



# Municipality of Port Hope

## Staff Report

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### Report Title: Telecommunications Tower Protocol

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**Report to:** Council

**Date of meeting:** November 5, 2024

**Report Author:**

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**Department responsible:**

Development Services

**Report Number:** DS-26-24

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### Recommended Action:

WHEREAS Council in Committee of the Whole dated August 6, 2024, considered Staff Report PD-19-24 regarding adopting a draft Telecommunication Tower Protocol Policy; and

WHEREAS Committee of the Whole directed staff to engage with members of the public to finalize the adopted Telecommunication Tower Protocol Policy in a manner that is in keeping with relevant Federal legislation under the Radiocommunication Act; and

WHEREAS following this further review, staff added a statement under Section 1 (Purpose) which states “To assist in ensuring that the process and ultimate decision-making protects the interests of the Port Hope community.” as further described in Report DS-26-24;

NOW THEREFORE BE IT RESOLVED THAT Council approve the finalized Telecommunication Tower Protocol Policy as revised (Attachment 1).

### Highlights:

- Telecommunication tower planning and development is a Federally regulated process in which municipalities may act as a commenting body.
- A Telecommunication Tower Protocol has been prepared and adopted by the Committee of the Whole to ensure an objective and engaging process is adhered to for future telecommunication tower development applications submitted to the Municipality.
- Staff have engaged with the public to discuss the adopted Telecommunication Tower Protocol. The purpose of the consultation was to consider any revisions that may be appropriate to include in the finalized Protocol.

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**Report No.:** DS-26-24

**Report to:** Council

- Staff have made a revision to the Telecommunication Tower Protocol to clearly outline the part of the Protocol's purpose is to work in the interests of the Port Hope community.

### **Background:**

Telecommunication Tower Systems are land-uses that are exclusively regulated through Federal legislation under the Radiocommunication Act and is administered by Innovation, Science and Economic Development ("ISED") Canada. Therefore, the planning and development of telecommunication infrastructure is not subject to Official Plans and Zoning By-laws.

ISED has published a default application processing protocol in which municipalities must follow; however, municipalities may create their own protocol for processing telecommunication tower infrastructure.

Although ISED is the approval authority for telecommunication tower infrastructure, municipalities have the ability to provide letters of concurrence, concurrence with conditions, or non-concurrence to ISED for their consideration in final decision making. The conditions for granting concurrence, concurrence with conditions, and non-concurrence are as follows:

- 1) Concurrence: The applicant has satisfactorily addressed the Protocol and there is no additional requirements or material required by the applicant.
- 2) Concurrence with Conditions: The applicant has satisfactorily addressed the Protocol; however, additional requirements are to be satisfied (i.e. drawing revisions and agreements).
- 3) Non-Concurrence: The applicant has not satisfactorily addressed the Protocol.

On August 6, 2024, the Committee of the Whole adopted the draft Telecommunication Tower Protocol prepared by staff. Further, given that the Municipality's Protocol must be generally consistent with ISED's established protocol, the Committee of the Whole provided direction to staff to engage with members of the public to consider their input and revise the adopted Protocol where appropriate.

### **Discussion:**

Staff engaged with members of the Ganaraska Oak Ridges Guardians (GORG) on August 14 2024. Several questions were provided to staff for discussion purposes. The questions and responses were as follows:

- 1) Will the requirement to comply with the federal Environmental Assessments Act and demonstrate compliance be spelled out in Port Hope's cell tower policy?**

The *Environmental Assessment Act, 2012*, was repealed within the coming into force of the *Impact Assessment Act* on August 28, 2019. This is reflected within the Preface of ISED's default protocol. Specifically, it is stated that ISED's default protocol now has

“updated references to the Canadian *Environmental Assessment Act* to reflect the coming into force of the *Impact Assessment Act*”.

However, members of GORG proposed that Environmental Assessments are still required via the *Environmental Assessment Act* through a “Technical Guidance” document that is still in-effect. In considering this, staff have reviewed the “Technical Guidance for Assessing Cumulative Environmental Effects under the Canadian *Environmental Assessment Act*”, as provided on the Government of Canada’s website. It is stated on the website that:

“[the Technical Guidance document], provides guidance on federal environmental assessments commenced under the former *Canadian Environmental Assessment Act, 2012*. It is retained [for reference] for the completion of transitional environmental assessments commenced prior to the *Impact Assessment Act*” (emphasis by the author of this report).

Therefore, given that telecommunication tower proposals submitted to the Municipality will be under the *Impact Assessment Act*, Environmental Assessments are not required to support new telecommunication tower proposals. This is consistent with ISED’s default protocol.

- 2) The cell policy states that cell towers are discouraged on the Moraine and that there should be no adverse effects in natural areas. The policy does not stipulate that alternative options or sites must be explored and evaluated and only if the other options or sites are not viable may the proponent consider sites on the Moraine. Why is this, as the Environmental Act states that there should be no utilities added to the Moraine unless there are no alternatives? Why is there no requirement for an environmental impact analysis?**

As discussed above, the *Environmental Assessment Act* is not applicable to new telecommunication tower proposals. Additionally, within the adopted Telecommunications Tower Protocol, Section 7.1 (Pre-Consultation Meeting Requirements) requires a “cover letter describing the rationale for the proposed location and other potential sites”. Staff are then able to uphold Sections 6.1 (Preferred Locations) and Section 6.2 (Discouraged Locations) during the pre-consultation phase of the established procedure.

Furthermore, through the adopted Telecommunication Tower policy, the Municipality may issue letters of non-concurrence or letters of non-concurrence with conditions for proposals proposed on lands affected by naturally sensitive features and / or lands within the Oak Ridges Moraine.

- 3) Would there be verbiage in the protocol to protect land owners or at least ensure they understand their rights? [This is to] ensure the landowner is aware of all implications before signing an agreement.**

Legal agreements residents enter into with third parties as it relates to

telecommunication tower sites are private matters that Municipal policy cannot govern.

**4) Members of GORG presented telecommunication tower siting legislation in-effect within the United States, and have asked the Municipality to include policies from such legislation.**

Staff are of the opinion that referencing the provided legislation in-effect in the United States would not be consistent with ISED's default protocol. Therefore, including such legislation within the adopted Telecommunication Tower Protocol is not appropriate.

As a result of the discussions with GORG, staff have included the following provision within Section 1 (Purpose):

“to help ensure that the process and ultimate decision-making protects the interests of the Port Hope community”.

**Financial Considerations:**

There are no financial considerations for this report.

**Communication and Public Engagement:**

As discussed above, members of the public were engaged as part of finalizing the adopted Telecommunication Tower Protocol.

**Conclusion:**

The ability to prepare letters of concurrence or non-concurrence to ISED provides the ability for the Municipality to address concerns identified through the required public engagement process. This provides opportunity for the municipality to request studies (i.e. Environmental Assessments) when appropriate.

The finalized Telecommunication Tower Protocol reflects ISED's default protocol with local consideration. Further, the Protocol enacts an objective and engaging process for future telecommunication tower development applications submitted to the Municipality.

**Attachments:**

Attachment #1 – Telecommunication Tower Protocol