



**FROM:** Todd White, Executive Director  
**TO:** Council, Municipality of the District of Chester  
**CC:** Tammy Wilson, Chief Administrative Officer,  
Municipality of the District of Chester  
**DATE:** April 9, 2015  
**RE:** **Eastlink NSB472 – Chester Village**

---

Please find attached our *final report* for the above noted site by Eastlink.

As indicated in the report, the protocol of the Municipality, then in force, was followed by municipal staff during the review of this proposal. However, there were some deficiencies in the notification process which, while compliant with the protocol, did not result in a satisfactory outcome.

These deficiencies, it should be noted, will be avoided in the future through the Municipality's participation in CRINS-SINRC and the use of the CRINS-SINRC Reference Protocol.

Of greater concern is the confusion over the zoning and perceived heritage character of the area surrounding the Eastlink tower. There was a clear disconnect between the public's perception of the designation of the area and the actual zoning and this was neither challenged or communicated during the process. We strongly advise that Council ensure the public is aware of existing zoning in this area, and this may lead into a more fulsome discussion given that, as we understand, the Municipality is currently in the midst of updating its Official Plan.

Should Council have any further questions, please feel free to contact the undersigned by e-mail at [todd.white@crins-sinrc.ca](mailto:todd.white@crins-sinrc.ca) or by phone at 855-502-7467 Ext. 101. CRINS-SINRC is available to assist the Municipality and Council with any further information or discussions related to this matter.

Regards,

Todd White  
Executive Director

Attachment.

# External Audit Report on

## Bragg Communications (dba Eastlink) Site NSB472 – “Chester Fire Hall”

On behalf of the



**Municipality of the  
District of Chester**

April 7, 2015

**CRINS-SINRC # 1512-X-0012**



**Table of Contents**

- 1. Terms of Reference ..... 3
- 2. Proactive Disclosure ..... 3
- 3. Subject Property ..... 4
- 4. Statement on Land Use..... 5
  - 4.1. Zoning and Compatibility with Existing Plans ..... 6
  - 4.2. Community Sensitive Locations ..... 6
  - 4.3. Fire Routing and Access ..... 6
  - 4.4. Environmental Review ..... 7
    - Safety Code 6 ..... 7
    - Other Environmental Issues ..... 7
  - 4.5. Structural Review ..... 7
- 5. Public Consultation..... 8
  - 5.1. Notification of the Public..... 8
  - 5.2. Relevant Concerns and Perceptions of the Public..... 9
- 6. Siting of Facility Relative to Existing Use..... 9
- 7. Statement of Concurrence ..... 10
- 8. Conclusion and Recommendations..... 10
- 9. List of Appendices ..... 11

## 1. Terms of Reference

On October 13, 2015, CRINS-SINRC received a request from the Municipality of Chester to review a proposal for a radiocommunications facility by Bragg Communications Inc., as represented by their employees Logan McDaid and Bob Warren, outlining a site identified as "NSB472 - Chester Fire Hall" .

It should be noted that the Municipality of Chester was not a CRINS-SINRC member at the time this proposal was submitted to the Municipality, and as such, this review is being conducted by CRINS-SINRC in accordance with its External Audit Service which it provides non-member land use authorities. As such, this is an external review based on the Municipality's protocol then in force at the time the proposal was submitted.

From this, CRINS-SINRC was given the mandate to ensure that the following had been considered:

- 1) That the proponent had complied with all Industry Canada and Municipality requirements for public consultation.
- 2) That the proponent had properly justified the need for the proposed site and that all reasonable alternatives to a new site had been explored.
- 3) Identify any anomalies or issues that the Municipality staff may have missed during their review of the proposed site.

The source materials used to establish the information in this report included:

- Material provided by the proponent to the public.
- Material provided by the proponent to municipal staff.
- CRINS-SINRC National Antenna Information database.
- Province of Nova Scotia Department of the Environment database.
- Field Audit by CRINS-SINRC Staff.

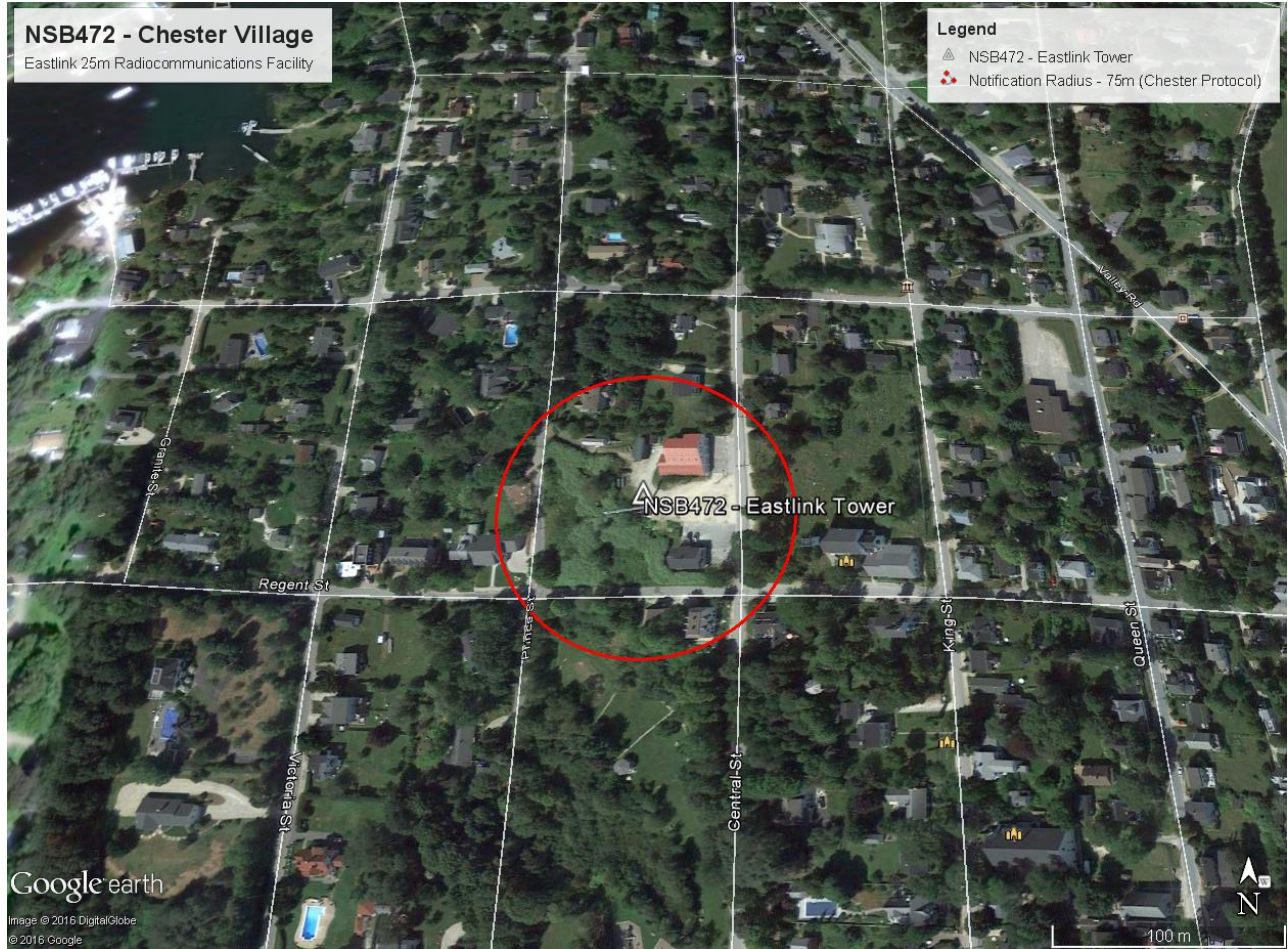
## 2. Proactive Disclosure

No staff or advisors of CRINS-SINRC have any pecuniary interests in the matters addressed by this report.

All opinions provided in this Audit Report are for the benefit of the Land Use Authority in its deliberations regarding the appropriateness of a proposed facility, and does not constitute a recommendation either for or against the proposed facility by CRINS-SINRC.

### 3. Subject Property

The installation is located at **149 Central Street** in the yard of the **Chester Fire Department** in the **Village of Chester** and is designed as a **25m shrouded monopole** with an additional equipment shelter at ground level to house the Proponent's equipment.



. The compound is enclosed with fencing to a height of 6' 8" (2 metres).

## 4. Statement on Land Use

The term “Land Use Authority” or “LUA” is used throughout this document to describe the body responsible for overseeing land use and development within a jurisdiction.

In Canada, land use matters fall under provincial jurisdiction as defined in the *Constitution Act, 1867*; as well as all subsequent amendments, leading to the *Constitution Act, 1982*.

Typically, the Provinces have devolved land-use matters and responsibility to the local level through municipal governments. In the case of Crown Land, land use is administered by Provincial Governments directly or by Federal departments and agencies.

While radiocommunications facilities are considered a *federal undertaking* – being authorized under the federal *Radiocommunications Act* and overseen by the *Minister of Innovation, Science, and Economic Development (formerly Industry)* – the installation of infrastructure such as towers, antenna mounts and supporting buildings to facilitate radiocommunications requires proponents to comply with both Provincial and Federal regulations.

As a result, the Land Use Authority (LUA) follows a different review process for radiocommunications facilities than is used for other development proposals. This alternate process reflects the cumulative regulatory requirements of both the Federal and Provincial governments.

LUAs typically evaluate all developments within the context of their Strategic Land Use Plan, with zoning and bylaws supporting or limiting the development of certain undertakings within the defined zones. In the case of radiocommunications facilities, these zones and bylaws cannot always be reasonably applied to these types of structures.

Radiocommunications are considered to be “utility-like” in that they are considered fundamental infrastructure and their placement is dictated by engineering requirements which are not always compatible with LUA planning strategies. As a result, while zoning and bylaws are enforced for other developments, LUAs must use zoning and bylaws as *guidelines only* when considering a radiocommunications compatibility with the surrounding area.

The Municipality of the District of Chester developed its radiocommunications protocol for the review of radiocommunications proposals to be compliant with Industry Canada Client Procedures Circular (CPC) 2-0-03, Issue 4 (2008). There have been no amendments to the protocol to reflect changes made in CPC 2-0-03, Issue 5 (2014) at the time this proposal was submitted by Eastlink.

The protocol of the Municipality of the District of Chester was utilized for the review of this application.

*Except where noted in this report, CRINS-SINRC can confirm that staff followed the protocol as it existed at the time the proposal was reviewed.*

#### 4.1. Zoning and Compatibility with Existing Plans

The proposed site is located within an “I” zone - also known as an “**Institutional Zone**”.

The Chester Fire Department Building (and the adjacent EHS paramedic building) is located centrally within the village in proximity to both residential zones and the so called “Estate Residential” area of Chester.

Radiocommunications facilities are considered to be generally **acceptable** within an **Institutional Zone** as a supplementary building or structure attached to an existing allowable use.

#### 4.2. Community Sensitive Locations

As noted above, one role of the LUA is to protect locations of special significance within their jurisdiction. These locations are referred to as **Community Sensitive Locations**. Each LUA may have one or more such locations within their boundaries.

A **Community Sensitive Location** is defined as being, under the relevant LUA legislation:

- 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*.

Where a proposed installation is to be located in a **Community Sensitive Location** the onus is placed on the proponent to justify the need for the installation and substantive community consultation is undertaken to ensure all possible other options have been considered in lieu of the new structure.

The proposed site is located adjacent to a **Community Sensitive Location** specifically the Estate Residential area to the southwest of Regent and Prince Street. It is also in an area deemed by the public to be in a heritage district, though no official designation currently exists.

#### 4.3. Fire Routing and Access

The proposed site is located in the yard of the fire department. No infrastructure is located at ground level that would interfere with the ability of fire services to reach the site.

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.

#### 4.4. Environmental Review

##### Safety Code 6

The Proponent's representative, **Logan McDaid**, on behalf of **Bragg Communications** 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 Industry Canada for use with all radiocommunications facilities.

##### Other Environmental Issues

**There are no other environmental concerns as proposed**

#### 4.5. Structural Review

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* 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.



**Logan McDaid on behalf of Bragg Communications has attested *that the proposed site design will be in compliance with the above standards and regulations.***

It should be noted that under the protocol of the Municipality of the District of Chester in place at the time of this proposal, **all structural matters are exempted from review by the Municipality as the tower is deemed a federal undertaking** as noted above and the attestation of the proponent, or their agent, as to the structural adequacy of the tower was deemed sufficient. Any review of the structure is left to the federal Minister of Labour to ensure compliance.

## 5. Public Consultation

### 5.1. Notification of the Public

CRINS-SINRC evaluated the process undertaken by Bragg Communications (“Eastlink”) to comply with their obligations under Industry Canada’s Client Procedures Circular (CPC) 2-0-03 (2014).

Under Section 4 of CPC 2-0-03, Eastlink must comply with the protocol in effect in the Land Use Authority where an installation is proposed, or in the absence of a protocol within the LUA, the Industry Canada Default Public Consultation process. In this case, the Municipality of Chester had developed their own protocol, and Eastlink submitted to this process.

Under this process, the onus remained with the Municipality to notify the public, and to conduct the consultation. Eastlink’s role was limited to providing information as requested, and being available to the public through the public information meetings and to answer public inquiries.

During the audit, CRINS-SINRC received comments from the public indicating that the consultation was not adequate, and that many people were not aware of the proposal.

Upon review it was noted that Municipal staff followed the process that had been adopted by the Municipality, however there were issues which arose:

- 1) *The Notices sent to the public did not meet Industry Canada’s requirements under CPC 2-0-03, Issue 5 (2014). The notices were not adequately marked as required by Industry Canada to ensure differentiation from regular mail.*
- 2) *There were no road signs indicating the proposal, contact information and the date of the public meeting.*
- 3) *The Notices were sent by regular mail, not registered mail or courier. As a result, there is no record of delivery. Members of the public within the notification radius indicate they did not receive the Notice.*

In discussing these items with staff, these deficiencies were acknowledged. The solution to these issues will be through participation in CRINS-SINRC so that future consultations will meet the minimal standards.

## 5.2. Relevant Concerns and Perceptions of the Public

Additionally, it was clear based on comments received from the public by CRINS-SINRC during the audit period, that there is misunderstanding between the Municipality and the public regarding the status of the area surrounding the site.

Many in the public believe that this area (which includes the so called “Estate Residential” designated properties) is a heritage designated area. Much of the opposition to the tower revolves around the view that the tower is improperly placed within the Village given this heritage designation.

Upon review, **the area surrounding the installation has no official designation as a heritage precinct.** There are several heritage buildings within the area, but the area as a whole carries no such designation affording it any official protections.

Despite this, there is clearly an understanding that the area is part of the character of the Village of Chester, and it remains unclear to CRINS-SINRC subsequent to this review why this perception was not afforded more debate given statements in Council.

On Thursday, November 27<sup>th</sup>, 2014 a public meeting was held regarding Eastlink’s request to construct the tower. Carol Nauss of the local Heritage Society brought forward the view that the area was a heritage area, and that special efforts had been made to integrate the fire hall and EHS base.

*It was of particular note that during this exchange, neither the members of Council nor any other member of the public chose to delve deeper into the perception of this as a heritage area – the only consideration was to ask for a fencing type other than a chain-link style, and not to oppose the tower based on this perceived heritage area.*

## 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

*Based on the provided information, CRINS-SINRC would agree that Eastlink has properly completed the public consultation process as provided by the Municipality of the District of Chester prior to becoming a member of CRINS-SINRC.*

Notwithstanding the above, it is clear that the public viewed the consultation to be inadequate. The process deficiencies identified in Section 5 contributed to this as it has been perceived as an attempt by stakeholders to reduce the amount of discussion on the proposal.

That said, the process deficiencies, while present, did not, upon review of the facts, prevent the public from being informed to a degree such that the salient points to be considered (heritage area, visual amenity, health and safety concerns) were not brought forward.

*What is clear however is that the perceptions of the public regarding the area surrounding the tower site were not adequately explored during this consultation, despite the opportunity to do so.*

## 8. Conclusion and Recommendations

The Municipality of the District of Chester has recently become a member of CRINS-SINRC. As such, the protocol which was followed during this consultation will no longer be in effect, in favor of the Municipality having adopted the CRINS-SINRC protocol, and afforded itself of the consultation process and tools of CRIN-SINRC.

**The issues identified in Section 5.1 of this report should therefore not arise in future as a result of these changes.**

It was evident from our review that the perception of a heritage precinct in the area surrounding the tower, but without official recognition as such, was a substantial factor in the public's perception of this proposal and the consultation. It is unfortunate that a more substantive dialogue did not occur around this point during the public meeting, between Council, staff and the public, as it would have appeared to have addressed a large portion of the criticism regarding the proposal.

It is recommended that, as part of the next official plan update, this matter be fully addressed and communicated.



## 9. List of References

- A. Industry Canada Client Procedures Circular (CPC) 2-0-03, Issue 5 (2014)
- B. Public Meeting Minutes, Municipality of the District of Chester, November 27, 2014
- C. Public Information Circular – Eastlink Tower.
- D. Public Notice – Public Progress – Sept 17, 2014
- E. Public Comments – submissions by, and telephone conferences with, Robert White and Jim Pattillo.
- F. Telephone Inquiries – Eastlink – Logan McDaid.
- G. Teleconference – Municipality of the District of Chester – Warden Weber, Tammy Wilson, Tara McGuire, William DeGrace.