

April 25, 2022

The Honourable François-Phillippe Champagne
Minister of Innovation, Science and Industry
C.D. Howe Building
235 Queen Street
Ottawa, Ontario
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re: Complaint regarding improper public consultation in relation to a proposed cell tower, at 2045 W. Island Highway, Qualicum Beach (TELUS File: BC105331)

Dear Mr. Champagne,

On behalf of the 1400 citizens of Qualicum Beach, BC, who oppose the installation of a telecommunications tower in a residential area, **we are appealing to you regarding several glaring breaches of ISED's public consultation process for antenna systems.**

Urgent action is needed as communication has broken down with Michael Fu, Regional Director, Spectrum Management Operations Branch, who wrongly considers this matter closed. Please help us!

The residents who will be affected have many concerns and each and every one of them should have had the right to provide comments, express their concerns, and have their questions answered, whether it be regarding health risks, site sharing, safety measures, etc.

We understand that ISED does not consider health concerns to be "reasonable or relevant", deferring to Health Canada's Safety Code 6. **However, we do expect to be given the opportunity to take part in the public consultation.**

As outlined in your document entitled Spectrum Management and Telecommunications Client Procedures Circular [CPC-2-0-03](#) — **Radiocommunication and Broadcasting Antenna Systems**, when a Land Use Authority does not have its own antenna siting protocol, the company planning to install or modify an antenna system in Canada **must** respect ISED's **Default Consultation Process**.

According to this default consultation process, the proponent should have:

- mailed a clearly marked package to the "local public", i.e., those located within a radius of 3 times the height of the tower (including nearby residences, community gathering areas, public institutions, schools, etc.);
- sent this notification package to neighbouring land-use authorities, businesses, and property owners, etc.
- informed the wider community via a clear notice placed in a local community newspaper.

On the following pages, we draw to your attention to **many errors and omissions made by the proponent** (SitePath Consulting Ltd., land use consultant acting for Telus) in conducting the consultation process, **as well as unacceptable responses provided by ISED staff.**

Lack of Transparency

As Canadians, **we expect a fair and transparent process.** As citizens of Qualicum Beach, we should have had the right to know which addresses are considered "the local public", i.e., those who should have received the notification package.

This basic information has been withheld.

The Town of Qualicum Beach does not have its own antenna siting protocol. However, it was unclear from the beginning whether the default consultation process would be followed or a plan proposed by the Town.

Regardless of the process followed, a significant percentage of the "local public" did not receive their package.

- Plan proposed by the Town Planner (Luke Sales) and shared with us on July 16, 2021, in the form of a map and email communications he had with the proponent indicating that the proponent agreed to include a wider area than 3x the height of the tower.
 - According to this plan, 47 properties would be considered the "local public" and informed accordingly.
 - **Breach:** 10 properties (**21% of the local public**) did not receive the package, and have signed affidavits to confirm this.**
- In a zoom meeting on April 4, 2022, with Mr. Michael Fu, Regional Director of the Spectrum Management Operations Branch, he inferred that the town's recommendations did not count, and that ISED would only consider the properties located within a radius of 3x the height* of the tower.
 - According to that plan, only 8 properties would be considered the "local public".
 - **Breach:** Of these, 4 properties (**50% of the local public**) did not receive the package, and have signed affidavits to confirm this.**

* This number is based on the wrong tower height. Details below.

** Details on next page

1) The Proponent Based the Entire Consultation Process on the Wrong Tower Height

According to CPC-2-0-03, Section 4.2, Public Notification Item 4,

"Height is measured from the lowest ground level at the base, including the foundation, to the tallest point of the antenna system. Depending on the particular installation, the tallest point may be an antenna, lightning rod, aviation obstruction lighting or some other appurtenance."

According to the public notification package [see attached Exhibit A], SitePath stated that:

"This proposal is for a 45-meter tall monopole tower as well as a 4-meter tall lightning rod (49 meters of total height including the lightning rod)."

Then, they proceeded to calculate the radius based on the height without the lightning rod, stating, *"The required notification radius in this instance is 135 meters."*

The actual tower height should therefore have been announced **in the newspaper notice as 49 metres high**, and the proponent should have been required to notify all residents living **within a radius of 147 metres** (and not 135 metres as they claimed).

2) ISED's Public Consultation Process Was Not Respected.

Assuming, as your Regional Director Mr. Fu states, that it was ISED's default public consultation process that should have been followed, several errors were made.

a) 3 families residing within the radius of 3x the height were not on the original list.

- Because the proponent based their calculation on the wrong height, the residents at 3 addresses located within the perimeter were not notified and therefore were not granted their right to be consulted. **[see attached Exhibit B]**

b) 4 families residing within the radius of 3x the height that were on the original list were not notified.

- The residents at 4 of the original addresses located within this perimeter were not notified and therefore were not granted their right to be consulted. (*Originally, based on the Town's plan of notifying 47 homes, the number of families who did not receive the package was 10.*)
- The proponent claims that it mailed the package to these families. However, they all state that they did not receive the package, and have written affidavits testifying to this.
- We informed ISED (Michael Fu, Regional Director - Western Region, Spectrum Management Operations Branch and Bernie Ries, Operations Manager, STS Western Region) of this breach of process and asked them to annul the consultation.
- On August 16, 2021, Mr. Fu replied that "ISED has thoroughly reviewed the public consultation process conducted by SitePath/TELUS and found it was conducted in compliance with the CPC. The in-depth review included scrutinizing the consultation package mailing list, the number of households addressed, the actual tower height and other pertinent details. ISED has determined that SitePath/TELUS took extra steps to ensure the integrity of the consultation process and is satisfied that all conditions have been met and now considers this matter closed."
- We respectfully requested of Mr. Fu and Mr. Ries to see proof that these packages were mailed and received. It is not enough to say that they were "on the list". Also, it is highly unlikely that half of the packages mailed were lost by Canada Post. And indeed had this been the case, would that negate the right of these citizens from being consulted?

c) A Daycare Located Within This Perimeter Was Not Notified.

- Little Gems Infants and Toddlers (Little Star Children's Centre Ltd), located at 825 Village Way, Qualicum Beach, is a registered business that would be directly under the cell tower. It houses 12 children, aged 1-3 years, every day from 8 am to 5 pm.
- It was not sent the public notice package.
- This is a registered business. Additionally, there is signage at the entrance to the school, and school crossing signs. If the proponent had done its due diligence, it would have seen that there is a SCHOOL AND BUSINESS right under the cell tower location. **[see attached Exhibit C]**
- ISED's Mr. Ries claims that the proponent only had to notify the property owner (the Church) and not the business (the daycare center) that shares the same address.

- P. 7 of ISED's CPC says: "**As a minimum**, proponents must provide a notification package **to the local public (including** nearby residences, community gathering areas, public institutions, **schools**, etc.), neighbouring land-use authorities, **businesses**, and property owners, etc."

Note: It says "businesses AND property owners". It does NOT say "only to property owners", or "only to businesses that own property", or "only to schools that own property".

Therefore a business located inside a building that is owned by someone else should be notified. Such as the daycare located inside the church.

d) The Required Public Notice Placed in the Newspaper Was Not Compliant.

As mentioned above, the public notice that was placed in the local newspaper in June 2020 [see attached Exhibit D] had serious flaws:

- It indicated the **wrong height** (45 metres instead of 49 metres); this represents a **significant difference of more than 13 feet**.
- It did not clearly indicate that this was a **cell antenna tower**.
 - **The title** avoided the words "tower" and "antenna". Instead it simply said "telecommunications facility" and a "monopole structure".
 - The text avoided using the word "antenna". It simply referred to "a telecommunications facility consisting of a 45-meter tall monopole tower and ancillary radio equipment". This is highly misleading. The public does not equate radio equipment with cell antennas. Even the CPC doc which is not written in an easy language for the general public refers to "antenna systems".

e) The notification package was incomplete. [see attached Exhibit A]

In the CPC-2-0-03 Appendix, it states that proper notification must include at minimum 12 specific requirements. Below are several of these requirements that were omitted:

Requirements	Compliance
1) the proposed antenna system's purpose , the reasons why existing antenna systems or other infrastructure cannot be used , a list of other structures that were considered unsuitable and future sharing possibilities for the proposal;	No explanation was provided as to why the other towers in the vicinity cannot be used. There are already 3.
4) access / demarcation measures to control public access ;	There was no description regarding measures that will be taken to control public access.
6) a description of the proposed antenna system including its height and dimensions, a description of any antenna that may be mounted on the supporting structure and simulated images of the proposal;	There was no description of any antenna that may be mounted on the supporting structure.
7) Transport Canada's aeronautical obstruction marking requirements (whether painting, lighting or both) if available; if not available, the proponent's expectation of Transport Canada's requirements together with an undertaking to provide Transport Canada's requirements once they become available;	Not provided. Telus should at least have indicated that they would provide this info once it became available.

<p>12) Closing date for submission of written public comments:</p>	<p>Unlike the 11 other requirements that were separate numbered paragraphs, this one did not stand out on its own. It was buried under contact info.</p> <p>Also, it was not made clear that <u>all comments</u> were welcome. Instead a form was provided at the end that <u>did</u> stand out and seemed to limit what a person could comment on. It looked like a survey conducted on behalf of a telecom company, and only covered 3 questions:</p> <ol style="list-style-type: none"> 1. Are you a cellular phone or wireless device user? 2. Do you prefer location option 1 or location option 2? 3. Are you satisfied with the appearance / design of the proposed facility? <p>Admittedly there were 4 lines at the end for "Additional Comments" but this was not numbered as the above 3 questions, and could have been construed as being "Additional Comments relating to item 3".</p>
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2) Is ISED biased towards industry?

After nearly 2 years of trying to obtain a fair consultation process, ISED's Mr. Michael Fu, Regional Director - Western Region, Spectrum Management Operations Branch, agreed to meet with us via zoom. The meeting took place on April 4, 2022 and included in addition to Mr. Fu and ourselves: Mr. Bernie Ries, Operations Manager, STS Western Region (ISED), and Mrs. Karen Specht, one of the residents located closest to the proposed tower site.

We had high hopes that finally this situation would be resolved.

Unfortunately, Mr. Fu simply reiterated what he had written in his letter of August 16, 2021.

- He repeated that they had thoroughly reviewed the public consultation process conducted by the proponent and found it was in compliance with the CPC.
- When asked how they verified that all packages had been delivered, he said that they scrutinized the mailing list. (The Town also said that they do not audit the notification process to verify that it was completed.)
- Mrs. Specht, whose home would be directly below the cell tower, reiterated that she along with several neighbours had not received any notification from Sitepath Consulting.
- Just short of being accused of lying, she was ignored by both ISED managers. When pressed for an answer, what was most disturbing was to see Mr. Fu, defending Brian Gregg of SitePath Consulting. He said: "How can you question Brian Gregg, he is the consultant for many cell towers across Canada? We are watching him."

SitePath is contracted by Telus. This in itself places them in a conflict of interest.

- Is it appropriate for the party conducting the consultation to lobby one side -- the one that would favour the installation of the tower? We have evidence that they lobbied behind the scenes for people in favour of the tower to show up at the information session and to take part in the consultation.
IMPORTANTLY: Because of this, many residents did not trust SitePath, and decided to send their comments to the Town of Qualicum Beach instead of to the proponent, not realizing that the Town was not bound to send these letters to ISED.
- When 50% of the local public state in writing that they were not notified, is it not possible that SitePath made a mistake? Or Canada Post, for that matter? Why does your regional director refuse to even entertain the possibility? This is an insult to the citizens who have indicated that they did not receive the package. It is clear that Mr. Fu does not believe them. Yet he has complete confidence in SitePath who is in a conflict of interest.

Minister Champagne, may we suggest that Mr. Fu's statement reflects favoritism to the proponent and is not objective regulating as one would expect from ISED?

IN SUMMARY:

- Assuming that the CPC default consultation should have been followed, 8 addresses out of required 12 (i.e., 67% of the "local public") did not receive the notification package, including a daycare centre.
- The notice placed in the newspaper to inform the wider public was unclear and indicated the wrong height.
- The information package for the local public was incomplete.
- The consultation process was carried out at the height of the pandemic (summer of 2020) in a town of seniors, making it impossible to hold an information meeting and difficult for people to communicate.
- The actions of the proponent which showed a clear bias, resulted in many citizens not trusting them, and therefore sending their letters to the Town instead of to the proponent. They mistakenly thought that the Town would forward these letters to ISED as part of the Consultation process.
- Even the BC Ombudsperson states that citizens were not given the opportunity to be heard (albeit by the Town). **[see attached Exhibit E]**

We understand that it is in your purview to reverse the department's decision.

We know that ISED has done this in similar situations of non-compliance by a proponent.

We are respectfully asking you, Minister Champagne, to intervene and correct this situation, and to amend your CPC document so that future situations such as ours will not occur.

Specifically:

For our situation:

ISED should **invalidate this consultation**, and require that SitePath **restart the consultation process**. We know that ISED has done this before in similar situations where the proponent did not follow ISED's public consultation process.

Restarting the consultation process from scratch would mean that SitePath would be required to:

- send out the packages **to all residents** within the **radius of 147 metres**.
- place a highly visible and clear **notice in the local newspaper**, indicating the correct height of the tower, and mentioning clearly in the title that it is regarding a 49 metre telecommunications tower, and clearly indicating that it will house cellular antennas.
- all citizens would have the usual 30 days to respond (and the usual time-frame for responses)

To avoid such conflicts in the future, we would respectfully suggest that you amend the CPC document to require:

- that the consultation be conducted by an unbiased third party;
- that notification packages be sent by registered mail with signature;
- that a google search for daycares and schools be carried out to ensure that none are forgotten. In small towns, many do share premises with churches and other businesses.

You may be thinking that it is too late. However, please understand that we have been trying to obtain a fair process since 2020.

In closing, we would like to point out that in addition to all of the above, you may want to take into consideration two factors:

The citizens of Qualicum Beach are mainly seniors.¹

- We are a town of 9,000, 52% of whom are seniors. It is the town with the most seniors in all of Canada! There are those who said the Telus announcement looked like a small ad and disregarded it!

This consultation took place in the middle of Covid, in the summer of 2020.

- This was a very, very stressful time for us all – but particularly for seniors.
- Because of Covid, there was no public meeting at the Qualicum Beach civic centre, as there had been before. So there was not a proper representation in the report presented to you by Brian Gregg of Sitepath Consulting on behalf of Telus.
- People have had to rely on technology, and while we may not enjoy the stereotype of struggling with technology, undeniably many older people do have difficulty mastering their devices.

Please provide us with the opportunity to have a full, proper and fair consultation.

We thank you for taking the time to consider this situation and look forward to your reply.

We need to hear from you as soon as possible, as the cell tower is scheduled to arrive anytime now.

Respectfully,

Dr. Fred and Mrs. Carol Dowe
Qualicum Beach
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on behalf of the 1400 concerned citizens
of Qualicum Beach who are opposed to this tower

Enclosures:

- Exhibit A - Local public notification package
- Exhibit B - Notification map and addresses for local public
- Exhibit C - Google search of daycare centres in Qualicum Beach
- Exhibit D - Notice that appeared in PQBNews June 17, 2020, page 34
- Exhibit E - Report from the BC Ombudsperson and letter of apology from the Town

¹ Qualicum Beach has most seniors over 65 in the country. <https://www.pqbnews.com/news/qualicum-beach-has-most-seniors-over-65-in-the-country/>