



**City of Kingston
Report to Council
Report Number 19-232**

To: Mayor and Members of Council
From: Lanie Hurdle, Interim Chief Administrative Officer
Resource Staff: Paige Agnew, Director, Planning, Building & Licensing Services
Date of Meeting: September 17, 2019
Subject: Radiocommunication Facility Proposal – 1245 Midland Avenue
Municipal Statement of Concurrence or Non-Concurrence

Executive Summary:

This report is regarding a proposal for a radiocommunication facility at 1245 Midland Avenue. The review of these types of proposals for the City is undertaken by the Canadian Radiocommunications Information and Notification Service/Service d'Information et de notification en radiocommunications canadienne (CRINS-SINRC), which the City of Kingston became a member of in 2016. These types of applications require sign off from the municipality in terms of the completion of the review and consultation period. Normally, this function is delegated to the Director of Planning, Building & Licensing Services. However, due to public concerns about the proposed structure, on May 8, 2019 Council passed a motion directing staff to bring the final report to Council for a decision regarding the municipal statement of concurrence or non-concurrence. This report contains background information and a copy of the Land Use Authority Recommendations Report for the subject property prepared by CRINS-SINRC.

The City of Kingston is not the approval authority for the review of proposals for radiocommunication facilities. While staff and members of Council have an important role to play in ensuring that the appropriate public consultation requirements are met and that members of the public have the opportunity to provide comments and participate in the process, the decision on whether to proceed with the proposed development rests with the federal government with Innovation, Science and Economic Development Canada (ISED), and subsequently the Federal Minister of Industry.

Based on the information presented in the CRINS-SINRC Land Use Authority (LUA) Recommendations Report in Exhibit A, including the requirement for the proposal to meet all relevant federal codes and regulations, and the information presented in Exhibit B regarding the

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municipality's regulatory authority, staff are recommending that Council direct staff to sign the Notice of Completion and the LUA Recommendations Report and forward the document to CRINS-SINRC to provide to the proponent and Innovation, Science and Economic Development Canada.

Recommendation:

That Council direct staff to sign the Notice of Completion and Land Use Authority Recommendations Report for the radiocommunication facility proposed for 1245 Midland Avenue, attached as Exhibit A to Report Number 19-232, and forward the documents to CRINS-SINRC to be provided to the proponent and Innovation, Science and Economic Development Canada.

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Authorizing Signatures:

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Lanie Hurdle, Interim Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Acting Commissioner, Community Services	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required
Deanne Roberge, Acting Commissioner, Corporate Services	Not required

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Options/Discussion:

On May 3, 2016, Council passed the following motion regarding radiocommunication facilities and third party reviewers (Note: exhibit numbers referred to in the motion are from [Council Report Number 16-136](#)):

That the City of Kingston become a member of the Canadian Radiocommunications Information and Notification Service/Service d'Information et de notification en radiocommunications canadienne (CRINS-SINRC); and

That Council authorize CRINS-SINRC staff to act as the authorized representative of the City of Kingston for the purposes of reviewing and processing radiocommunication facility applications within the City's jurisdiction, working with the Director of Planning, Building & Licensing Services or designate; and

That the CRINS-SINRC Reference Protocol, Issue 3 (Exhibit A), and subsequent amendments as may be approved from time to time, be used as the municipality's protocol for the review of radiocommunication facility applications; and

That the proposed 'Guidelines for Establishing Radiocommunication Facilities in the City of Kingston' (Exhibit B) be accepted and forwarded to CRINS-SINRC as additional guidelines for the review of requests for radiocommunication facilities in Kingston; and

That Council authorize the Director of Planning, Building & Licensing Services to execute any documentation required to enter into a relationship with CRINS-SINRC; and

That the Director of Planning, Building & Licensing Services be the designated staff member to sit on the CRINS-SINRC Advisory Board; and

That By-Law Number 2005-10, "A By-Law to Establish Fees and Charges to be Collected by The Corporation of the City of Kingston," as amended, be further amended, as per Exhibit C (Draft By-Law to amend By-Law Number 2005-10) of Report Number 16-136; and

That By-Law Number 2006-75, "A By-Law to Delegate Various Planning Approvals to Staff and to Adopt Certain Procedures for the Processing of Planning Applications Subject to Delegated Authority", as amended be further amended as per Exhibit D (Draft By-Law to amend By-Law Number 2006-75) of Report Number 16-136.

The approval of radiocommunication facilities is the responsibility of ISEDC, formerly known as Industry Canada. Applications for radiocommunication facilities are subject to the ISEDC's Client Procedure Circular [CPC-2-0-03: Radiocommunication and Broadcasting Antenna Systems](#). This document details the process for reviewing radiocommunication facilities, including the involvement of the LUA, which in this case is the City of Kingston, and the public consultation process. Generally, public consultation for radiocommunication facilities is undertaken in the following ways:

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- If the proposed facility is greater than 30 metres in height, then an advertisement in the local newspaper is required; and
- Notices are mailed to nearby property owners. The radius for those properties captured in the mail-out notification is calculated as three times the height of the proposed radiocommunication facility.

CRINS-SINRC ensures that applications for radiocommunication facilities in the City of Kingston are processed according to the CPC-2-0-03 document referenced above, including consultation with the municipality and the public, where required. In addition to the CPC-2-0-03 document, CRINS-SINRC also has their Antenna System Siting Review and Consultation Protocol (the Protocol) that is to be used by proponents, along with the City's Guidelines for Establishing Radiocommunication Facilities within the City of Kingston (the Guidelines). Both of these documents are available as exhibits to [Council Report Number 16-136](#) referenced above. It is important to note that where the City's Guidelines differ from the requirements of the ISEDC's CPC-2-0-03 document, there is no enforcement mechanism to require a proponent to comply. At the end of the process, CRINS-SINRC prepares a LUA Recommendations Report, and where applicable, the Notice of Completion, for the City to sign. Authority to sign the Notice of Completion and the LUA Recommendations Report has been delegated to the Director of Planning, Building & Licensing Services, unless otherwise directed by Council.

Since the City's decision in 2016 to become a member of CRINS-SINRC, there have been 12 applications for radiocommunication facilities that have been received, which can be summarized as follows:

- Three facilities have been approved, including two in existing industrial/business parks and one for CFB Kingston lands (it should be noted that while the City provided input into the application process for the proposed facility at CFB Kingston, the final sign-off authority rested with the Base Commander, as the City has no jurisdiction on federal lands);
- Four facilities were deemed to be exempt under ISEDC's CPC-2-0-03 document, as they were for additions to existing buildings and the addition of the radiocommunication facility was no greater than 25 percent of the height of the original structure; and
- Five applications are still currently active and are being reviewed by CRINS-SINRC.

At its meeting on May 8, 2019, Council passed a motion directing staff to bring the CRINS-SINRC LUA Recommendations Reports that are prepared for two of the active applications (1138 Sydenham Road and 1245 Midland Avenue) to Council for a decision regarding the municipal statement of concurrence or non-concurrence.

CRINS-SINRC has indicated to the City, and interested residents that submitted comments, that the project at 1138 Sydenham Road (Project Name: C6201 Crossfield Avenue and Sydenham Road; CRINS-SINRC File Number: 1811-0212-0226) has been deemed to be an incompatible location for the following reasons: ice fall risk to an adjacent residential backyard and detached garage; reduction in parking on the subject property, especially with the anticipated road widening that the City is going to be undertaking on Sydenham Road; and proximity to the K&P

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Trail and an environmentally protected area. CRINS-SINRC has communicated this to the proponent, Rogers Communications, and Rogers has acknowledged the noted concerns and is working to find an alternate site in this instance.

For the site at 1245 Midland Avenue (Project Name: C6242 Bayridge Drive and Sierra Avenue; CRINS-SINRC File Number: 1811-0202-0522), there were concerns raised as part of the public consultation process. These included:

- Health and safety concerns associated with the cumulative effects of electromagnetic energy emissions from the proposed tower when combined with the existing emissions from the nearby hydro corridor and other local sources; and
- Impacts on proposed residential developments on adjacent properties.

Based on the information presented in the LUA Recommendations Report for 1245 Midland Avenue (Exhibit A), Rogers has addressed the first concern regarding health and safety by confirming that the addition of the radiocommunication facility at the subject site would not result in emissions that exceed [Safety Code 6: Health Canada's Radiofrequency Exposure Guidelines](#). In the case of the proposed residential developments on adjacent lands, the following outlines the permitted residential uses according to the current zoning:

- The properties to the west are already developed with low density residential structures (the proposed radiocommunication facility has been situated on the subject property as far away from the residential area as possible);
- The property to the north at 1257 Midland Avenue is zoned Highway Commercial (C3), which only permits an accessory dwelling unit in the upper portion of a non-residential building; and
- The property to the south at 1233 Midland Avenue has two zones associated with it. The eastern half of the property is zoned a site-specific General Commercial Zone with a Holding Symbol (C2-73-H), which does not permit any residential uses. The western half of the property is zoned as a site-specific Development Zone (D-5), which specifically states that the lands may only be used for access to a use permitted in the C2-73 Zone.

The eastern portion of the property at 1233 Midland Avenue received site plan approval in 2018 for a commercial development. There are no active planning applications right now for any new development on either 1233 or 1257 Midland Avenue. While owners of the adjacent properties may be contemplating future development proposals, CRINS-SINRC has indicated that the applications for the proposed radiocommunication facilities must be reviewed against what is currently built in the area.

Exhibit A of this report contains the Notice of Completion and LUA Recommendations Report that has been prepared by CRINS-SINRC for the proposed radiocommunication facility at 1245 Midland Avenue. The report acknowledges that Rogers has completed its obligations for public consultation as outlined in the ISEDC's Client Procedure Circular *CPC 2-0-03* Radiocommunications and Broadcast Antenna Systems, Issue 5, as prescribed in the Protocol adopted by the City of Kingston. The LUA Recommendations Report outlines the

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recommendations of the LUA with respect to the construction and operations of the site, and outlines any conditions attached to the LUA's approval of the proposed facility.

The recommendation to the ISEDC for approval is based on the following conditions:

1. Confirmation by CRINS-SINRC that the Proponent has addressed all relevant concerns of the public according to the Protocol and that the above conditions have been met such that a Notice of Completion is warranted.
2. Submission of "as-built" drawings to CRINS-SINRC no later than 30 days after the completion of construction.
3. Receipt of the Safety Code 6 report by a Professional Engineer licensed in the Province which confirms compliance with Safety Code 6 prior to the commissioning of the tower.
4. Receipt of an attestation or stamped drawings by a Professional Engineer licensed in the Province which confirms compliance with the National Building Code and CSA S37-XX Standard prior to construction.
5. The proponent will be required to obtain a separate civic address from the LUA for the tower structure in order to comply with the LUA's civic addressing by-law.

Exhibit B to this report is a letter submitted to the City by CRINS-SINRC regarding Council's motion on May 8, 2019 regarding two of the proposed sites for radiocommunication facilities. The letter provides additional details regarding recent applications in the City of Kingston, the review and public consultation requirements that are undertaken, and a summary of the jurisdictional authority for radiocommunication facilities. The letter highlights the fact that the City of Kingston is not the approval authority for the review of proposals for radiocommunication facilities. While staff and members of Council have an important role to play in ensuring that the appropriate public consultation requirements are met and that members of the public have the opportunity to provide comments and participate in the process, the decision on whether to proceed with the proposed development rests with ISEDC, and subsequently the Federal Minister of Industry.

Based on the information presented in the CRINS-SINRC LUA Recommendations Report for 1245 Midland Avenue in Exhibit A, including the requirement for the proposal to meet all relevant federal codes and regulations, and the information presented in Exhibit B regarding the municipality's regulatory authority, staff are recommending that Council direct staff to sign the Notice of Completion and the LUA Recommendations Report and forward the document to CRINS-SINRC to provide to the proponent and ISEDC.

Existing Policy/By-Law:

Proposals for radiocommunication facilities are not subject to municipal policies and by-laws. The review and approval of such facilities is the responsibility of ISEDC. The Options/Discussion section of the report refers to the documents involved in the review of radiocommunication facility applications.

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Notice Provisions:

This application for 1245 Midland Avenue was subject to public consultation in accordance with the ISEDC's document CPC-2-0-03: Radiocommunication and Broadcasting Antenna Systems and CRINS-SINRC's document Antenna System Siting Review and Consultation Protocol (Reference Issue 4, July 15, 2017).

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Tim Park, Manager, Development Approvals 613-546-4291 extension 3223

Sukriti Agarwal, Acting Manager, Planning Initiatives 613-546-4291 extension 3217

Sonya Bolton, Senior Planner 613-546-4291 extension 3237

Other City of Kingston Staff Consulted:

Not applicable

Exhibits Attached:

Exhibit A CRINS-SINRC Notice of Completion and Land Use Authority Recommendation Report for 1245 Midland Avenue

Exhibit B Letter from CRINS-SINRC dated August 20, 2019 Re. Guidance Regarding Council Resolution of May 8, 2019 (Meeting 2019-14)

Canadian Radiocommunications
Information and Notification Service



Service d'information et de notification
en radiocommunications canadiennes

Rogers Communications
8200 Dixie Road
Brampton, ON L6T 0C1
Attn: Eric Belchamber

July 26, 2019

RE: "C6242 – Bayridge Drive and Sierra Avenue"
CRINS Case Number 1811-0202-0522 **CONDITIONALLY APPROVED**

Dear **Eric Belchamber**,

Attached please find a Notice of Completion for the above referenced facility.

We advise that **Rogers Communications, Inc.** has completed its obligations for Public Consultation as outlined in Innovation, Science and Economic Development Canada's Client Procedure Circular "*CPC 2-0-03 Radiocommunications and Broadcast Antenna Systems, Issue 5*" as prescribed in the Protocol adopted by the **City of Kingston**.

Additionally, please be advised that **City of Kingston** has reviewed the proposed site as described in the accompanying *Land Use Authority Recommendations Report*. The report outlines the recommendations of the Land Use Authority with respect to the construction and operations of the site, and outlines any conditions attached to the Land Use Authority's approval of the proposed facility.

Should you have any questions, please contact the undersigned or the Land Use Authority.

Sincerely yours,

Todd White
Executive Director

Canadian Radiocommunications
Information and Notification Service



Service d'information et de notification
en radiocommunications canadiennes

Notice of Completion

Be Advised That:

Rogers Communications, Inc.
8200 Dixie Road, Brampton, Ontario L6T 0C1

entered into a Public Consultation in accordance with Innovation, Science and Economic Development Canada's Client Procedure Circular "CPC 2-0-03 Radiocommunications and Broadcast Antenna Systems, Issue 5" adhering to the protocol instituted by the Land Use Authority, the

City of Kingston

and has completed the required Public Consultation and review by the Land Use Authority for the facility identified as:

C6242 - Bayridge Drive and Sierra Avenue

CRINS Case Number: 1811-0202-0522

Todd White
Executive Director

June 15, 2019

Paige Agnew
Director of Planning, Building and
Licensing Services
City of Kingston

***This Notice does not constitute Land Use Authority concurrence with the proposed facility.
Please see Land Use Authority Recommendations Report for details.***



City of Kingston

Land Use Authority Recommendation Report
For

**Rogers Communications, Inc.
Site C6242-"Bayridge Dr. & Sierra Ave."**

June 18, 2019

Revised: July 19, 2019

CRINS-SINRC# 1811-0202-0522



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1. Introduction

The purpose of the *Land Use Authority Recommendation Report* is to detail the review process conducted for an application submitted through CRINS-SINRC to a participating Land Use Authority (LUA) for the siting and construction of an antenna system, as well as defining the participating LUA's expectations relating to the location and design of radiocommunications facilities.

This report is a deliverable resulting from the LUA's adoption of the CRINS-SINRC Reference Protocol, Issue 2 (2012) which applies to any proponent planning to install a new or modify an existing radiocommunications facility regardless of the type of installation or service. This includes, but not limited to:

- Personal Communications Services (PCS);
- Cellular operators;
- Fixed wireless operators;
- Broadcasting operators;
- Land-mobile operators;
- License-exempt operators; and,
- Amateur radio operators.

All new radiocommunications facilities are expected to follow this process to obtain either a Notice of Facility Exemption or a Notice of Completion relating to the consultation and the corresponding Land Use Authority (LUA) Recommendations Report.



2. Subject Property

The proposed installation is located at coordinates 44° 16' 11.200" N, 76° 34' 28.300" W. on parcel PIN 360890552 (1245 Midland Ave., Kingston).

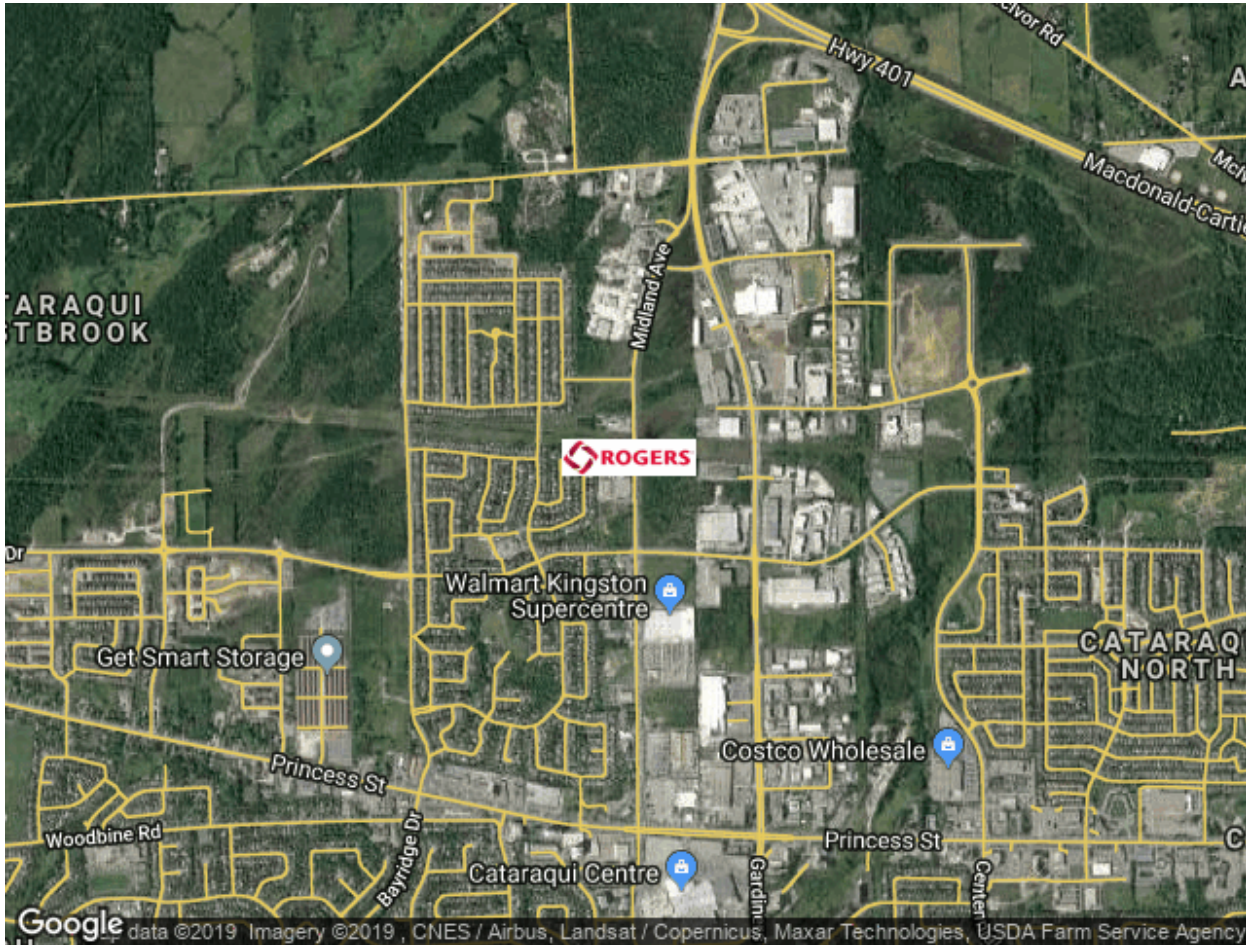


Figure 1 - Location Overview

The proposed site aims for improved coverage in Cataraqi Woods area between Creekford Road and Princess St.



Figure 2- Example of Slim Monopole (Type SP)

The Proponent is seeking a Notice of Completion for the installation.



3. Statement on Land Use

The LUA considers all proposals in the context of its existing Land Use Plans, as well as its mandate for ensuring the safety and security of persons and property which may be affected by a proposed development. The proposed radiocommunications site has been reviewed and the following sections represent the LUA's assessment of the proposed site relative to existing land use practices.

3.1. Community Sensitive Locations

A confirmation of exempt facility status by the LUA is required for all sites where the Proponent wishes to proceed without Public Consultation. The LUA will generally recognize a Facility Exemption provided that the site is not located in a **Community Sensitive Location**.

If a proposed site is located in a *Community Sensitive Location*, the Proponent may be asked to proceed with a Public Consultation due to the sensitive nature of the site, even though it may otherwise qualify for exempt status. The LUA will advise both the Proponent, as well as Innovation, Science and Economic Development Canada, as to its concerns in these situations.

If a proposed site is a non-exempt facility and is located in a Community Sensitive Location, public consultation will be required in all cases, and the proponent should expect that a community sensitive location will invoke a "High" degree of visual change under ASDF Criteria.

A **Community Sensitive Location** is defined as being:

- 1) on or near a designated *Heritage Property*;
- 2) located in an *area of Architectural Significance*;
- 3) located in an *area of Archeological Significance*; or,
- 4) in a *Natural Conservation Area*.

The proposed site is **not** located in a **Community Sensitive Location**.

3.2. Zoning and Compatibility with Existing Plans

The proposed site is located within a **Site-Specific General Commercial Zone (C2-58 Zone)** zone. Under City of Kingston Zoning By-laws, the allowable uses are:

(a) Residential Uses:

an accessory dwelling unit in the upper portion of a Non-Residential building.

(b) Non-Residential Uses:

an auditorium;



- an automatic car wash;
- an automobile service station;
- an appliance rental shop;
- a bank;
- a beverage room;
- a boat sales establishment;
- a business or professional office;
- a clinic;
- a commercial club;
- a commercial school;
- a dry-cleaning or laundry outlet;
- a funeral home;
- a gasoline retail facility;
- a home occupation;
- an institute;
- a laundromat;
- a merchandise service shop;
- a vehicle sales or rental establishment; (83-43)
- a parking lot;
- a personal service shop;
- a copy shop;
- a private club;
- a public use in accordance with the provisions of Section 5(18) hereof;
- a recreational establishment;
- a restaurant;
- a take-out restaurant;
- a retail store;
- a supermarket;
- an undertaking establishment;
- a veterinary clinic;
- a shopping centre consisting of any of the permitted uses listed herein;
- a day nursery.
- a nursery/garden centre/greenhouse

Radiocommunications facilities are considered to be generally **acceptable** within a **Site-Specific General Commercial Zone (C2-58 Zone)** Zone.

3.3. Fire Routing and Access

Access will be via an existing parking lot with a small extension. No impairment of current uses will result.

The proposed site **does not** adversely affect the existing fire service routing or access to either the subject property or any of the adjacent properties.



3.4. Environmental Review

The Proponent's representative, **Fawwaz Jabri, P.Eng. (ON #100207260)**, on behalf of **Rogers Communications, Inc.** has attested that the proposed site shall be constructed and operated within the limits specified in the Health Canada guidelines for electromagnetic radiation emissions – Safety Code 6 - which has been adopted by Innovation, Science and Economic Development Canada for use with all radiocommunications facilities.

*The Land Use Authority (LUA), having satisfied itself that the above party is a Professional Engineer in good standing to practice engineering in the **Province of Ontario**, therefore defers to the federal Minister of Innovation, Science and Economic Development to enforce compliance. The proposed site does not present any other environmental concerns, as proposed.*

3.5. Structural Review

Radiocommunications facilities are constructed under the authority of the *Minister of Innovation, Science and Economic Development*. As such, these structures are deemed a *federal undertaking*, requiring Proponents to uphold the standards which apply to the construction of buildings and other infrastructure as if it were being constructed on behalf of the Government of Canada.

As such, the *Minister of Labour* has adopted the *National Building Code (NBC)* amongst many other federal standards in relation to any structure built under enabling federal legislation.

Part II of the *Canada Labour Code* (<http://laws-lois.justice.gc.ca/eng/acts/L-2/>) and the regulations made there under, set out the rules that apply to all federal undertakings, or workers enabled as a result of their work on such undertakings, including, but not limited to broadcasters and telecommunication carriers.

The obligations include ensuring that all permanent and temporary buildings and structures meet the prescribed standards in the *Canada Occupational Health and Safety Regulations* which apply to any federal undertaking. Section 2.2 (1) of the aforementioned regulations, reference the *National Building Code* as the applicable code to be used as the reference.

Also included is the requirement for broadcasters and telecommunication carriers, when constructing towers, to follow the *Canada Occupational Health and Safety Regulations, Division II, Section 2.19*, which refers to the Canadian Standards Association (CSA) Standard CAN/CSA-S37-94, entitled "*Antennas, Towers, and Antenna-Supporting Structures*".

Legislation under *HRSDC (Human Resources and Skills Development Canada)* enforced by the *Minister of Labour* (who is one of the Ministers under the HRSDC portfolio) is responsible to enforce the provisions of the NBC and the CSA Standard, along with provincial legislation relating to the practice of professional engineering in each province.



Carmine Scorziello is representing **Rogers Communications, Inc.** , as an agent and is not licensed to practice engineering in the Province of **Ontario**. . A Professional Engineer licensed in the Province of **Ontario** will be required to audit and confirm the site's compliance at the time of commissioning [see note] ¹

4. Antenna Siting Design Framework (ASDF) Review

The Antenna Siting Design Framework (ASDF) is a quantitative scoring mechanism which assesses proposed installations by considering their design relative to the surrounding visual landscape.

This results in 3 specific metrics:

- A **Visibility Score** which provides a measurement of how visible the site is within the surrounding landscape (scored out of a possible 24 points).
- A **Design Compatibility percentage** which scores the proposed site design in terms of its visual elements (structure type, antenna mounts, equipment shelters, antennas and cables) relative to the surrounding landscape.
- A **Degree of Visual Change** calculation which assesses the visual effect of the site on the surrounding landscape.

The Degree of Visual Change is utilized to assess the level of public consultation required for Non-Exempt facilities.

For Exempt facilities, the Degree of Visual Change along with the design recommendations of the ASDF tool are provided to assist the Proponent to consider design choices which will improve the site's compatibility with the surrounding landscape and uses.



The following score has been assigned to this site design:

Degree of Visual Change

Design Compatibility/ Site Visibility	1 to 5	6 to 10	11 to 15	16 to 19	20 to 24
76 - 100%	Low	Low	Low	Medium	Medium
51 - 75%	Low	Low	Medium	Medium	High
26 - 50%	Low	Low	Medium	High	High
0 - 25%	Low	Medium	High	High	High

Visibility	15
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Compatibility (%)	87.5	Low
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The site is located in a mixed commercial area in proximity to a hydro corridor. Additional visual impairment relative to existing infrastructure is minimal.



4.1. Design Targets

The following table outlines the relevant design targets for the proposed site. Key design targets are highlighted below:



Land Use				
Mixed use	Develop a consistent pole profile. Select poles or towers that respond to the Topographic and Built form recommendations.	Develop uniform structures. Minimise cross bracing and support wires. Set antenna mounts back from street frontages.	Co-locate cabins with other buildings or service areas. Avoid isolated or prominent locations.	Maintain a consistent arrangement in relation to the height and size of antennas. Align cable runs and avoid complex connections
Topography				
Undulating	Locate poles and towers in areas where the greatest topographic variations occur. Use topographic variations to offset height of pole relative to surrounding landscape.	Develop simple support structures that respond to the landscape character.	Avoid elevated areas. Locate units on level low lying ground ensuring that the foundation pad design is level with minimal stepping.	Maintain regular antennas and cables positions.
Built form				
City scale	Respond to adjacent built form character (limited height restrictions).	Few limitations in relation to antenna mount design due to increased scale of the built form and elevated positions of mounts within cities. Develop consistent structural form and/or flush mounting to minimise of visual clutter.	Locate units in close proximity to service areas. Avoid visually prominent or public locations, building entrances and shop facades. Design cabin in response to existing streetscape infrastructure.	Maintain a consistent heights and arrangements to reduce visual clutter. Locate cable trays with existing services. Avoid cable runs on or through building parapets.
Sky lining				
Uniform	Reduce the vertical profile of poles and towers to reduce the impact on the skyline. Select monopoles and avoid lattice towers with tension cables to limit both the vertical and horizontal effects.	Develop a consistent rectangular antenna mount and headframe design. Avoided angled cross bracing. Maintain uniform structural member sizes, connections and positions that do not contrast the uniform skyline.	Locate cabins with adequate setbacks to avoid any skylining in relation to prominent facades and viewpoints. Consider co-locations with more visible rooftop equipment or develop ground based site.	Uniformly position antennas to reduce the visual impact and establish a consistent alignment and height. Avoid significant vertical projections. Ensure a consistent alignment for cables, connections and cable trays.



Containment				
Fragmented boundaries	Capitalise on the existing containment or consider increased setbacks to provide additional screening of the pole or tower. Avoid major view corridors. Maintain a consistent vertical profile to reduce the visual complexity of the tower.	Capitalise on the existing containment to provide additional screening or back screening. Avoid highly visible or open areas where containment is limited.	Design and locate outdoor base units that respond to the existing containment. Develop a compatible form, scale and materiality in relation to the surrounding enclosure.	Limit the impact of cables on the surrounding containment. Align cable runs and avoid complex directional changes. Locate with other service runs and ensure that cables do not project over the edge of the containment and/or building parapet.

Vegetation				
Tree groups	Assess the tree height and design responses relative to the canopy of the trees. Avoid vertical extensions that exceed a ration of 1:1.2 relative to the adjacent trees.	Select locations that capitalise on tree screening.	Use screening from tree groups. Avoid locations that impact on the tree canopy, structure or root plate.	Locate antennas, cables and cable runs to capitalise on screening potential of surrounding trees.

Existing Telcom-equipment (adjacent to site)				
Isolated items	Respond to existing height of infrastructure. Avoid significant variation in form and height. Select pole or tower with reference to the ASDF recommendations.	Maintain a consistent height and form in relation to existing infrastructure.	Establish a consistent location and positional relationship with existing equipment cabins.	Cluster and position antennas as well as align and co-location cables with reference to existing infrastructure.

Colour				
Mixed (complimentary)	Identify prominent colours, colour match or select neutral colours to minimise of visual effect.	Identify prominent colours of roofscape or surrounding area and colour match or select neutral colours to maintain consistency in relation surrounding built form.	Colour match through applied paint finishes all surfaces in response to dominant colours of adjacent land use.	Colour match to surrounding landscape and built form. Select neutral colours if antennas or cables are elevated or sky lining.



4.2. Recommendations

Based on the design targets outlined above, **City of Kingston** requests that **Rogers Communications, Inc.** consider the following design recommendations prior to construction:

No recommendations.

5. Compliance with General Design

Notwithstanding the site specific design recommendations described in the previous section, the proposed design is **compliant** with the General Design Recommendations of the CRINS-SINRC Antenna Siting Protocol.

6. Siting of Facility Relative to Existing Use

The following requirements apply to radiocommunications facilities:

The placement of any parking space or any component of a radiocommunications facility shall not create or cause a situation of non-compliance with any LUA Zoning By-law for any other use, building, or structure on the same lot.

The proposed site **does not** create or cause a situation of non-compliance with any Zoning By-law, as proposed.



7. Statement of Concurrence

The **City of Kingston** requests that the Proponent – **Rogers Communications, Inc.** – comply with the design targets where possible as presented in Section 4.

No further Development or Planning approvals are required however the Proponent is required to comply with any and all conditions outlined in Section 9 as a requirement of obtaining concurrence from the Land Use Authority. Failure to comply with the conditions as outlined in Section 9 shall render concurrence with the proposal null and void.

Where an undertaking from the proponent is required as part of the concurrence conditions, no work on the structure shall begin until the undertaking is received by CRINS-SINRC and the LUA.

The **City of Kingston conditionally concurs** with the proposed site subject to the conditions as outlined in Section 9.

8. Public Consultation

The proposed site is a Non-Exempt Facility and the Proponent is required to submit to a Public Consultation as part of this application.
CRINS-SINRC shall confirm completion of the Public Consultation according to the Protocol.

8.1 Summary of Comments and Issues

Comments were received from Mr. Harold Potter, and a face-to-face meeting with CRINS-SINRC staff occurred.

Mr. Potter expressed concern about the cumulative effects of Electromagnetic Energy emissions from the tower when combined with the existing emissions from hydro corridor and other local sources.

In response, Rogers confirmed that the addition of the radiocommunications site would not result in emissions which exceeded Safety Code 6.



9. Recommendation and Approval

We hereby advise **CRINS-SINRC** that the attached report accurately reflects the position of the **City of Kingston** with respect to the radiocommunications facility proposed by **Rogers Communications, Inc.**, designated **C6242-"Bayridge Dr. & Sierra Ave." (CRINS-SINRC # 1811-0202-0522)**.

We further advise that the proposed site has been evaluated as a non-exempt facility and the Land Use Authority **conditionally approves** the construction of the site subject to the following:

- 1) *Confirmation by CRINS-SINRC that the Proponent has addressed all relevant concerns of the public according to the Protocol and that the above conditions have been met such that a Notice of Completion is warranted.*
- 2) *Submission of "as-built" drawings to CRINS-SINRC no later than 30 days after the completion of construction.*
- 3) *Receipt of the Safety Code 6 report by a Professional Engineer licensed in the Province which confirms compliance with Safety Code 6 prior to the commissioning of the tower.*
- 4) *Receipt of an attestation or stamped drawings by a Professional Engineer licensed in the Province which confirms compliance with the National Building Code and CSA S37-XX Standard prior to construction.*
- 5) *The proponent will be required to obtain a separate civic address from the LUA for the tower structure in order to comply with the LUA's civic addressing by-law.*

DATED this _____ day of _____, 2019

Sonya Bolton
Senior Planner - Planning, Building and
Licensing Services
City of Kingston

Paige Agnew
Director of Planning, Building and
Licensing Services
City of Kingston



Land Use Authority
Recommendation Report

CRINS-SINRC # 1811-0202-0522

^{2[1]} Innovation, Science and Economic Development Canada has advised that they do not require that a professional engineer provide the Safety Code 6 attestation and that the requirement for an engineer to be licensed in Ontario is not a requirement for federal undertakings. As the practice of Engineering is a provincial jurisdiction, CRINS-SINRC and the Land Use Authority have forwarded the matter to the Professional Engineers Ontario (PEO) for review with the Federal Minister of Labour.

Canadian Radiocommunications
Information and Notification Service



Service d'information et de notification
en radiocommunications canadiennes

City of Kingston
216 Ontario Street
Kingston, Ontario
K7L 2Z3

BY ELECTRONIC MAIL

Attn: Paige Agnew

August 20, 2019

RE: Guidance regarding Council Resolution of May 8, 2019 (Meeting 2019-14)

Dear Ms. Agnew:

We have been provided a copy of Council's resolution of May 8, 2019 regarding the provision of municipal concurrence for radiocommunications facilities.

We note the circumstances under which this resolution was prepared and put before Council, and wish to elaborate on the potential impact such a resolution may have on both current and future applications within the City. We ask that you share this information with Council.

To begin, we would like to review both the process and the applications which CRINS-SINRC has been processing on behalf of the City.

CRINS-SINRC Role

As you aware, the Canadian Radiocommunications Information and Notification Service / Service d'information et de notification en radiocommunications canadiennes (CRINS-SINRC) is a national para-municipal organization with the mandate to receive, review and provide advice on applications for proposed radiocommunications facilities to member municipalities and provincial government agencies. When requested, we assist in the arbitration of issues regarding the siting of radiocommunications facilities.

In the matter of the recent applications, Rogers contacted CRINS-SINRC in accordance with their obligations under Innovation, Science and Economic Development Canada Client Procedures Circular (CPC) 2-0-03, Issue 5 (2014), Section 4 and the CRINS-SINRC Reference Protocol, Issue 4 (2014), Section 4.3. The City of Kingston has adopted the CRINS-SINRC reference protocol as the protocol in force as part of their membership in CRINS-SINRC.

Jurisdiction

Radiocommunications are an activity legislated by the Federal Government under the *Radiocommunications Act* which empowers the federal *Minister of Industry* to make all decisions regarding the operation of radiocommunications in Canada.

Section 5 of the *Radiocommunication Act* states that the Minister may, taking into account all matters the Minister considers relevant for ensuring the orderly development and efficient operation of radiocommunication in Canada, issue radio authorizations and approve each site on which radio apparatus,

including antenna systems, may be located. Further, the Minister may approve the erection of all masts, towers and other antenna-supporting structures [Section 5(1) (f)].

The Minister, recognizing that these facilities can have an impact on areas which fall under the legislative purview of the Provinces, has implemented through Innovation, Science and Economic Development Canada a set of procedures which recognizes the exclusive jurisdiction of the Minister, while also providing a mechanism for provincial and local land use authority concerns to be addressed. These procedures are outlined in a series of documents known as the Client Procedure Circulars (CPCs).

Of particular interest to this matter is Client Procedures Circular (CPC) 2-0-03, Issue 5 entitled “*Radiocommunication and Broadcasting Antenna Systems*”. This document outlines the process that all proponents of radiocommunications facilities must adhere to when pursuing to establish a new radiocommunications facility.

Background

Section 4 of CPC 2-0-03 requires proponents to contact the local land use authority or a designated official to determine the consultation protocol to be followed for all proposed sites not excluded from consultation under Section 6.

In November 2018, Eric Belchamber, a contractor for Rogers Communications, submitted to CRINS-SINRC information for several sites within the catchment area of the City. As the delegated authority for the City of Kingston, CRINS-SINRC received the information and pre-consultation feedback was provided by City staff and CRINS-SINRC regarding the proposed sites in relation to current planning uses and developments before the Planning Department. In January 2019, Rogers provided complete applications to CRINS-SINRC for 4 sites, and subsequently an additional 6 sites were submitted. CRINS-SINRC then conducted reviews for each of the sites.

Rogers submitted several sites in this group for which they advised that they were claiming an exclusion from public consultation under Section 6 of CPC 2-0-03, and were seeking confirmation of the exclusion from CRINS-SINRC pursuant to Section 4.3 of the CRINS-SINRC Reference Protocol.

Analysis

Determining the correct Land Use Authority (LUA)

C6273 – Niagara Parkway and Highway 2 (CFB Kingston)

CRINS-SINRC commenced a review of the proposals and determined that one of the proposed sites was located on *Crown lands owned by Her Majesty the Queen, in right of Canada, as represented by the Department of National Defence at CFB Kingston.*

Therefore, the Land Use Authority (LUA) is the Federal Government and *not the City of Kingston.*

As such, the City exercises no land use / planning jurisdiction over this site. The *Planning Act* has no authority to bind proponents involved in the implementation of *federal undertakings* or works on federal lands. In this case, the provincial *Planning Act* is replaced with the relevant federal regulations.

Radiocommunications facilities are constructed under the authority of the *Minister of Industry*. As such, these structures are deemed a *federal undertaking*, requiring Proponents to uphold the standards which apply to the construction of buildings and other infrastructure as if it were being constructed on behalf of the Government of Canada.

As such, the *Minister of Labour* has adopted the *National Building Code (NBC)* amongst many other federal standards in relation to any structure built under enabling federal legislation.

Part II of the *Canada Labour Code* (<http://laws-lois.justice.gc.ca/eng/acts/L-2/>) and the regulations made there under, set out the rules that apply to all federal undertakings, or workers enabled as a result of their work on such undertakings, including, but not limited to broadcasters and telecommunication carriers.

The obligations include ensuring that all permanent and temporary buildings and structures meet the prescribed standards in the *Canada Occupational Health and Safety Regulations* which apply to any federal undertaking. Section 2.2 (1) of the aforementioned regulations, reference the *National Building Code* as the applicable code to be used as the reference.

Also included is the requirement for broadcasters and telecommunication carriers, when constructing towers, to follow the *Canada Occupational Health and Safety Regulations, Division II, Section 2.19*, which refers to the Canadian Standards Association (CSA) Standard CAN/CSA-S37-94 [and subsequent amendments], entitled “*Antennas, Towers, and Antenna-Supporting Structures*”.

Legislation under *HRSDC (Human Resources and Skills Development Canada)* enforced by the *Minister of Labour* (who is one of the Ministers under the HRSDC portfolio) is responsible to enforce the provisions of the NBC and the CSA Standard, along with provincial legislation relating to the practice of professional engineering in each province.

Public Consultation Process and Exemptions

CRINS-SINRC conducted the public consultations on those sites where it was applicable according to the CRINS-SINRC Reference Protocol.

In the case of the site at CFB Kingston, CRINS conducted the consultation on behalf of the Department of National Defence and having received no objections from adjacent landowners, returned the results to the Department of National Defence, and CRINS-SINRC issued a Notice of Completion for the site. CRINS-SINRC issues a Notice of Completion which is the equivalent of a “statement of concurrence” for all jurisdictions where it is the delegated authority.

For the sites for which Rogers claimed an exemption under CPC 2-0-03 Section 6, CRINS confirmed that these sites were exempt from consultation, and has issued Notices of Facility Exemption for these sites. Each site is still reviewed by City staff and CRINS-SINRC for compliance with federal regulations, and to ensure no impairment of community sensitive locations, as defined in the protocol, occurs.

Under CPC 2-0-03 Section 6 a proposed radiocommunications site is excluded from public consultation if it meets one of several criteria. The Rogers proposals for which they claimed an exemption met one of these criteria: specifically, *the proposed sites utilized an existing non-tower structure (building rooftops) where the addition of the proposed antenna system will not increase the height of the structure, exclusive of appurtenances, by more than 25%.*

Therefore, the Rogers proposals for which they claimed exemptions, were confirmed to be exempt from public consultation under the Exclusions outlined in Section 6 of CPC 2-0-03.

CRINS-SINRC Review

CRINS-SINRC conducted the public consultations and received feedback from the public on two specific sites out of the proposals submitted by Rogers: C6242 – Bayridge Dr. and Sierra Avenue, and C6201 – Sydenham Rd.

C6242 – Bayridge Dr. and Sierra Avenue

As noted in the LUA Recommendations Report, a resident expressed concerns that the electromagnetic emissions from the tower, when combined with the other sources of electromagnetic emissions in the environment, would be unsafe.

Rogers responded confirming that the proposed structure, when evaluated relative to existing emissions, would be operated such that emissions are below the limits set out in Health Canada Safety Code 6.

Additionally, the District Councillor noted the interest of a developer in building a 6-storey apartment building on an adjacent lot. City staff has confirmed that this proposal has not been received by the City and no permissions have been granted.

As a result, while the developers proposed plans are noted, in the absence of approved plans and permissions, the review of the proposed tower is based on the existing “conditions on the ground”.

There were no noted impairments of *existing* uses, or unresolved issues.

C6201 – 1138 Sydenham Road

This site received considerable feedback from the public. The location was in a mixed zoned area, but adjacent to residential properties.

After representations from the public, and inquiries the area Councillors, CRINS conducted a detailed site analysis including field survey to evaluate the concerns.

On May 1, 2019 CRINS issued a memorandum to stakeholders and City staff identifying the results of the site analysis which included a number of issues with the proposed site.

On July 4, 2019 CRINS informed Rogers that this proposal had been rejected due to concerns identified in its analysis. Rogers is now considering other options.

Guidance for Council

The CRINS-SINRC protocol is designed to capture varying levels of input into proposed radiocommunications sites. It is also intended to be a detailed review which is conducted in an impartial manner which protects the rights of both adjacent landowners, the property owner who has agreed to host the antenna system, the proponent as well the interests of the public realm. CRINS-SINRC conducts an evidence-based analysis relative to the federal regulations which apply to these systems and integrates planning input from City staff as part of this review.

Given that antenna systems are federal undertakings, the involvement of the municipality is limited insofar as federal authority supersedes all municipal by-laws and provincial legislation. And therefore, the context of municipal input is limited to planning matters and identification of impacts on the public realm.

The input received from adjacent landowners is given considerable weight where it can be shown that the adjacent landowners material use of their property is impacted (*i.e.* right-of-ways, environmental or conservation features, wildlife habitat, etc..).

Input from the general public is given weight where the proposed site is located on public use lands such as municipal lands, provincial crown lands, or on properties where a material impact can be shown on the public realm which negatively impacts economic developments such as tourism destinations, or community sensitive locations.

City planning staff are well positioned to provide domain knowledge of the City's current inventory of features, as well as future plans and as the caretakers of the urban plan, provide this expertise to CRINS-SINRC analysis.

Summary of Potential Concerns

The CRINS-SINRC Protocol requires that staff/CRINS-SINRC seeks Council approval on sites where it has been determined that the site carries a high degree of visual change due to impact on the public realm, or where the site impacts public use / municipal-owned lands.

Council is not involved in sites that are deemed to have a low or medium degree of visual change or do not directly impact publicly owned lands. This is by design to make the process streamline, and to prevent Council from overreaching in its authority relative to a federal undertaking.

Council's role in low and medium change sites is to ensure CRINS-SINRC is made aware of adjacent landowners concerns whose properties are directly impacted, or public input, when relevant. The obvious exception being where the land is owned by the municipality itself, such as in the case of C6241 – Innovation and Discovery Drive (a City owned property on which Rogers has sought to build a tower where the City itself is the landowner and a decision by Council is needed to approve the land use).

We also draw your attention to how the protocol and process work using C6201 – Sydenham Rd as an example.

Robust public comments were received by CRINS from adjacent landowners, and concerns expressed by Councillors Chappelle and Oosterhof in support of their constituents. This robust response was the trigger to initiate an investigation into the concerns expressed by the adjacent landowners, and the CRINS-SINRC investigation confirmed and supported those concerns.

As a result, CRINS-SINRC rejected the application based on the concerns identified in its investigative report that were contrary to federal directives. Review by Council was unnecessary because it did not meet the standards needed to be approved by CRINS.

In the case of C6242 – Midland Avenue, our review of the proposal by Rogers determined that the application was properly constituted, and is compliant with all relevant federal regulations as required by ISEDC. While the future plans of an adjacent property owner were expressed, the property owner had not sought the approval of the City for their potential development, and therefore the proposed tower cannot be impaired based on future intent. The singular other concern with the site had been addressed with the Resident.

By requesting concurrence through Council, for tower sites in which the City is not the property owner, the City puts itself in the possible position of impairing the right of the landowner who is hosting the tower site in a manner outside their jurisdictional prerogative given the federal nature of the undertaking.

Further it is worth noting that the *Planning Act* is not binding on radiocommunications facilities, and we submit that the role of Council in providing an approval mechanism relative to the Act is, respectfully, rendered inoperative in deference to federal jurisdiction and the legal doctrine of Federal Paramountcy.

It should also be noted that a building permit is not required by Industry Canada for a federal undertaking, but is rather recommended as a courtesy to provide the City within an opportunity to update their information relative to municipal services and in support of public safety such as fire services.

Conclusion

In conclusion, we would submit that Council must be cautious in its exercising of Council resolutions to seek further control over radiocommunications sites approvals. ISEDC has a very structured review for these applications, and in most situations, where sites are being impacted based on perceived political considerations, the decisions of the Minister responsible for ISEDC tend in favor of the proponent. The current process where City staff and CRINS make the final determinations on evidence-based criteria is the most effective way to provide oversight to potential applications, and the results – such as in the case of C6201 Sydenham Rd – show that the correct outcomes are being arrived at.

We hope that you find these comments useful, and should you wish to have a discussion surrounding the rationale for our comments in more detail, we would be happy to present our information in person should it be of value.

Sincerely yours,



Todd White
Executive Director

cc. Catherine J. MacDonald, General Counsel, CRINS-SINRC
Sonya Bolton, Senior Planner, City of Kingston