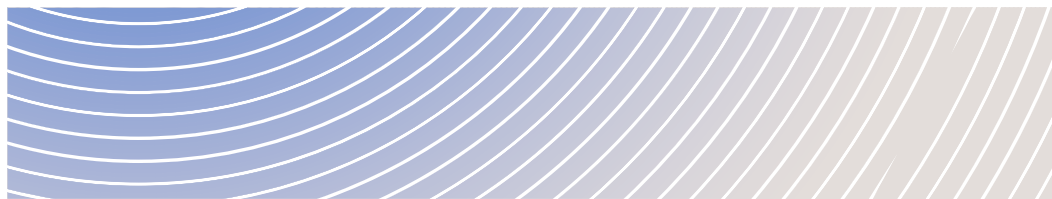


# Analysis Report



WHETHER TO DESIGNATE THE XPLORNET  
TELECOMMUNICATIONS TOWER PROJECT IN ALBERTA

December 2019



Impact Assessment  
Agency of Canada

Agence d'évaluation  
d'impact du Canada

Canada

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## Purpose

The Impact Assessment Agency of Canada (the Agency) prepared this report for consideration by the Minister of Environment and Climate Change (the Minister) in deciding whether to designate the Xplornet Telecommunications Tower Project (the Project) pursuant to subsection 9(1)<sup>1</sup> of the *Impact Assessment Act* (IAA).

## Project

The Project, proposed by Xplornet Communications Inc. (the proponent), is the replacement of an existing telecommunications tower in the Village of Alberta Beach, Alberta.

## Context of Request

On May 1, 2019, the Minister received a request to designate the Project from a member of the public. The requestor expressed concerns about Project-related impacts to migratory birds, cumulative effects to bird populations in combination with other existing telecommunications towers, impacts to tourism, and concern regarding siting of the tower next to community areas, parks, and residences.

On May 15, 2019, the Agency notified the proponent of the designation request and requested information. On July 23, 2019, the proponent provided information about the Project, its potential adverse effects, proposed design and mitigation measures, and its view that the Project should not be designated.

The Agency requested advice from federal authorities, Alberta Environment and Parks, and potentially affected Indigenous groups on July 30, 2019.

Advice on applicable legislative mechanisms and potential effects of the Project was received from Environment and Climate Change Canada; Indigenous Services Canada; Transport Canada; and Innovation, Science, and Economic Development (ISED) Canada. The Agency received responses from Michel First Nation (Friends of Michel Society) and Paul First Nation.

On August 28, 2019, the IAA came into force, repealing the *Canadian Environmental Assessment Act, 2012*, and terminating the designation request under that Act. The designation request is being considered under the IAA, in accordance with the Minister's powers to designate projects under subsection 9(1).

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<sup>1</sup> Under subsection 9(1) of the IAA the Minister may, by order, designate a physical activity that is not prescribed in the *Physical Activities Regulations*. The Minister may do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects, or public concerns related to those effects warrant the designation.





## Project Context

### Project overview

The Project involves the replacement of an existing 20 metre tall telecommunications tower with a 29.9 metre tall self-supporting telecommunications tower at the same location, within the Village of Alberta Beach, Alberta (Figure 1). The Project will be located approximately 127 metres from the shore of Lac Ste. Anne and occupy a total area of 20.35 square metres at ground level. The purpose of the Project is to increase and improve the area of coverage for telecommunications services, including internet services, in the area.

All equipment necessary to support Project operation would be housed in a small equipment cabinet located on site.

### Project components and activities

The Project consists of the following key components:

- tower foundation;
- 29.9 metre tall self-supporting telecommunications tower;
- concrete pad with equipment storage cabinet;
- associated electrical infrastructure;
- perimeter fencing;
- installation of four antenna systems at heights between 26.5 metres to 29.5 metres; and
- future installation of four additional antenna systems at heights between 22.5 metres and 26.5 metres.

Project activities will include decommissioning and removal of the existing telecommunications tower and construction of the new tower on the same site. The Project site would be accessed through existing roads and use equipment such as excavators, trucks, and a crane.

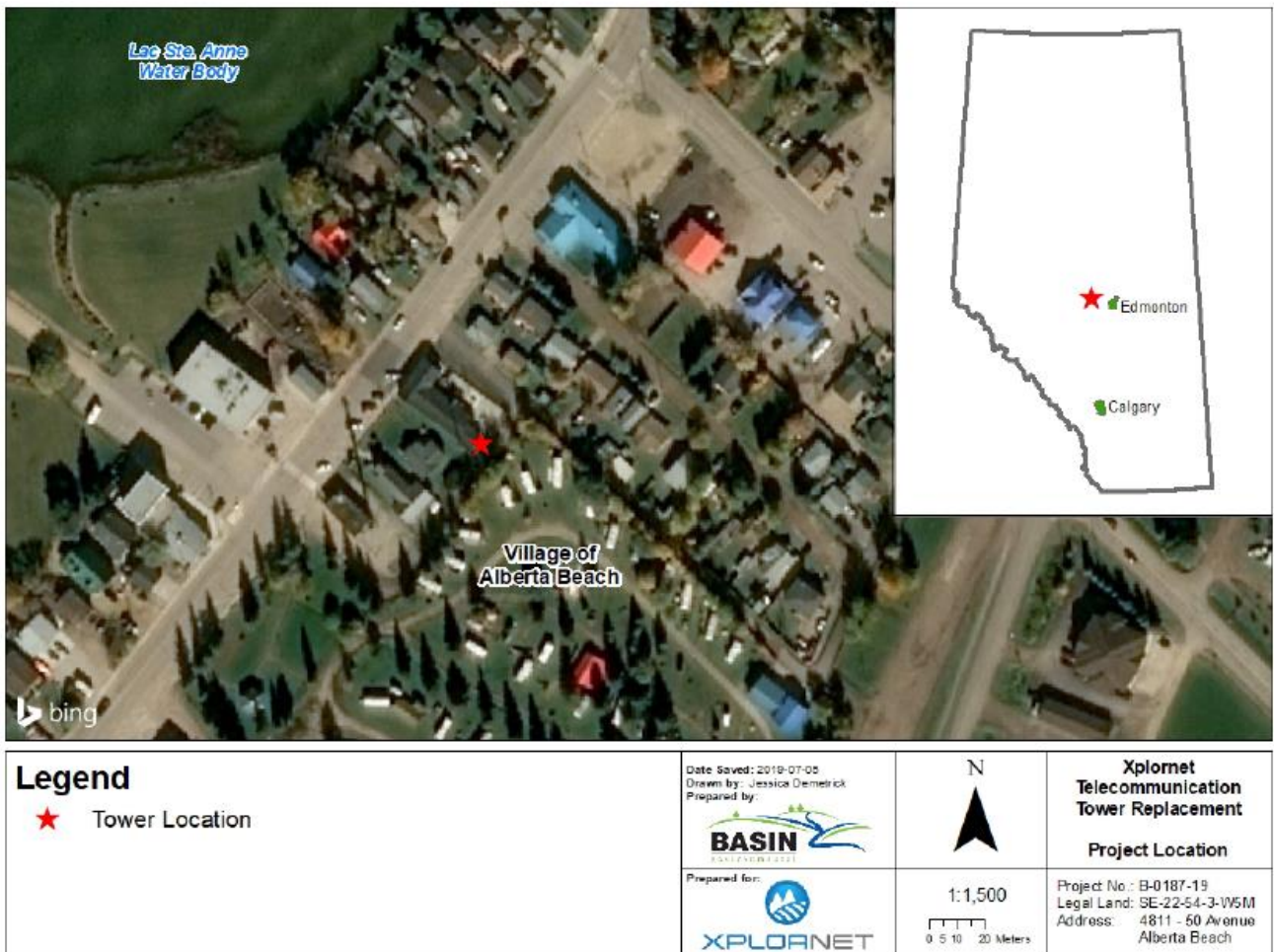
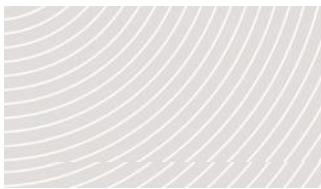


Figure 1: Project Location





## Analysis of Designation Request

### Authority to designate the Project

The Project, as described by the proponent, is not identified in the *Physical Activities Regulations* (the Regulations) pursuant to the IAA.

The carrying out of the Project has not substantially begun and no federal authority has exercised a power or performed a duty or function that would permit the Project to be carried out, in whole or in part.

Given this understanding of the Project, the Agency is of the view that the Minister may consider designating this Project pursuant to subsection 9(1) of the IAA.

### Potential adverse effects within federal jurisdiction

The Agency, considered information provided by the proponent and federal authorities and is of the view that the potential for adverse effects within federal jurisdiction, as defined in section 2 of the IAA, is not expected. The potential for any adverse effects would be limited through project design and by application of standard mitigation measures. Federal lands near the Project are not expected to be affected by the Project.

The Project is expected to have minimal interaction with the environment, as the Project site is located in an urbanized area surrounded by private businesses, residential lots, and an existing road. Upon completion of construction, the Project would occupy a total area of 20.35 square metres at ground level. Anticipated environmental changes associated with the construction of the Project are the removal of vegetation, the potential for removal of migratory bird nests during Project construction, and the potential introduction of invasive plant species to the site via vehicles. The Agency, considered information provided by Environment and Climate Change Canada, and understands that the 9.9 metre increase in height of the tower may slightly increase the potential for the incidental take of migratory birds through bird strikes. Based on proponent information, the Agency understands that the effects of this height increase will be low.

Annex I and II provide a summary table of potential adverse environmental effects of the Project, mitigation measures proposed by the proponent, and anticipated legislative mechanisms should the Project proceed.

### Potential adverse direct or incidental effects

Direct or incidental effects refer to effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that project to be carried out, in whole or in part.

With respect to the Project, as described, no adverse direct or incidental effects are anticipated as no federal authority is expected to render a decision that would enable the Project to be carried out.



## Public and Indigenous concerns

The Agency is of the view that the public concerns expressed to the Agency do not warrant designation under subsection 9(1) of the IAA. Concerns expressed by the requester and Indigenous groups, that relate to adverse effects in areas of federal jurisdiction, include:

- the existing level of invasive plant species in Lac Ste. Anne and the potential for Project activities to exacerbate this issue; and
- the potential effects to water, human health, and aquatic, avian, and terrestrial species caused by the introduction of invasive plant species.

The Agency, considered information provided by the proponent, Environment and Climate Change Canada, and is of the view that these concerns can be addressed through the application of standard mitigation measures and existing legislative and regulatory mechanisms (see Annex I and II). The proponent has identified mitigation measures to reduce or avoid the introduction of plant species into the site. Given the location of the tower in relation to the lake, the potential for Project activities to lead to adverse effects on the lake through introduction of additional invasive plant species.

Concerns expressed that do not relate to adverse effects within federal jurisdiction, as defined in section 2 of the IAA, include:

- the potential for an increase in the height of the tower in the future;
- effects to tourism; and
- siting of the Project.


While these concerns are not included in this analysis as they are outside the authority of IAA subsection 9(1), the concerns may be addressed through requirements for public engagement on new telecommunications towers under the *Radiocommunication Act*. In relation to the concern regarding the potential for future increases in tower height, any extensions to the tower exceeding 25 percent of the tower's original height will require additional public engagement (Annex II).

## Potential adverse impacts to section 35 rights of Indigenous peoples

The construction and operation of the Project would occur on a previously disturbed, privately-owned urban lot, located within the village of Alberta Beach that is unlikely to support the practice of Aboriginal and Treaty rights. There is an existing telecommunications tower on the site. Therefore, the Agency is of the view that the potential is low for the Project to cause adverse impacts to section 35 rights.

Paul First Nation noted concerns about impacts of additional invasive plant species to Lac Ste. Anne, and the connection between the lake and other aspects of the environment, including human health and wellbeing. However, upon consideration of information provided by the proponent and federal authorities, the Agency considers the potential for adverse impacts to the lake to be low given the application of standard mitigation measures and separation of the Project site from the lake.





In conducting this analysis, the Agency considered potential impacts to section 35 rights and any comments received from Michel First Nation (Friends of Michel Society) and Paul First Nation. The Agency also considered potential impacts to the section 35 rights of Alexander First Nation, Alexis Nakota Sioux Nation, Enoch Cree Nation, Ermineskin Cree Nation, Foothills Ojibway First Nation, Gunn Metis Local #55, Kehewin Cree Nation, Louis Bull Tribe, Metis Nation of Alberta (Region 4), Montana First Nation, O'Chiese First Nation, Saddle Lake Cree Nation, Samson Cree Nation, Sunchild First Nation, Tsuut'ina Nation, and Whitefish Lake First Nation, although comments were not received from these communities.

## Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93, or 95 of the IAA that are relevant to the Project.

## Conclusion

The Agency is of the view that the Project does not warrant designation pursuant to subsection 9(1) of the IAA. The Agency, considered the information provided by the proponent, Alberta Environment and Parks, federal authorities, Indigenous groups, and the public, and is of the view that the potential for adverse effects, as described in subsection 9(1) of the IAA, are not expected and would be limited through Project design, the application of standard mitigation measures, and through existing legislative mechanisms (Annex I and II). The concerns expressed by the requester and Indigenous groups that are known to the Agency are expected to be addressed through federal and provincial oversight processes and federal consultation pursuant to the *Radiocommunication Act* (Annex II).

To inform its analysis, the Agency sought and received input from the proponent; federal authorities; Alberta Environment and Parks; the requester; and Indigenous groups. Further, the Agency considered the potential for the Project to cause adverse impacts to section 35 Aboriginal and Treaty rights and is satisfied that the potential for adverse impacts to rights would be low given the nature of the Project and its location.

The Agency understands the nature of this Project to be common and routine in nature and that the Project will have limited interaction with the environment. Publicly available information from ISED Canada demonstrates that the construction and operation of telecommunications towers are a common occurrence across Canada. Both the proponent and requester identify a number of existing telecommunications towers within the locale of the Village of Alberta Beach, Alberta.





## ANNEX I



Annex I: Analysis Summary Table

<b>Impact Assessment Act, Subsection 9(1) Considerations</b>	<b>Potential Effects and Mitigation Proposed by the Proponent, Advice from Federal and Provincial Experts, and Public and Indigenous Concerns Known to the Agency</b>	<b>Relevant Legislative Mechanisms</b>
<p>A change to fish and fish habitat, as defined in subsection 2(1) of the <i>Fisheries Act</i></p>	<p><b>Potential for Spills</b></p> <p>The Proponent identified that potential spills of fuels and lubricants during Project construction may cause adverse effects to fish and fish habitat. To mitigate these potential effects, the proponent proposes that construction equipment will be checked for leaks and will be clean and free of debris prior to use. Spill kits will be made available on-site during construction and employees will be trained in the use of appropriate measures for containment and disposal.</p> <p>The proponent stated that the proposed mitigation measures would ensure compliance with the relevant legislative mechanisms.</p> <p><b>Invasive Plant Species</b></p> <p>Paul First Nation noted concerns regarding the existing level of invasive species in Lac Ste. Anne and the potential for Project activities to exacerbate this issue. Plant species identified included those covered under Alberta's <i>Weed Control Act</i>. A pathway through which this might occur exists due to the proximity of the Project to Lac Ste. Anne.</p> <p>The proponent identified mitigation measures to prevent the introduction of invasive plant species, including the creation of a designated work area within which disturbance would occur; ensuring equipment entering the work area is clean and free of debris; revegetating disturbed areas with native species or manicured turf; the control or removal of any regulated weeds on</p>	<p>The <i>Fisheries Act</i> prohibits any work, undertaking, or activity that results in serious harm to fish that are part of a commercial, recreational, or Indigenous fishery, or to fish that support such a fishery.</p> <p>Alberta's <i>Environmental Protection and Enhancement Act</i> and <i>Water Act</i> would be adhered to through the mitigation measures proposed by the proponent.</p> <p>Alberta's <i>Weed Control Act</i> prohibits the moving or using of anything that might spread a noxious or prohibited noxious weed. The Act would be adhered to through the mitigation measures proposed by the proponent.</p>



<i>Impact Assessment Act, Subsection 9(1) Considerations</i>	Potential Effects and Mitigation Proposed by the Proponent, Advice from Federal and Provincial Experts, and Public and Indigenous Concerns Known to the Agency	Relevant Legislative Mechanisms
A change to aquatic species other than fish, as defined in subsection 2(1) of the <i>Species at Risk Act</i>	site; and, if necessary, the application of herbicides and pesticides in accordance with the relevant legislative mechanisms.  No adverse effects to marine plants are anticipated, as there would be no interaction between the Project and the marine environment.	Not applicable.
A change to migratory birds, as defined in subsection 2(1) of the <i>Migratory Birds Convention Act, 1994</i>	<p><b>Federal Authority</b></p> <p>Environment and Climate Change Canada (ECCC) indicated that the Project could potentially affect migratory birds through inadvertent harm to nests and eggs during construction, operation, and deconstruction activities.</p> <p>ECCC indicated that Lac Ste. Anne is important for migratory birds and that telecommunications towers located on shorelines can pose the potential for bird strikes. The impact of such an effect is thought to be low as the tower is not situated between major staging areas and does not have supporting guy wires. Further, the Project is located in a village with existing vertical structures.</p> <p><b>Public</b></p> <p>The requester identified concerns including: birds being injured by the structure, general concerns about bird populations in the area, and that the proponent intends to increase the tower height by as much as 30 metres.</p> <p><b>Proponent</b></p>	<p><i>Migratory Birds Convention Act, 1994</i> prohibits all activities that are harmful to migratory birds, their eggs, or their nests.</p> <p>ECCC has guidelines to reduce risk to migratory birds.</p> <p><i>Wildlife Act</i> (Alberta) would be adhered to through the mitigation measures proposed by the proponent.</p> <p>Innovation, Science, and Economic Development (ISED) Canada's Client Procedure Circular 2-0-03 only allows proponents to increase the height of an existing tower by 25 percent without conducting further public engagement (Annex II). If the proponent increases the height of the tower by 30 metres (~100 percent increase in height) as suggested by the requester, the increase would be subject to this policy.</p>



<i>Impact Assessment Act, Subsection 9(1) Considerations</i>	<b>Potential Effects and Mitigation Proposed by the Proponent, Advice from Federal and Provincial Experts, and Public and Indigenous Concerns Known to the Agency</b>	<b>Relevant Legislative Mechanisms</b>
	<p>The proponent indicated that, in field studies, birds were not observed flying at heights that would be impeded by the Project. The proponent identified mitigation measures designed to reduce the incidental take of migratory birds such as: the tower's low height, the absence of guy-wires, the use of flashing lights as opposed to steady-burn lighting, and vegetation clearing would be avoided during breeding bird periods, if possible. If vegetation clearing during breeding periods is required, an experienced wildlife biologist would conduct pre-construction nest sweeps.</p> <p>The proponent indicated that the proposed mitigation measures would ensure compliance with the relevant legislative mechanisms.</p>	
A change to the environment that would occur on federal lands	<p><b>Proponent</b></p> <p>The proponent indicated that the Project is located 8.5 kilometres and 6.5 kilometres from the Alexis Nakota Sioux Nation Reserve No. 133 and Enoch Cree Nation Reserve No. 135A, respectively. The proponent indicated that no effects are anticipated to the Lac Ste. Anne Pilgrimage National Historic Site of Canada, an important social, cultural, and spiritual location for some Indigenous peoples, located 5 kilometres west of the Project.</p> <p><b>Federal Authorities</b></p> <p>Indigenous Services Canada indicated that the Project is out of their jurisdiction.</p> <p><b>Indigenous Groups</b></p>	Not applicable.



<b>Impact Assessment Act, Subsection 9(1) Considerations</b>	<b>Potential Effects and Mitigation Proposed by the Proponent, Advice from Federal and Provincial Experts, and Public and Indigenous Concerns Known to the Agency</b>	<b>Relevant Legislative Mechanisms</b>
<p>A change to the environment that would occur in a province other than the one in which the project is being carried out or outside Canada</p>	<p>No Indigenous groups identified concerns regarding changes to the environment that would occur on federal lands.</p> <p>No adverse transboundary effects in other provinces or outside Canada are anticipated. The nearest provincial and international borders are approximately 290 kilometres southwest and 520 kilometres south of the Project, respectively.</p>	<p>Not applicable.</p>
<p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and resulting from any change to the environment - on physical and cultural heritage</p>	<p>The Agency did not receive any concerns or information relating to impacts to the physical and cultural heritage of Indigenous peoples.</p>	<p>Alberta's <i>Historical Resources Act</i> has a protocol to follow if historic resources are found during the course of development activities. Proponents are required to report discoveries and cease activities that may affect the resource during the resources evaluation.</p>
<p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and resulting from any change to the environment - on current use of lands and resources for traditional purposes</p>	<p>Michel First Nation (Friends of Michel Society) indicated that it expects only localized impacts from the Project. No concern was expressed regarding the local impacts.</p>	<p>Not applicable.</p>
<p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and</p>	<p>The Agency did not receive any concerns or information relating to potential impacts to any structure, site, or thing that is of</p>	<p>Alberta <i>Historical Resources Act</i>, has a protocol to follow if historic resources are found during the course of development activities. Proponents are</p>



<b><i>Impact Assessment Act, Subsection 9(1) Considerations</i></b>	<b>Potential Effects and Mitigation Proposed by the Proponent, Advice from Federal and Provincial Experts, and Public and Indigenous Concerns Known to the Agency</b>	<b>Relevant Legislative Mechanisms</b>
<p>resulting from any change to the environment - on any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance</p>	<p>historical, archaeological, paleontological, or architectural significance.</p>	<p>required to report discoveries and cease activities that may affect the resource during the resources evaluation.</p>
<p>Any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada</p>	<p>Information on the potential changes to the health, social, or economic conditions of the Indigenous peoples of Canada was not provided.</p> <p><b>Indigenous Groups</b></p> <p>Paul First Nation expressed concerns that the potential introduction of invasive plant species to Lac Ste. Anne would have a negative effect on the ecosystems, including the potential for links to human health.</p>	<p><i>Weed Control Act</i> prohibits the moving or using of anything that might spread a noxious or prohibited noxious weed. The Act would be adhered to through the mitigation measures proposed by the proponent.</p> <p><i>Environmental Protection and Enhancement Act</i> (Alberta) would be adhered to through the mitigation measures proposed by the proponent.</p>
<p>Adverse direct or incidental effects</p>	<p>No federal authority is expected to render a decision that would enable the Project to be carried out. No federal authority is expected to provide financial assistance to enable the Project to be carried out, in whole or in part.</p>	<p>Not applicable.</p>



## ANNEX II





Annex II: Potential Federal Legislation Relevant to the Project

Authorization	Description
<p>Section 5, <i>Radiocommunication Act</i></p>	<p>The Project is considered new for the purposes of Client Procedure Circular (CPC) 2-0-03. The proponent undertook the associated consultation requirements.</p> <p>Innovation, Science, and Economic Development Canada's CPC 2-0-03 outlines the process for proponents developing telecommunications towers in accordance with the <i>Radiocommunication Act</i>.</p> <p>CPC 2-0-03 requires proponents to conduct public engagement and work with the relevant land use authority in determining a proposed tower's site and design.</p> <p>CPC 2-0-03 requires that proponents explore tower-sharing options prior to proposing the construction of a new tower.</p> <p>CPC 2-0-03 states that proponents may not extend the height of a telecommunications tower within one year of construction, and may only extend a tower's height by up to 25 percent thereafter without being required to conduct further public engagement. The proposed project involves the construction of a new tower (to replace an existing tower) and is therefore not considered an extension. The proponent undertook required consultation for the proposed new tower and would be required to comply with requirements for proposed future extensions.</p>