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**Sent:** Tuesday, December 12, 2023 10:30 AM  
**To:** Timothy Peterson; Alex Allen; Grant Scott; northinfo  
**Cc:** William Thomas  
**Subject:** Dec.13 LTC Meeting - Rogers Tower Proposal  
**Attachments:** Ltr to LTC.c.conkin.2023.12.12.pdf

Please see the enclosed letter.

Carla R. Conkin, LL.B.

Barrister & Solicitor

Member:



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# CARLA R. CONKIN

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Barrister & Solicitor

December 12, 2023

VIA EMAIL:

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File No.: 01011

Islands Trust  
Hornby Island Local Trust Committee (the “LTC”)  
LTC Trustees, Tim Peterson (LTC Chair), Alex Allen, Grant Scott

Dear Local Trust Committee,

## **Re: Rogers Communications Radiocommunications Tower – Hornby Island - (“Rogers’ Proposal)**

Further to previous submissions on behalf of the Concerned Residents of Hornby Island (the “CRHI”), dated March 22, 2023, and September 5, 2023, respectively, I have been asked by the CRHI to provide the following comments on this continuing matter regarding Rogers’ Proposal. This submission is intended for the LTC’s December 13, 2023 Meeting.

My understanding from the last LTC meeting of September 8<sup>th</sup>, 2023, that that there was some heated debate, including among the Trustees, that non-concurrence should be the result of this Rogers’ Proposal. Despite this, it was cautioned by staff that non-concurrence was not available, and instead a number of resolutions were presented.

These resolutions which were carried, are outlined in the draft September 8 Minutes (the “Draft Minutes”) to be approved at the December 13, 2023 LTC meeting. They include (paraphrased):

- that there be a request to Brian Gregg (Sitepath) to plan a meeting at the Hornby Island Community Hall to discuss Rogers’ Proposal;
- that staff ensure that future written notification meets the Hornby Island approved Antenna Strategy notification requirements; and
- that staff work with Rogers to provide the requisite outstanding notifications to property owners and residents, along with written notice to the School District and ambulance services.

The Draft Minutes also make mention that Rogers is amenable to conducting expanded notifications. Rogers has also confirmed that Telus, Koodoo, Public Mobile, Bell and Virgin Mobile, along with Rogers' subsidiaries, Fido and Chatter will be using the proposed tower.

The December 13, 2023 LTC Meeting Agenda also indicates that there will be a 5-minute verbal update on the Rogers' Proposal. No Staff Report is attached or indicated.

The significant concern at this stage, is that the LTC and the Islands Trust will try to 'fix' the issues through notification and by 'ticking the boxes'. Fundamentally however, the process cannot be 'fixed' by trying to overcome notification missteps, and resurrecting a damaged public consultation process by having another meeting.

The steps taken, and not taken, have created a situation that has passed the point of 'fixing'. Insufficient or lacking local land use assessment, combined with a serious breach of trust arising from the public consultation process, if Sitepath's approach can be called a consultation process, means that the process cannot continue.

At a minimum, a resubmitted proposal, following the correct protocol and starting the process anew would be required. However this option is difficult because of what has occurred, with specific regard to degrading public trust. Repackaging cannot rebuild this trust. It is not apparent how or what could be done to re-frame the application to address the level of significant concern falling short of simply re-locating Rogers' proposal off island.

The gaps in assessment of impacts, the lack of Staff assessment of such local requirements, and the lack of evidence that clearly addresses how and what alternatives were considered is missing. Repackaging the application cannot overcome these elements.

In essence the process has been a boondoggle informed by a number of colliding factors:

- Sitepath Consulting has built a reputation with other tower projects in the vicinity, that consultation is merely checking boxes. This has been exacerbated and continues for Hornby Island. Regardless of the protocol considered, there were missteps without acknowledgement or concern, such as:
  - missing important or required notifications of certain groups and residents within required distances;
  - a failed attempt at a public meeting that also excluded LTC member(s); and
  - a pattern of behaviour that raises the strong perception that Rogers is misleading the public.

Sitepath has demonstrated that public consultation is merely an inconvenient, necessary step to move the proposal through. The public sees this, and such approaches not only degrade the public trust, but also limit or prevent the local knowledge that is supposed to inform the process. This is fundamental to either the ISED protocol or the Hornby Island

approved Antenna Strategy. Essentially fundamental parts of either protocol are entirely missing.

- There is a lack of evidence to demonstrate why and how alternative sites off island were assessed, and how the conclusion was reached to name Hornby Island as the necessary site. This assessment of alternatives is fundamental to either protocol and needs to inform the public consultation. If the public does not have access to this evidence, it will inform concern. I also understand that Starlink is another option that is available but this forms part of the gap in alternatives assessment. Furthermore, given the number of service providers that are signing on to this tower, this site is intended to expand services primarily for off island purposes. Finally, how is the emergency argument covered if ambulance services have not even been notified?
- The OCP advocacy policies remain unaddressed or reconciled. This feeds the building lack of trust in the proposal. Specifically why is it that the Islands Trust and the LTC are not addressing the following 2 advocacy policies found in the Hornby Island OCP:

Advocacy Policies:

5.5.4 All public service and utility installations on the Island should be for servicing Hornby Island only.

5.5.5 Industry Canada is encouraged to prohibit commercial microwave towers and satellite antennae on Hornby Island.

My policy guess, without accessible information regarding the basis for these advocacy policies, is that the size, potential for compounding impacts and environmental fragility of Hornby Island informs these policy ‘encouragements’ to third parties, such as ISED. These advocacy policies are intended to contribute to the goals and objectives of the OCP.

- Following from the advocacy policies, there is still no assessment as to how the Rogers’ Proposal, and its site location meets OCP and land use bylaw requirements. For example, how are valued components and objectives such as *ensuring maximum protection of areas with ecological, natural, aesthetic and heritage value*<sup>1</sup>, being addressed? The past referenced submissions raised these issues, as did submissions from the CRHI, but there remains no apparent assessment or reconciliation of these concerns.

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<sup>1</sup> Hornby Island OCP, Section III- Objectives and Policies for the Protection of the Environment, 3.2 Environmentally Sensitive Areas

- The Antenna Strategy was an important step to further contextualize what is required for local assessment for tower proposals. It builds on and expands the minimum ISED protocol. For these reasons the Antenna Strategy should easily form the basis for why the handling of the Rogers proposal by Sitepath is inadequate and faulty. The extended public consultation requirements have resulted in clear significant concern. Under the role of the local government it states:

### 3. Role of Local Government

Ultimately, the role of the Local Trust Committee (LTC) is to issue a statement of concurrence or non-concurrence to the *proponent* and ISED. The statement considers the land-use compatibility of the antenna structure, the responses of the impacted residents and the *proponent's* adherence to this *protocol*

There is more than sufficient basis, which builds with each passing day that a decision is not made, to acknowledge that the process is broken for this proposal. This situation is largely owing to how the consultant on behalf of Rogers has engaged, or rather not engaged, as required by both the ISED protocol and the Antenna Strategy. It is also informed by the breach of trust and a broken process that cannot be resurrected.

Furthermore, the LTC is under no obligation to wait for a request from Rogers to determine concurrence, or rather non-concurrence. While the Antenna Strategy sets out steps (e.g. Step 4), being a Request for Concurrence by the proponent, this does not mean that there is a requirement to wait for this request. These steps indicate the basic process, as elements of the protocol are met by the proponent – i.e. once requirements are met, the natural course is then for the proponent to request concurrence.

However in a case such as this one, rife with failure of the consultant to engage the public as required, demonstrating what appears to be a disregard for public concern, the LTC is under no obligation to wait. This is a process that has gone wrong and there is more than sufficient basis to make this right by a speedy conclusion of non-concurrence.

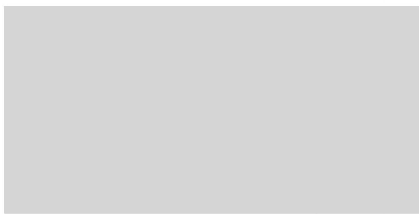
It is well within the authority of the LTC to finalize its assessment, with adequate consideration of the consultation record and to recognize the breach of trust that has occurred, and that growing distrust cannot be fixed through another meeting or notification measures.

For such reasons, the public concern being paramount, further consultation cannot be meaningful. There is sufficient evidence to show that the public does not trust Sitepath, or Rogers in this case, and setting up a further meeting cannot address this. To try to fix this by checking some notification boxes will only demonstrate how hollow this process has been.

Rather than ensure meaningful consultation or at a minimum the recognition of the mounting significant concern, this process has created and resulted in a barrier to justice.

To this end, I encourage the LTC to consider the past submissions I have made on behalf of the CRHI (dated March 22, 2023 and September , 2023) as well as CRHI's public concern submissions and petitions from the public to date. In doing so, I raise my final point regarding fair process. Fair process extends beyond the protocols in recognizing that public involvement necessarily requires access to that information provided by the public. In this case, there appears to be no record of accessible past submissions, such as the ones referenced. Such access directly informs the public's ability to consider and partake meaningfully in the consultation process.

Respectfully yours,



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cc. Executive Members for Concerned Residents of Hornby Island via email