment (i.e. 120 m (393.7 ft.)). Various municipalities have equal or greater notification requirements than the City's protocol, including the Town of Oakville and City of Toronto.	No change.
13	Wireless Carriers <i>Comment No. 8, page 3*</i>	7.6	9.5	The requirement for public notice signs in addition to other forms of notice is unjustified and constitutes an undue burden on proponents contrary to Industry Canada's document.	One of the main objectives of the City's protocol is to ensure that proper notification is provided to residents and property owners affected by a proposed tower facility, where applicable. Posting signage provides notification to tenants within the affected area, who are not notified of the proposal by mail. The signage requirements imposed are similar to those for <i>Planning Act</i> applications (i.e. minor variance and zoning by-law amendment applications, etc.).	No change.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Public Consultation						
14	Planning and Building	N/A	9.1	Proponents have been initiating public consultation prior to a formal submission to the City.	New provisions should be incorporated into the protocol advising proponents that public consultation must not be initiated until written confirmation is provided by the City to proceed.	That a provision be added to Section 9.1 advising proponents not to initiate public consultation until written confirmation from the Director (or designate) has been provided.
15	Planning and Building	7.5	9.2	Ward Councillors and the Director (or designate) are not provided with a copy of the public notice that is mailed by the proponent.	The public notice mailed by the proponent should also be sent directly to the Ward Councillor and the Director (or designate) for their information.	That Section 9.2 be revised to include the Ward Councillor and the Director (or designate) in the list of recipients for the public notice.
16	Planning and Building	7.5.1	9.2.1	The City cannot disclose personal information (i.e. individuals, not business or corporations) to a third party due to privacy laws.	The City provides the proponent with a list of mailing addresses of property owners and resident associations within the specified notification area. The mailing list must omit personal information (i.e. individuals, not businesses or corporations). This should be clarified in the protocol.	That Section 9.2.1 be revised to clarify that the City will provide the proponent a mailing list of addresses (excluding the names of property owners).
17	Planning and Building	N/A	9.2.1	Residents may mistake the mailed public notices as “junk mail”.	The envelope for the public notice should indicate that it is an important notice regarding a proposed cell tower in their neighbourhood in order to ensure that notices are not mistaken as “junk mail”.	That a provision be added to Section 9.2.1 regarding appropriate wording, in red ink, be included on the envelope of the public notices.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Public Consultation						
18	Planning and Building	7.8	9.7	An open house type of meeting does not necessarily generate open dialogue between the public and proponent.	Some proponents have carried out a structured public meeting, including a presentation, regarding a tower proposal. Positive feedback from Councillors and residents were received. Residents indicated that the presentation provided more detailed information and helped trigger appropriate questions to ask the proponent during the question and answer period.	That all reference to 'Public Open House' be substituted with 'Public Information Session'; and that a provision be added to Section 9.7.2 (e) requiring proponents to carry out a presentation at the public information session.
19	Wireless Carriers <i>Comment No. 7, page 3*</i>	7.8	9.7	The public open house to be organized by the local Member of Parliament (MP) is impractical and may result in less information flowing to the public since the proponent will not be in control of the information or how it is presented. The open house should be organized and controlled by the proponent.	Where a public open house is required, the local MP, in consultation with the proponent, shall convene a public open house. Therefore, the proponent should be providing appropriate information to the public. Should the local MP not convene a public open house, in consultation with the proponent, the protocol allows the proponent to convene the public open house. Should this be the case, the City will require correspondence indicating that the proponent has made an effort to notify the local MP of the proposal and requesting he/she to host a public open house, and that such correspondence be submitted to the City.	No change.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Concluding Consultation						
20	Planning and Building	9.4.2	10.2.2	Ward Councillors and the Director (or designate) are not provided with a copy of the Public Conclusion Package that is mailed by the proponent.	The Public Conclusion Package mailed by the proponent should also be sent directly to the Ward Councillor and the Director (or designate) for their information.	That Section 10.2.2 be revised to include the Ward Councillor and the Director (or designate) in the list of recipients for the Public Conclusion Package.
21	Planning and Building	9.3	10.3	The protocol does not identify what may be required in a Letter of Undertaking from the proponent, if applicable.	A Letter of Undertaking may be required to ensure that the proponent will construct any proposed fencing, screening and landscaping as agreed upon during the consultation process. Other requirements may include a commitment to accommodate other wireless carriers on the tower facility; and any other conditions as identified in the Letter of Comment.	That Section 10.3 be revised to include possible requirements in the Letter of Undertaking, if applicable.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Concluding Consultation						
22	Wireless Carriers <i>Comment No. 10, page 3*</i>	9.2	10.4	The protocol does not provide for a clear concurrence statement to Industry Canada. Rather, it provides for comment. It is imperative that the City either concur or not concur with reasons. The provision of comments is not contemplated by Industry Canada's process.	<p>Given that tower facilities are regulated under Federal jurisdiction, municipalities are only commenting agencies. Industry Canada's document (CPC-2-0-03) states "Depending on the land-use authority's own process, conclusion of local consultation may include such steps as obtaining final concurrence for the proposal..., a letter or report acknowledging that the relevant municipal process or other requirements have been satisfied, or other valid indication..."</p> <p>Based on the above, it is suggested that the City does not provide concurrence or non-concurrence to a tower proposal. Instead, the City should maintain providing comments to accurately reflect the City's role as a commenting agency and not a regulating and deciding body. However, clarification should be provided to indicate that the consultation process has been concluded, or outstanding issues/concerns.</p>	That Section 10.4 be revised to clarify that the City will issue a Letter of Comment that may indicate that the consultation process has been concluded, or include outstanding issues/concerns.

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

Timeframes						
23	Wireless Carriers <i>Comment No. 11, page 3*</i>	10.2	11.2	The requirement for a second round of public notice after 270 days is unfair, unjustified and an undue burden on proponents contrary to Industry Canada's requirements. The provision is beyond the expectations of Industry Canada's document and is unnecessary.	<p>It is expected that the consultation process be completed within 120 days from the date of a complete submission to the date where the Land Use Authority responds to the proponent with or without objections to the proposal.</p> <p>Situations may arise where delays may be encountered for more than 9 months (270 days), and new residents (i.e. new plan of subdivision) that were not included in the initial public consultation process are now affected. However, if the proposal is located in an industrial area, away from residential, supplementary public consultation may not be necessary. Therefore, this requirement should be determined on a case-by-case basis at the discretion of the Director (or designate).</p>	That Section 11.2 be revised to implement the requirement for a second round of public notice at the discretion of the Director (or designate).

* Refers to the comment number and page number on the Wireless Carriers' letter dated May 18, 2012, attached as Appendix 2 of the Corporate Report.

No.	Respondent	Interim Protocol Section	Revised Protocol Section	Comment / Issue	Staff Response	Recommendations to the Protocol
Post Construction Requirements						
24	Planning and Building	N/A	12.1	Situations may arise where the consultation process has been concluded and the as-built tower facility is not in accordance with the plan or conditions set out in the letter of comment.	In cases where the as-built tower facility is not in accordance with the plan or conditions set out in the letter of comment, the City should notify the tower facility owner/operator of the situation and require the owner to resolve the issue accordingly.	That Section 12.1 be added to notify the tower facility owners/operators of a non-conforming tower facility.
25	Planning and Building	N/A	12.2	Tower facilities are often proposed under 15 m (49.2 ft.) or 30 m (98.4 ft.) in height (i.e. 14.9 m (48.9 ft.) or 29.9 m (98.1 ft.)) to avoid consultation requirements. In some cases, towers may be constructed higher than previously proposed.	The owner/operator of the tower facility should engage the services of a qualified third party to verify that the tower facility's height is less than 15 m (49.2 ft.) or 30 m (98.4 ft.) above ground level.	That Section 12.2 be added to verify the tower's overall height at the request of the Director (or designate).
Redundant Facilities						
26	Planning and Building	N/A	13	There may be cases where a tower facility becomes redundant to the operation of the tower facility owner/operator's telecommunication network and is left unused or abandoned for an extended period of time.	Various municipal protocols include a provision where the municipality requests that the tower facility owner/operator remove the tower facility and remediate the site to its original condition, if the facility is deactivated and left unused or abandoned for a continuous period of more than 2 years.	That Section 13 be added regarding redundant tower facilities.



CITY OF MISSISSAUGA TELECOMMUNICATION TOWER/ANTENNA FACILITIES PROTOCOL

Industry Canada Local Land Use Authority Consultation

**ADOPTED BY COUNCIL
(DATE TBD)**

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1 Definitions

The following definitions are to provide clarity in the protocol.

Co-location means the placement of an antenna system on an existing telecommunication tower/antenna facility.

Equipment shelter means a structure used to house the required equipment for the operation of a telecommunication tower/antenna facility.

Land Use Authority (LUA) means the City of Mississauga, Planning and Building Department, Development and Design Division which is responsible for land use planning and development within the geographic boundaries of the City of Mississauga.

Proponent/Applicant means any company, organization or person who puts forward a proposal to install or modify a telecommunication tower/antenna facility.

Radiocommunication Antenna System means an antenna required on site for amateur radio communication and may include a supporting structure such as a tower.

Telecommunication Tower/Antenna Facility ("tower facility(ies)") means all components and equipment required on site for the operation of a wireless telecommunication network or broadcasting equipment and may include an associated equipment shelter and compound area.

2 Objectives

The objectives of this protocol are to:

- Encourage proponents of telecommunication facilities (hereinafter referred to as "tower facility(ies)") to use existing tower facilities, structures and infrastructure, such as utility poles, street light poles, etc., to minimize the proliferation of new towers within the City of Mississauga;
- Provide a clear and concise outline of the Land Use Authority and public consultation processes when proponents intend to modify or install a tower facility within the City of Mississauga;
- Ensure effective local public notification and consultation when a tower facility is proposed within a community;
- Strongly discourage proponents from locating tower facilities on lands designated as Greenbelt which are generally associated with natural hazards lands and/or natural area systems in accordance with Mississauga Official Plan;
- Strongly discourage proponents from locating tower facilities on heritage listed or designated properties under the authority of Part IV or Part V of the *Ontario Heritage Act*;

- Encourage proponents to locate and design tower facilities which minimize visual impact in high profile and sensitive areas and to ensure land use compatibility with the surrounding area;
- Encourage proponents to respect the applicable zoning regulations when proposing a new tower facility; and
- Encourage proponents to locate tower facilities in areas which minimize the adverse impact on the community (e.g. utility, industrial and business employment areas).

3 Jurisdiction and Roles

3.1 Federal Jurisdiction

Tower facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Therefore, Provincial legislation such as the *Planning Act*, including zoning by-laws, does not apply to these facilities. It is important to understand that Industry Canada, while requiring proponents to follow this consultation protocol, makes the final decision on whether or not a tower facility can be constructed. The City of Mississauga can only provide comments to Industry Canada and does not have the authority to stop the construction of a tower facility.

3.2 Other Federal Legislation

As a Federal undertaking, tower facilities must adhere to all applicable Federal regulations and guidelines, including but not limited to:

- Industry Canada's Radiocommunication and Broadcasting Antenna Systems Client Procedures Circular (CPC-2-0-03);
- Industry Canada's Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements (CPC-2-0-17);
- Health Canada's Safety Code 6 – Limits of Human Exposure to Radiofrequency Electromagnetic Fields in the Frequency Range from 3 KHZ to 300 GHZ;
- National Building Code of Canada;
- *Canadian Environmental Assessment Act*; and
- Transport Canada's painting and lighting requirements for aeronautical safety.

3.3 Role of the Land Use Authority

The ultimate role of the Land Use Authority (LUA) is to provide input and comments to the proponent and Industry Canada with respect to land use compatibility of a tower facility proposal and indicate how the proponent has complied with the public consultation requirements outlined in this protocol, where applicable. The LUA also communicates to proponents the particular amenities, sensitivities, planning priorities and other relevant characteristics of the area.

3.4 Land Use Authority's Designated Official

For the purpose of this protocol, the designated official for the City of Mississauga having the authority to administer this protocol is the Director, Development and Design Division, Planning and Building Department ("Director") or designate. All correspondence and materials submitted as part of this consultation process shall be directed to the attention of the Director or designate.

4 Exclusions

4.1 Excluded Structures

For the following types of tower facility installations or modifications, Industry Canada excludes proponents from the requirement to consult with the public and the requirement to submit a formal tower facility proposal to the LUA for review:

- a) Maintenance of existing radio apparatus including the antenna system, transmission line, mast, tower or other antenna-supporting structure;
- b) 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., including additions to rooftops or support pillars, provided the:
 - i. addition or modification does not result in an overall height increase above the existing structure of 25% of the original structure's height;
 - ii. existing antenna system is 15 metres (49.2 feet) or greater in height; and
 - iii. existing antenna system has not previously been modified to increase its original height by 25%;
- c) Maintenance of an antenna system's painting or lighting in order to comply with Transport Canada's requirements;
- d) 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
- e) New antenna systems, including masts, towers or other antenna-supporting structure, with a height of less than 15 metres (49.2 feet) above ground level.

4.2 Confirmation of Exclusion

Individual circumstances vary with each tower facility installation and modification, and the exclusion criteria in Section 4.1 of this protocol should be applied in consideration of local circumstances. Consequently, it may be prudent for proponents to consult with the LUA even though the proposal meets an exclusion noted in Section 4.1 of this protocol. Therefore, when applying the criteria for exclusion, proponents should consider circumstances/factors such as:

- The tower facility's physical dimensions, including the antenna, mast and tower, compared to the local surroundings;
- The location of the proposed tower facility on the property and its proximity to neighbouring residents;
- The likelihood of an area being a community sensitive location; and
- Transport Canada marking and light requirements for the proposed structure.

4.2.1 Notwithstanding Industry Canada's exemption criteria for certain tower facilities, proponents should consult with the LUA to confirm that their proposed tower facility meets exclusion b) or e) identified in Section 4.1 of this protocol.

In cases where a proponent believes that a proposal meets exclusion b) or e) in Section 4.1 of this protocol, the proponent will provide the following materials to the attention of the Director (or designate):

- a) Applicable fees in accordance with the City's General Fees and Charges By-law, as amended;
- b) Cover letter describing the proposed tower facility including the location (i.e. address and/or legal description), height and dimensions and any antenna that may be mounted on the supporting structure. The letter should also identify all existing facilities within the vicinity of the proposed location and why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;
- c) Description of how the proposal meets exclusion b) or e) identified in Section 4.1 of this protocol;
- d) Site plan or survey plan of the subject property showing the location of the proposed tower facility in relation to the site and/or building on the property; and
- e) Elevation plan and simulated images of the proposed tower facility.

Proponents are encouraged to consider and incorporate the Location and Design Guidelines identified in Section 6 of this Protocol.

4.2.2 Following receipt and review of the required materials and the proposal is deemed to meet the applicable exclusion criteria, the LUA will issue a Notice of Telecommunication Tower/Antenna Facility Exclusion to the proponent with a copy to the Ward Councillor and Industry Canada.

In the event that the proposed tower facility does not comply with the Location and Design Guidelines identified in Section 6 of this Protocol, the LUA will indicate the outstanding issues/concerns. The proponent and LUA will then work toward a mutually agreeable alternative/solution.

5 Siting on City Owned Properties

Any request to install a tower facility on lands owned by the City shall be made to the Director (or designate).

Proponents must still submit a formal request to the LUA in accordance with Section 8 of this protocol and follow the public consultation process in accordance with Section 9 of this protocol, unless the proposal meets the exclusion criteria under Section 4 of this protocol.

Notwithstanding the public consultation requirements outlined in Section 9 of this protocol, the Director (or designate) may identify the need to amend the content of the public notification requirements accordingly.

6 Location and Design Guidelines

6.1 Co-location

Co-location on an existing tower facility is the preferred option instead of constructing new tower facilities within the City.

Where co-location on existing facilities is not possible, proponents should investigate locating facilities on existing structures, such as, utility poles, street light poles, water towers, etc.

6.2 Preferred Locations

Where a new tower facility must be constructed, the following locations are preferred:

- a) Areas that maximize the distance from residential areas; and
- b) Business employment, industrial and utility areas;

6.3 Discouraged Locations

Where a new tower facility must be constructed, the new facility should not be located on:

- a) Lands designated as Greenbelt under Mississauga Official Plan which are generally associated with natural hazards lands and/or natural area systems;
- b) Heritage listed or designated properties under the authority of Part IV or Part V of the *Ontario Heritage Act*; and
- c) Downtown area.

6.4 Siting on a Property

Where a new tower facility must be constructed, the following location guidelines should be followed:

- a) Locate facilities away from street line to minimize visual impact of the tower from the streetscape;
- b) Associated equipment shelter(s) measuring greater than 5.0 square metres (53.8 square feet) should comply with the applicable zoning by-law regulations (e.g. minimum setbacks, minimum landscaped buffers, etc.); and
- c) Avoid locating facilities on parking and/or loading spaces as it may cause a non-compliance situation for a property with the zoning by-law and/or impact future development for the site.

6.5 Design

Where a new tower facility must be constructed, the following design guidelines should be followed:

- a) Allow for future co-location capacity;
- b) Associated equipment shelter(s) should be screened using landscape treatment, decorative fencing, etc., except in lands designated as Industrial under Mississauga Official Plan;
- c) Lattice style towers are strongly discouraged;
- d) Monopole towers with antennas shrouded or flush mounted are preferred; and
- e) Towers/antennas attached to an existing building, including rooftop installations, should not be visible from any public street abutting the subject property, as demonstrated in a visual plane analysis, or should be screened and complement the architecture of the building with respect to form, materials and colour in order to minimize the visual impact from the streetscape;

6.6 Design in High Profile and/or Sensitive Areas

When new tower facilities must be located in a high profile and/or sensitive area, such as, but not limited to, major nodes and community nodes, the facility should be designed and sited to minimize visual impact within the context of the surrounding area.

In addition to the guidelines in Sections 6.1 to 6.5 of this protocol, the following design guidelines should also be met:

- a) Stealth techniques, such as flagpoles, clock towers, trees, light poles, etc., should be used and reflect the context of the surrounding area; and
- b) Associated equipment shelter(s) greater than 5.0 square metres (53.8 square feet) should be constructed to reflect the context of the surrounding area. Particular

attention should be focused on compatibility of roof slopes, materials, colours and architectural details.

6.7 Colour, Lighting, Signage and Other Graphics

Where a new tower facility must be constructed, the following design guidelines should be followed:

- a) Use non-reflective surfaces and neutral colours that blend with the surrounding landscape and public realm, unless Transport Canada has identified painting requirements for aeronautical safety for a tower facility;
- b) No illumination is permitted on a tower facility, except where Transport Canada requirements for illumination of a tower facility are identified;
- c) Identify the owner/operator, including the contact information, of a facility by providing a small sign with a maximum size of 0.5 square metres (5.4 square feet) placed at the base of the structure; and
- d) No third party advertising or promotion of the owner/operator is permitted on a tower facility.

6.8 Amateur Radio Operators in Residential Areas

Where amateur radio operators plan to install a radiocommunication antenna system in a residential area, the antenna system should be designed and sited to minimize visual impact from the surrounding properties. The following location and design criteria shall apply for amateur radio operators planning to install a radiocommunication antenna system in a residential area.

6.8.1 New radiocommunication antenna systems should not be located within:

- a) Lands designated Greenbelt under Mississauga Official Plan which are generally associated with natural hazards lands and/or natural area systems;
- b) Lands heritage listed or designated properties under the authority of Part IV or Part V of the Ontario Heritage Act; and
- c) Front or exterior side yard of the property, as defined in the City's zoning by-law.

6.8.2 The following location and design guidelines should be followed:

- a) Height of the radiocommunication antenna system should not exceed 15 metres (49.2 feet) above ground level, whether located on the ground or attached to a building or structure;
- b) Width of the radiocommunication antenna system should not exceed 3 metres (9.8 feet) at any point;

- c) Location of the radiocommunication antenna system should be in the rear yard of the property, but excluding the extension of the exterior side yard into the rear yard, as defined in the City's zoning by-law;
- d) No part of the radiocommunication antenna system should be located within 1.2 metres (3.9 feet) of any lot line;
- e) When located on a roof of a building or structure, the radiocommunication antenna system should only be located on that half of the roof closest to the rear yard;
- f) Non-reflective surfaces and neutral colours that blend with the surrounding area should be used; and
- g) Graphics, signage, flags or lighting on a radiocommunication antenna system is not permitted.

6.8.3 Where amateur radio operators plan to install a radiocommunication antenna system in areas other than a residential area, Sections 6.2 to 6.7 of this protocol shall apply.

7 Preliminary Land Use Authority Consultation

7.1 Preliminary Meeting

Proponents are required to have a preliminary consultation with the LUA prior to submitting a formal request to install or modify a tower facility. This initial contact will allow the proponent to meet with the LUA to discuss the proposal, including the rationalization behind the site selection.

During this meeting, the LUA will provide preliminary input and comments regarding the proposal, such as, but not limited to, land use compatibility, potential impacts on high profile and sensitive areas, alternative sites, aesthetic or landscaping preferences, other agencies to be consulted, and whether a peer review by a consultant will be required. This meeting will also provide an opportunity to inform the proponent of the consultation process outlined herein.

7.2 Preliminary Meeting Requirements

The following information must be provided to the Development and Design Division of the Planning and Building Department to the attention of the Director (or designate) in order to schedule a preliminary consultation meeting:

- a) Cover letter describing the proposed tower facility including its height and dimensions and any antenna that may be mounted on the supporting structure;
- b) Site Selection/Justification Report prepared by a qualified professional, such as a land use planner or engineer. The report should identify all tower facilities within the vicinity of the proposed location. It should also include details with respect to the coverage and capacity of the existing tower facilities in the surrounding area and provide detailed documentary evidence as to why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;

- c) Draft site plan or survey plan of the subject property showing the location of the proposed tower facility in relation to the site and/or building on the property; and
- d) Elevation plan or simulated images of the proposed tower facility.

7.3 Notification of Preliminary Meeting

After the preliminary consultation meeting, the Director (or designate) will notify the Ward Councillor of the meeting.

8 Formal Land Use Authority Consultation

8.1 Land Use Authority Consultation Requirements

Where a proposed tower facility does not meet the exclusion criteria identified in Section 4.1 of this protocol, the proponent must submit a formal tower facility proposal to the LUA for review.

8.2 Formal Submission Requirements

The proponent must submit the following materials to the Development and Design Division of the Planning and Building Department to the attention of the Director (or designate):

- a) A tower facility request form and fees in accordance with the City's General Fees and Charges By-law, as amended;
- b) A Site Selection/Justification Report prepared by a qualified professional, such as a land use planner or engineer. The report should identify all tower facilities within the vicinity of the proposed location. It should also include details with respect to the coverage and capacity of the existing tower facilities in the surrounding area and provide detailed documentary evidence as to why co-location on an existing tower facility is not a viable alternative to the construction of a new tower facility;
- c) A public notification package;
- d) A site plan or survey plan which shall include a compound layout, an elevation and parking/loading statistics if the proposal is located on parking/loading areas;
- e) A copy of the draft newspaper notice and the proposed date on which it will be published (no sooner than 14 days from the date of request being submitted), if applicable; and
- f) A copy of the draft notice sign.

8.3 Incomplete Request

If the required materials listed in Section 8.2 of this protocol are not complete or provided to the satisfaction of the Director (or designate), the request will be considered incomplete and will not mark the official commencement of the 120 day consultation process.

8.4 Complete Request

When the request is deemed complete by the Director (or designate), the Director (or designate) will notify the Ward Councillor of the formal submission.

9 Public Consultation

9.1 Public Consultation Requirements

Where a proposed tower facility does not meet the exclusion criteria identified in Section 4.1 of this protocol, the proponent must carry out public consultation in accordance with this protocol.

The proponent must not initiate public notification or consultation for a tower facility proposal until a formal submission has been made to the LUA and written confirmation from the Director (or designate) to proceed with public notification and consultation has been provided.

The proponent shall be responsible for all costs associated with public consultation.

9.2 Notification

The proponent is to distribute the public notification packages by mail to the following recipients:

- a) All property owners and resident associations within a radius of the greater of 120 metres (393.7 feet) or three times the tower height measured from the furthest point of the tower facility;
- b) Applicable Ward Councillor and applicable Member of Parliament in which the proposed tower facility is located; and
- c) Adjacent municipalities within 120 metres (393.7 feet) of the proposed tower facility.

Proponents are also required to mail a copy of the public notification package to the Director (or designate).

- 9.2.1 The LUA will provide the proponent with a mailing list of all addresses of property owners and resident associations within a radius of the greater of 120 metres (393.7 feet) or three times the tower height measured from the furthest point of the tower facility. The LUA may charge a fee for this service in accordance with the City's General Fees and Charges By-law, as amended.

The envelope for the public notification package should have the following statement in red ink: "IMPORTANT NOTICE REGARDING PROPOSED CELL TOWER IN YOUR NEIGHBOURHOOD".

When a public information session is required, the proponent is to distribute the public notification packages by mail at least 30 days prior to the date of the public information session.

9.3 Public Notification Package Requirements

The public notification package must include the following information:

- a) A location map, including the address, clearly indicating the exact location of the proposed tower facility in relation to the surrounding properties and streets;
- b) A physical description of the proposed tower facility including the height, dimensions, tower type/design, any antenna(s) that may be mounted on the tower, colour and lighting;
- c) An elevation plan of the proposed tower facility;
- d) Colour simulated images of the proposed tower facility;
- e) The proposed tower facility's purpose, the reasons why existing towers or other infrastructure cannot be used, a list of other structures that were considered unsuitable, and future sharing possibilities for the proposal;
- f) An attestation 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;
- g) Notice that general information relating to health concerns and Safety Code 6 is available on Health Canada's website;
- h) An attestation that the installation will respect good engineering practices including structural adequacy;
- i) Address, location (including a map) and timing of public information session (if applicable);
- j) Information on how to submit written public comments to the Applicant and the closing date for submission of written public comments;
- k) Applicant's contact information;
- l) Reference to the City of Mississauga Telecommunication Tower/Antenna Facilities Protocol and where it can be viewed;
- m) The following sentences regarding jurisdiction: "Telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Therefore, Provincial legislation such as the *Planning Act*, including zoning by-laws, does not apply to these facilities. It is important to understand that Industry Canada, while requiring proponents to follow the City of Mississauga's Telecommunication Tower/Antenna Facilities Protocol, makes the final decision on whether or not a tower facility can be constructed. The City of Mississauga can only provide comments to Industry Canada and does not have the authority to stop the construction of a telecommunication tower/antenna facility.";

- n) Notice that general information relating to antenna systems is available on Industry Canada's Spectrum Management and Telecommunications website; and
- o) Municipal, MP and Industry Canada contact information.

9.4 Closing Date for Written Public Comments

The closing date for submission of written public comments shall not be less than:

- a) 14 days after the public information session, where a public information session is required; or
- b) 30 days where a public information session is not required.

9.5 Notice Sign

The proponent shall erect a sign on the property notifying the public of the proposal to establish a tower facility on the subject property. The sign shall be erected on the property so that it is clearly visible and legible from the street.

The sign shall be professionally prepared and its size shall be a minimum of 1.2 metres x 1.2 metres (3.9 feet x 3.9 feet) (width x height) and located a minimum of 0.61 metres (2.0 feet) and a maximum of 1.2 metres (3.9 feet) from the ground. However, the size of the sign shall not exceed 2.4 metres x 1.2 metres (7.9 feet x 3.9 feet) (width x height).

The erection of the notice sign should be coordinated with the distribution of the public notification packages.

Photographs showing the sign posted and the date on which it was erected on the subject property shall be submitted to the Director (or designate) within 10 days after the sign has been erected.

The sign shall remain on the subject property for the duration of the public consultation process.

The proponent shall be responsible for removing the sign no later than 21 days after the completion of the consultation process.

9.5.1 The notice sign shall contain the following wording:

<p style="text-align: center;"><u>PUBLIC NOTICE</u></p> <p>[Name of Proponent] is proposing to locate a telecommunication tower/antenna facility, being [#] metres ([#] feet) in height, on this property.</p> <p><i>(If applicable)</i> A public information session is scheduled on [date of meeting] from [start time] to [end time] at [location of meeting].</p> <p style="text-align: center;">Public comment is invited.</p> <p style="text-align: center;">The closing date for submission of written comments is [applicable closing date].</p> <p style="text-align: center;">For further information, contact [Applicant's name, phone number and e-mail address].</p> <p style="text-align: center;">Telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the <i>Radiocommunication Act</i> and administered by Industry Canada. Therefore, Provincial legislation such as the <i>Planning Act</i>, including zoning by-laws, does not apply to these facilities.</p> <p style="text-align: center;">The City of Mississauga can only provide comments to Industry Canada and does not have the authority to stop the construction of a telecommunication tower/antenna facility.</p> <p style="text-align: center;">[Municipal, MP and Industry Canada contact information]</p>
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9.6 **Newspaper Notice**

Where a tower facility is 30 metres (98.4 feet) or greater in height, the proponent shall place a newspaper notice in the Mississauga News (i.e. the community's newspaper). The notice shall be placed in a Wednesday's edition.

The newspaper notice shall be a minimum size of 10 centimetres x 10 centimetres (3.9 inches x 3.9 inches).

A copy of the actual newspaper notice appearing in the Mississauga News, including the newspaper date, shall be forwarded to the Director (or designate) within 10 days of the newspaper notice being published.

9.6.1 Where a public information session is required, the newspaper notice shall be published at least 21 days before the date of the public information session.

The date on which the newspaper notice is published should be coordinated with the distribution of the public notification packages.

9.6.2 Where a public information session is not required, the date on which the newspaper notice is being published should be coordinated with the distribution of the public notification packages.

9.6.3 The newspaper notice shall contain the following information:

- a) Description of the proposed tower facility, including the height;

- b) Address of the proposed tower facility;
- c) Location map (key plan) of the proposed site;
- d) Invitation for public comment and the closing date for submission of written comments;
- e) *(If applicable)* Invitation to the public information session, and location and time of the session;
- f) Applicant's contact information;
- g) Inclusion of the following "Telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Therefore, Provincial legislation such as the *Planning Act*, including zoning by-laws, does not apply to these facilities. The City of Mississauga can only provide comments to Industry Canada and does not have the authority to stop the construction of a telecommunication tower/antenna facility."; and
- h) Municipal, MP and Industry Canada contact information.

9.7 **Public Information Session**

A public information session is required where the proposed tower facility is located:

- a) in a residential area; or
- b) within the greater of either, three times the tower height or 120 metres (393.7 feet) from a residential area.

9.7.1 The applicable Member of Parliament, in consultation with the proponent, shall be responsible for convening a public information session, if applicable, at the proponent's cost.

Should the applicable Member of Parliament not convene a public information session, the proponent shall be responsible for convening a public information session, if applicable, at the proponent's cost.

9.7.2 The applicable Member of Parliament and/or proponent, as the case may be, shall adhere to the following requirements when organizing and convening a public information session:

- a) Public information session shall be open and accessible to all members of the public and local stakeholders;
- b) Public information session shall occur on a weekday evening, no sooner than 21 days and no later than 28 days, from the date that the public notification packages are mailed and the sign posted;
- c) Duration of the public information session shall be a minimum of 2 hours;
- d) Two display panels, at a minimum, containing a site plan drawing and colour photographs of the subject property with superimposed images of the proposed tower facility shall be displayed at the public information session;

- e) The proponent shall conduct a presentation regarding the tower proposal, including the purpose of the tower, general information relating to health concerns and Safety Code 6 and clear statement indicating that telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Provincial legislation such as the *Planning Act*, including zoning by-laws, does not apply to these facilities and the City of Mississauga can only provide comments to Industry Canada as the City does not have the authority to stop the construction of a telecommunication tower/antenna facility;
- f) Public notification packages including a public comment sheet shall be made available for attendees;
- g) Closing date for written public comments shall be clearly announced at the public information session; and
- h) Obtain a record of all names, addresses, email addresses and phone numbers of the attendees, subject to applicable privacy laws in respect of personal information.

9.8 Responding to the Public

The proponent is to address all reasonable and relevant concerns, make all efforts to resolve them in a mutually acceptable manner and must keep a record of all associated communications. If the public or Director (or designate) raises a question, comment or concern relating to the tower facility, as a result of the public consultation process, then the proponent is required to:

- a) Respond to the party in writing within 14 days by acknowledging receipt of the question, comment or concern and keep a record of the communication;
- b) Address in writing all reasonable and relevant concerns within 30 days of receipt or explain why the question, comment or concern is not, in the view of the proponent, reasonable or relevant and clearly indicate that the party has 21 days from the date of the correspondence to reply to the proponent's response; and
- c) In the case where the party responds within the 21 day reply period, the proponent shall address all reasonable and relevant concerns within 21 days, either in writing, by contacting the party by telephone or engaging the party in an informal meeting.

10 Concluding Consultation

10.1 Consultation Summary Package

The proponent shall provide to the Director (or designate) a package summarizing the results of the public consultation process which shall include the following information:

- a) Attendance list and contact information from the public information session (if applicable);
- b) All written public comments and/or concerns received regarding the proposal;

- c) Proponent's responses to the public comments and/or concerns outlining how the concerns were or will be addressed, or alternatively, by clearly indicating why such concerns are not reasonable or relevant; and
- d) If any modifications to the proposal are agreed to, then further details will be required, including revised plans.

10.2 Public Conclusion Package

The proponent may be required, if requested by the Director (or designate), to provide a public conclusion package.

Where a public conclusion package is required, the proponent shall provide to the Director (or designate) a draft public conclusion package summarizing the conclusion of the public consultation process.

10.2.1 The public conclusion package must include the following information:

- a) Notice that the public consultation process is concluded;
- b) The following sentences regarding jurisdiction: "Telecommunication tower/antenna facilities are exclusively regulated by Federal legislation under the *Radiocommunication Act* and administered by Industry Canada. Therefore, Provincial legislation such as the *Planning Act*, including zoning by-laws, does not apply to these facilities. It is important to understand that Industry Canada, while requiring proponents to follow the City of Mississauga's Telecommunication Tower/Antenna Facilities Protocol, makes the final decision on whether or not a tower facility can be constructed. The City of Mississauga can only provide comments to Industry Canada and does not have the authority to stop the construction of a telecommunication tower/antenna facility."; and
- c) Contact information for the proponent, local Industry Canada office and applicable Member of Parliament.

10.2.2 Upon written confirmation from the Director (or designate) to proceed, the proponent shall be responsible for distributing the public conclusion packages by mail to the following recipients:

- a) Attendees of the public information session, as indicated on the attendance list from the public information session, if applicable;
- b) Public that provided written comments regarding the proposal;
- c) List of property owners and applicable resident association provided by the Director (or designate);
- d) **Applicable Ward Councillor** and applicable Member of Parliament in which the proposed tower facility is located; and
- e) Adjacent municipalities within 120 metres (393.7 feet) of the proposed tower facility.

Proponents are also required to mail a copy of the public conclusion package to the Director (or designate).

10.3 Letter of Undertaking

The proponent may be required, if requested by the Director (or designate), to provide a letter of undertaking, which may include the following requirements:

- a) Posting of a security for the construction of any proposed fencing, screening and landscaping;
- b) A commitment to accommodate other telecommunication providers on a tower facility, where feasible, subject to the usual commercial terms and Industry Canada Conditions of Licence for Mandatory Roaming and Antenna Tower and Site Sharing and to Prohibit Exclusive Site Arrangements (CPC-2-0-17); and
- c) Other conditions identified in the Letter of Comment.

10.4 Letter of Comment

The LUA will review all pertinent information regarding the proposal and prepare comments to the proponent with a copy to Industry Canada. The focus of the comments will be on how the proponent complied with the consultation requirements of this protocol, how the proposal met the location and design objectives of this protocol, whether the proposal has any adverse impact on the community, and communicate any particular amenities, sensitivities, planning priorities and other relevant characteristics of the area.

The LUA will also indicate that the consultation process has been concluded (with or without conditions), where appropriate. If the proposal is deemed inappropriate by the LUA, the LUA will indicate objections to the proposal and may include outstanding concerns/issues.

11 Timeframes

11.1 Consultation Timeframes

The LUA and public consultation processes should be completed within 120 days from the date of a complete submission to the date where the LUA responds to the proponent with or without objections regarding the proposal.

Appendix A of this protocol contains a flow chart of the LUA and public consultation processes.

11.2 Supplementary Public Consultation

Where the LUA consultation process has not been concluded and 270 days have elapsed from the time of the public notification packages being sent, the proponent may be required to carry out a supplementary public consultation process, if requested by the Director (or designate).

12 Post Construction Requirements

12.1 Notice of Non Conformity

Where the consultation process has been concluded and the LUA has determined that the as-built tower facility is not in accordance with the plan or condition(s) set out in the Letter of Comments, the LUA will provide notification in writing to the owner/operator advising of the situation.

In the event the owner/operator does not respond to the matter within 30 days of receiving the notification, or a resolution between the owner/operator and LUA cannot be reached to correct the issue, the LUA will advise Industry Canada of the situation and request assistance.

12.2 Verifying Height

Where necessary, the LUA may request that measurements be provided to demonstrate the tower facility's overall height. This may include the owner/operator engaging the services of a qualified third party to verify that the tower facility's height is less than 15 metres (49.2 feet) or 30 metres (98.4 feet) above ground level, as appropriate.

13 Redundant Facilities

When a tower facility becomes redundant to the operation of the owner/operator's telecommunication network, the LUA shall request that the proponent remove the tower facility and remediate the site to its original condition, if the facility is deactivated and left unused (abandoned) for a continuous period of more than 2 years.

Appendix A – Consultation Flow Chart

