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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, JULY 20, 2021**

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**SUBJECT**      **Radio Communication and Broadcasting Antenna Systems Application for  
Section 42, Otter District – 2540 Aythree Way**

**ISSUE SUMMARY**

An application has been received by Rogers Communications for a 45 metre (m) radio communication tower with attached antennas and satellite dishes for the purpose of expanding telecommunications services.

**BACKGROUND**

Rogers Communications has requested a statement of concurrence from CRD to construct a 45 m radio communication tower on the subject property to increase their telecommunications service west of Sooke as part of an initiative to expand service between Sooke and Port Renfrew. The approximately 55 hectare (ha) subject property is located on Clark Road and Aythree Way in Otter Point (Appendix A). The proposed tower is a 45 m tri-pole with a 3.2 m antenna extending above (Appendix B). A 132 m<sup>2</sup> fenced equipment compound would be located at the base of the tower. The property owners have granted permission to the applicant to pursue this development.

The subject property is designated as Rural Land in the Otter Point Official Community Plan (OCP), Bylaw No. 3891, and is zoned Forestry (AF) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The parcel is within the Otter Point Fire Protection Service Area and outside of a community water service area. Portions of the property are designated as steep slope, sensitive ecosystems and watercourses and wetlands development permit areas in Bylaw No. 3819.

There is a single-family dwelling being constructed on the property, as well as an active soil deposit permit (SP000092), development permit (DP000291), and 10-lot subdivision application (SU000704). An application is also underway to rezone an 11 ha portion of the property to permit a residential density of one one-family dwelling and suite per 4 ha, agriculture, and an equestrian riding facility with ancillary campground (RZ000272).

Staff initiated public consultation for the proposed tower application between April 29 and May 31, 2021. Comments were received from members of the public and CRD departments and the applicant has submitted responses to the questions and concerns (Appendices C and D). As the land use authority for the application, the CRD Board is required to provide a statement of concurrence or non-concurrence on the application.

**ALTERNATIVES**

*Alternative 1*

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:  
That a statement of concurrence be provided to Rogers Communications for the proposed 45 m radio communication and broadcasting antenna system on Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in Plan EPP63580.

*Alternative 2*

The Juan de Fuca Land Use Committee recommends to the CRD Board:  
That a statement of non-concurrence be provided to Rogers Communications for the proposed 45 m radio communication and broadcasting antenna system on Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in Plan EPP63580.

*Alternative 3*

That the application be referred back to staff for more information.

## **IMPLICATIONS**

### *Legislative*

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 radio communication in Canada, issue radio authorizations and approve each site on which radio apparatus, including antenna systems, may be located. Further, the Minister may approve the erection of all masts, towers and other antenna-supporting structures. Accordingly, proponents must follow the process outlined in Industry Canada's *Spectrum Management and Telecommunications Client Procedures Circular* when installing or modifying an antenna system.

Part of the process includes contacting the land use authority and following the required consultation process. The CRD is the land use authority for the Juan de Fuca Electoral Area where the subject property is located.

The CRD Board approved Bylaw No. 3885, the Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, and the Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy (the "Policy") in 2019, which establishes a public consultation process and procedures.

### *Public Consultation*

In accordance with the Policy, a notice was published in the newspaper and a notice delivered to property owners and occupants within 500 m of the subject property advising the public of the application and the opportunity to provide written comments and questions. The notice was published on April 29, 2021, and submissions were to be received by 4:00 pm on May 31, 2021. A request for comment was also circulated to relevant CRD departments. CRD Protective Services and the Otter Point Volunteer Fire Department indicated their support the application. One letter of support and ten submissions stating objection were received from members of the public. The applicant was provided the submissions and has responded to the concerns and questions raised (Appendices C and D).

All objections stated health concerns; however, concerns that pertain to debating the validity of Health Canada's Safety Code 6, which regulates radiofrequency emitting infrastructure, are beyond the scope of local government consultation. The proponent has no influence over the safety code and is required to comply. Similarly, the three comments stating concern over potential negative impacts to property values as a result of a nearby tower are also outside the scope of local government consultation, as outlined by Industry Canada in the *Spectrum Management and Telecommunications Client Procedures Circular*. Other concerns noted included: proximity to residences, visual impacts, alternative locations, power supply and funding.

In advance of the July 20, 2021, Land Use Committee meeting, notices were sent to property owners and occupants within 500 m of the subject property advising of the applicant's responses received and the opportunity to be heard and provide additional comment at the meeting.

The public consultation process is to be complete within 120 days from initial contact with the application. A recommendation from the Land Use Committee along with any additional public comments received will be considered by the CRD Board and forwarded to the applicant and Industry Canada.

### *Land Use*

The AF zone does not expressly permit radio communication towers; however, it is considered a use permitted in all zones in accordance with Part 1, Section 4.15 of Bylaw No. 2040, which states: "Except where specifically excluded, the following uses shall be permitted in any zone: public utility poles, pipelines, radio, television, and transmission towers and wires; traffic control devices; and underground or submarine utility systems, the installation of which may be sited on any portion of a lot."

The subject property was selected by the proponent based on consideration for meeting service coverage objectives along Highway 14, the ability to connect to the existing telecommunications network, proximity to end users while being distanced from residences, having an agreeable property owner, and the feasibility of construction.

Development of the site will involve improving the existing driveway and clearing land for erecting the tower and installing a cement pad and fenced compound. Prior to site alteration, issuance of a development permit

may be required to address the steep slope and watercourse development permit guidelines in the Otter Point OCP. CRD Building Inspection has indicated that a building permit is not required for the tower.

Evaluation criteria to be considered by the CRD when reviewing an application for a radio communication and broadcasting antenna system is outlined in the Policy and included in Appendix E.

Rational for proposed location: Rogers Communications states that the service coverage objectives to provide strong and reliable service to Highway 14 corridor and the surrounding community require a site with appropriate elevation, a clear line of site to other towers in the networks, plus proximity to customers while being distanced from residences. The location also requires a site with good conditions such as electricity, access, minimal environmental impacts. The subject property offers many of these requirements compared to other sites considered. The applicant has also received permission from the subject property owner to submit the application to pursue approval for the tower.

Proximity to residential uses, institutions, and public lands: Six submissions from members of the public indicated concern over proximity of the proposed tower to existing residences. The proposed tower site is adjacent to Crown land to the south, vacant land to the north, and Rural A and AF zoned properties to the east and west with existing residences. The closest residence to the proposed tower is approximately 300 m which is greater than the CRD Policy guideline of 135 m (three times the height of the antenna system) from adjacent dwellings. The applicant's response indicates the setback is considered relatively large and that the facility needs to be sited in reasonable proximity to the end users connecting to the network.

Visibility and measures to integrate the tower in to local surroundings: The applicant mentions the proposed location is in a cleared area surrounded by mature trees.

Security measures: The applicant proposes to install perimeter fencing at the base of the tower to restrict public access to the tower.

Alternatives/mitigation measures: The proposed location for the tower offers the applicant the required conditions including proximity to Highway 14, access, electricity, cleared land and a willing property owner. Other locations in the vicinity did not meet the applicant's technical requirements for providing coverage or did not have an agreeable property owner.

Hazardous areas: Portions of the property are designated as steep slope development permit areas in the Otter Point Official Community Plan Bylaw No. 3819. A development permit may be required for alteration of land in these areas.

Environmentally sensitive areas: Portions of the property are designated as Watercourses and Wetlands and Sensitive Ecosystem development permit areas in the Otter Point Official Community Plan Bylaw No. 3819. A development permit may be required for alteration of land in these areas.

Aeronautical safety requirements: The applicant will confirm with Transport Canada regarding whether lights are required for the proposed tower.

Impact on community: The proposed project is part of a larger initiative supported by the Province to provide reliable telecommunications service along the Highway 14 corridor and to surrounding communities between Sooke and Port Renfrew. A member of the public inquired about the applicant's funding sources, partnerships and service coverage to the community. Rogers Communications responded to clarify that \$4.9 million will be contributed by the provincial government to support the expansion of telecommunication service along Highway 14. Other service providers may co-locate on the tower in future. The applicant provided an anticipated coverage map for the proposed tower site.

Designs that address the guidelines: The proposed tower is to be located amongst an already cleared area surrounded by mature forest in order to minimize visibility from surrounding properties. The proximity of the proposed tower to adjacent residences is greater than 135 m (three times the 45 m tower height) recommended in the CRD policy.

Based on a review of the application and comments received, the proposed tower satisfies the evaluation criteria outlined in the CRD policy. While there were several letters of opposition submitted raising valid considerations, comments related to health and safety and property values are outside the scope of the

consultation mandated by Industry Canada. The applicant has presented rationale for the proposed location and demonstrated consideration of alternatives and mitigation measures. Therefore, staff recommend that a statement of concurrence for the proposed 45 m telecommunications tower be provided.

**CONCLUSION**

An application has been received by Rogers Communications to construct a 45 m telecommunications tower for the purpose of expanding telecommunications coverage in the Otter Point area, and as part of a larger initiative to improve service along Highway 14 to Port Renfrew. The proposal addresses the evaluation criteria in the CRD’s Juan de Fuca Radiocommunication and Broadcasting Antenna Systems Application Policy. Through the public consultation process, two responses supporting the application from emergency services personnel and one response from a member of the public were received in support, while ten responses were received objecting the application. The majority of the concerns, however, related to issues beyond the scope of local government consultation. The applicant has responded to the questions and concerns related to the proposal. Staff recommend that a statement of concurrence be provided for the application.

**RECOMMENDATION**

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board: That a statement of concurrence be provided to Rogers Communications for the proposed 45 m radio communication and broadcasting antenna system on Section 42, Otter District Except That Part Lying 50 feet on Each Side of the Centre Line of the Right of Way Shown on Plan 121 RW and Except That Part in Plan EPP63580.

Submitted by:	Iain Lawrence, MCIP, RPP, Manager, Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

**ATTACHMENTS**

- Appendix A: Subject Property Map
- Appendix B: Development Proposal
- Appendix C: Letters of Support
- Appendix D: Letters of Opposition and Applicant Responses
- Appendix E: Evaluation Criteria