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**To:** General Purposes Committee **Date:** May 23, 2024  
**From:** John Hopkins **File:** 01-0153-01/2024-Vol 01  
Director, Policy Planning  
**Re:** **Richmond Response: Proposed Airport Zoning Regulations for YVR**

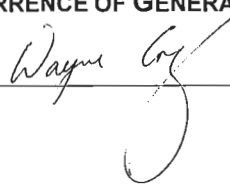

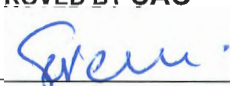
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**Staff Recommendations**

1. That as described in the staff report titled “Richmond Response: Proposed Airport Zoning Regulations for YVR”, dated May 23, 2024, from the Director, Policy Planning, staff comments be endorsed and submitted to Transport Canada as part of their Canada Gazette public consultation process on the proposed Vancouver International Airport Zoning Regulations;
2. That a letter be prepared outlining the City of Richmond’s concerns on Transport Canada’s proposed Vancouver International Airport Zoning Regulations and request a review of the proposed Airport Zoning Regulations for the Vancouver International Airport to the following:
  - a. Minister of Transport and Quebec Lieutenant;
  - b. Minister of Environment and Climate Change;
  - c. Minister of Fisheries, Oceans and the Canadian Coast Guard;
  - d. Minister of Environment and Climate Change Strategy;
  - e. Minister of Agriculture and Food;
  - f. Members of Parliament for Richmond;
  - g. Members of the Legislative Assembly for Richmond;
  - h. Provincial Agricultural Land Commission Chair; and
  - i. YVR Board Chair; and
3. That staff be directed to initiate dialogue with the Vancouver Airport Authority to re-affirm their commitment to applying to Transport Canada to increase building heights in select portions of the City, in particular the south end of the City Centre Area Plan.

John Hopkins  
Director, Policy Planning  
(604-276-4279)

Att. 2

REPORT CONCURRENCE		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Law	<input checked="" type="checkbox"/>	
Intergovernmental Relations	<input checked="" type="checkbox"/>	
Parks Services	<input checked="" type="checkbox"/>	
Sustainability	<input checked="" type="checkbox"/>	
Building Approvals	<input checked="" type="checkbox"/>	
Development Applications	<input checked="" type="checkbox"/>	
<b>SENIOR STAFF REPORT REVIEW</b>	INITIALS: 	<b>APPROVED BY CAO</b> 

## Staff Report

### Origin

This report provides an update regarding Transport Canada's proposed amendments to existing Vancouver International Airport Zoning Regulations (AZR). The AZR is managed by Transport Canada pursuant to Section 5.4 of the *Aeronautics Act*. The stated purpose of the revised AZR is to protect the usability of the Vancouver International Airport (YVR) by restricting land uses and property regulations such as building height, that conflict with the airport's safe operation.

This report supports Council's Strategic Plan 2022-2026 Focus Area #1 Proactive in Stakeholder and Civic Engagement:

*Proactive stakeholder and civic engagement to foster understanding and involvement and advance Richmond's interests.*

*1.2 Advocate for the needs of Richmond in collaboration with partners and stakeholders.*

This report supports Council's Strategic Plan 2022-2026 Focus Area #2 Strategic and Sustainable Community Growth:

*Strategic and sustainable growth that supports long-term community needs and a well-planned and prosperous City.*

*2.3 Ensure that both built and natural infrastructure supports sustainable development throughout the City.*

### Background

The current AZR for YVR was last updated in 1981. The Vancouver Airport Authority (VAA) first proposed amending its AZR in 2014 to protect the airspace for two future runway options: a south parallel runway and/or a foreshore runway, outlined in the VAA's YVR 2037 Master Plan, adopted in 2017. To minimize the impact to building heights within the City Center area, the VAA proposed four specific areas that would allow a slightly higher building height than what would otherwise be permitted. On May 21, 2019, Council endorsed amendments to the City Centre Area Plan and Zoning Bylaw to adjust building and structure height in order to comply with the proposed AZR. Later in 2019, VAA sent the proposed AZR to Transport Canada for their review and approval. Attachment 1 indicates the geographical location of the new AZR.

Transport Canada notified City of Richmond staff in February 2021 that they intend on proposing additional provisions in the AZR that include restricting potential wildlife hazards and limiting devices that may interfere with communications. City staff met with Transport Canada on several occasions in 2021 and 2022. Through those meetings, City staff indicated no concerns about limiting devices that may interfere with communications, but did express concerns about how Transport Canada proposed to manage wildlife hazards.

## Analysis

The proposed AZR, as posted recently in the Canada Gazette, has three themes:

- (1) **Future Viability and Safe Airport Operations:** This relates to the revision of building heights to accommodate the need for the construction of an additional runway in the future.
- (2) **Wildlife Hazards and Communication Interference:** Two key restrictions are introduced including prohibiting the use of lands for new activities or uses that attract wildlife – particularly birds – near a flight path, and prohibiting the use of lands in a way that causes interference with any signal or communication to and from an aircraft.
- (3) **Airport Terminology:** Updating language in the AZR to use current airport terminology.

City staff have been working with VAA staff on interpretation and implementation of the proposed amendments to the AZR. Staff have indicated no concerns with the revised building heights and agreed upon “bump outs” as they are consistent with the Council endorsed amendments to the City Centre Area Plan and Zoning Bylaw in 2019. Staff also do not have any concerns about changes in airport terminology as those amendments are largely housekeeping.

Staff, however, do have significant concerns over the newly introduced wildlife hazards prohibition. The proposed Wildlife Hazard provision of the AZR (Attachment 2) is vague, and the Regulatory Impact Analysis Statement posted on the Canada Gazette does not provide much clarity on what the prohibited activities or uses would be. Rather, it states that Transport Canada will publish a circular with additional non-regulatory guidance on what land uses might be attractive to wildlife and anticipates publishing the advisory circular on its website by early 2024. To date, the circular is not available.

City staff have been working with VAA staff to better define what land uses may be of concern. Through those discussions, VAA staff have identified the following land uses:

- Agriculture (in particular, dairy operation, annual crop production, perennial berry crop production);
- Food waste facilities (landfill, waste transfer station, compost facility, fish processing);
- Greenspace (amenity turf grass, amenity wetlands, restoration wetlands, wetland ecosystems); and
- Infrastructure (storm water detention ponds, ditches, sewage treatment, bridges and other aerial structures).

YVR staff also prepared a draft memorandum of understanding (MOU) to City staff for discussion. Unfortunately, the MOU establishes the City as the gatekeeper to the AZR when managing all land uses that may attract birds, when this responsibility should reside with VAA. The MOU also proposes a 60-day window for the VAA to review wildlife reports, which would create a significant delay in approvals.

Many land use changes that may attract birds do not involve the City’s jurisdiction, such as changes in agriculture (provincial Agricultural Land Commission), fish habitat compensation (federal Department of Fisheries and Oceans), or diking upgrades (provincial Minister of Environment).

With that, City staff have advised VAA staff that the terms of the MOU are not acceptable or appropriate given the airports local context, the implication on City operations and the inability for the City to restrict agricultural activity within the ALR. Further, City staff have requested that VAA staff consult with the ALC staff as the restrictions are contrary to the ALC Act.

Overall, it is difficult to discern what the City's role will be with respect to these new wildlife hazards. At a minimum, the City will have to comply with the prohibitions on activities or uses that attract wildlife with respect to City properties and City projects. The Regulatory Impact Analysis Statement specifically notes that Richmond will be required to consider the new land-use restrictions in its urban planning. For example, the design and implementation of certain urban features, such as parks or water management systems, would need to meet the new standards in all affected areas to prevent new attractants for wildlife, particularly birds that pose safety hazards for landing and departing aircraft. It is important to point out that the regulations will not apply to existing uses or activities that may attract birds, only to new activities or uses.

However, the Regulatory Impact Analysis Statement also states that VAA would be responsible for monitoring the lands around the airport for compliance and for reporting any potential violations or issues to Transport Canada. Furthermore, in accordance with subsection 5.7(1) of the *Aeronautics Act*, the Minister of Transport (and not the City) has the power to give written notice to advise the owner or lessee of lands subject to the AZR that they are making use of lands in contravention of the zoning regulation. The notice would indicate that, unless the owner or lessee of the lands discontinues the contravening use, the Minister may take action to ensure its removal, and may issue fines. Based on these statements, it seems to indicate that the City would only be responsible for its own properties and its own projects.

The proposed AZR do provide that a person must not "permit another person to use" any lands for activities or uses that attract wildlife. Further clarity is needed on what uses or activities are prohibited, and in what areas of the City, in order to determine the extent, if any, that the City has permitting authority over these uses or activities. Staff could then consider approaches to transfer the compliance burden to applicants and the VAA, which is similar to existing practices with respect to confirming compliance with building height.

#### Consultation and the Proposed AZR

The *Aeronautics Act* provides that the Minister of Transport shall publicize a public notice of every proposed change to the AZR through the local newspaper, if any, serving the area which the AZR relates and in the Canada Gazette, and provide an opportunity to allow interested persons to make representations to the Minister. The Minister of Transport recently began a 60-day public consultation period on April 20, 2024 in the Canada Gazette, which closes on June 19, 2024 (<https://www.gazette.gc.ca/rp-pr/p1/2024/2024-04-20/html/reg3-eng.html>). As there is no legal requirement for Transport Canada to provide direct notice, and Richmond's local news service does not publish a printed newspaper, City staff only became aware of this public comment period through VAA staff.

As staff have expressed concerns about the wildlife hazard regulations, staff intend to provide comments as part of the Canada Gazette consultation process, subject to Council endorsement. Comments would include:

- Acknowledgement that managing birds within an airport is crucial to aviation safety, but at the same time, expressing concern that the implications of prohibiting and/or severely restricting wildlife hazards is immense where an international airport is located in the Pacific Flyway which is a major flyway for migratory birds;
- Further to the comment above, the regulation does not reflect the local context of YVR where Sea Island and the affected parts of Lulu Island are a small part of the overall Sturgeon Banks which is a provincially managed wildlife area that consists of 5,182 hectares; a “one size fits all” approach to managing wildlife and birds is not appropriate;
- Expressing concern over the lack of guidance to gain a fulsome understanding on what activities or uses are considered to attract wildlife, and how those uses and/or activities will be determined;
- Advising that the City has little control or regulation over the agricultural uses of lands within the Agricultural Land Reserve (ALR) which is also regulated by the Farm Practices Protection (Right to Farm) Act;
- Advising that the City has little control or regulation over habitat restoration measures as regulated by the Department of Fisheries and Ocean (DFO), and also dike protection measures as part of long-term flood hazard management
- Expressing concern over the planning of new park space such as the future middle arm park and increasing the City’s tree canopy which may be in conflict with the proposed AZR;
- The draft AZR presents numerous conflicts with agencies and departments at both the Federal and Provincial level;
- The lack of meaningful consultation or any direct notification by Transport Canada has been problematic, in addition to the insufficient time to respond to the Canada Gazette public notification period; and
- The lack of any consultation with other approving authorities (e.g., ALC, DFO) by either Transport Canada or the VAA has been challenging.

Staff also recommend that a letter be prepared outlining the City of Richmond’s concerns and requesting a review of the proposed AZR for YVR to the following:

- Minister of Transport and Quebec Lieutenant;
- Minister of Environment and Climate Change;
- Minister of Fisheries, Oceans and the Canadian Coast Guard;
- Minister of Environment and Climate Change Strategy;
- Minister of Agriculture and Food;
- Members of Parliament for Richmond;
- Members of the Legislative Assembly for Richmond;
- Provincial Agricultural Land Commission Chair; and
- YVR Board Chair.

The City has until June 19, 2024 at 11:59 p.m. EST to submit comments on the Regulatory Impact Analysis Statement and the proposed replacement AZR. City staff will continue to work with VAA staff on guidelines in the event that the AZR are enacted and will update Council as appropriate. Bylaw amendments that would require Council approval may be required at a later date.

Potential Building Height Increase

Section 3.6.4 of the City's Official Community Plan includes policies regarding maximizing City Centre viability by exploring with YVR possible increases in building height around the south end of the City Centre (e.g., City Hall) for a number of social, economic and environmental reasons. The issue of increasing building height beyond the maximum building height of 45 metres above ground under the AZR was originally discussed in 2014 as part of the current amendment package being reviewed by Transport Canada. YVR staff have indicated that increased building height would not be part of this application, but there would be an opportunity to discuss under a separate application. The need for increased building height in key areas of the City Centre is especially relevant due to the imposition of Bill 47, which requires minimum residential building height, and densities, for areas within 800 metres from a rapid transit station such as the Canada Line. As a result, staff would recommend that staff be directed to initiate dialogue with the VAA.

**Financial Impact**

None

**Conclusion**

Since 2021, City staff have been working with staff from both Transport Canada and VAA on proposed additional provisions in the AZR that include restricting potential wildlife hazards. Through those meetings, City staff expressed concerns about how Transport Canada has proposed to manage wildlife hazards. Transport Canada is currently requesting public comment on the proposed AZR amendments through the Canada Gazette.

Subject to approval from Council, City staff will send comments and express concerns over the lack of detail on how to implement the new AZR with respect to managing wildlife hazards, in particular birds.



John Hopkins  
Director, Policy Planning  
(604-276-4279)

JH:ck

- Att. 1: Geographical Location of the Proposed Airport Zoning Regulations
- Att. 2: Excerpt from the Vancouver International Airport Zoning Regulations: Wildlife Hazard Provisions

**Geographical Location of the Proposed Airport Zoning Regulations**



Yellow Colour: Outer surface (45m building height limit above ground)  
Teal Colour: Take-off/approach surface (variable height limit)  
Red Colour: Transitional surface (variable height limit)



**Excerpt from the Vancouver International Airport Zoning Regulations:  
Wildlife Hazard Provisions**

Wildlife Hazard

**Prohibition — activities or uses**

**6 (1)** A person must not use, or permit another person to use, any of the lands in respect of which these Regulations apply for activities or uses that attract wildlife — particularly birds — that may create a hazard for aviation safety.

**Exception**

**(2)** Despite subsection (1), a person may use, or permit another person to use, the lands as a site for an open water storage reservoir for a period of 48 hours or less.