Nanaimo Airport Land Use
Final Report

Prepared for the REGIONAL DISTRICT OF NANAIMO

Prepared by

June 2012
**TABLE OF CONTENTS**

A. Purpose ................................................................................................................. 1
B. Scope of Work ........................................................................................................... 1
C. Jurisdictional Review .............................................................................................. 2
   - Federal Divestiture of Airport Lands .............................................................. 2
   - Legislation ........................................................................................................... 2
   - Practical Consequences of the Airport Divestiture and Legislation ................ 3
   - Other Jurisdictions ......................................................................................... 3
D. Public Consultation ................................................................................................. 4
   - Key Messages from Consultation ..................................................................... 5
E. Recommended process And Principles for Moving Forward ......................... 5
   - Preparation of an MOU .................................................................................. 6
   - Draft Development Principles for MOU ......................................................... 6
   - Public Review and Consultation ................................................................... 7
F. Next Steps and Sequencing ................................................................................... 8

Appendix A: Airport Land Use Process: Comparable Jurisdictions

Appendix B: Summary of Consultation Process
A. PURPOSE

The Regional District of Nanaimo (RDN) has commissioned consultants to undertake two central tasks relating to its relationship with the Nanaimo Airport Commission (NAC):

- Seek clarity over land use jurisdiction on lands owned by the NAC. The issues relating to jurisdiction came to the forefront during the public process to update the Official Community Plan (OCP) for Area A of the RDN. It was decided at that time to exclude airport lands from the OCP process and address these lands through another process that would hopefully clarify land use jurisdiction and bring greater certainty to the RDN, the NAC and the public; and

- Provide advice to the RDN on an appropriate process to include the airport lands in the Area A OCP, based on feedback from consultations with the parties, key informants, Area A residents and the general public.

This report summarizes the work undertaken by the consultants over the past months and provides a recommendation for proceeding forward towards achieving a zoning and development permit area for the airport, and inclusion of the airport lands in the Area A OCP.

B. SCOPE OF WORK

The consultant’s work consisted of three primary tasks that are outlined below.

- A jurisdictional review of comparable airports around British Columbia was undertaken in the summer of 2011. The review examined the relationships between airport authorities and local governments in 8 jurisdictions. This report, titled “Airport Land Use Process: Comparable Jurisdictions”, is included as Appendix A.

- A broad consultation process to engage key stakeholders including local governments, residents of Area A, organizations and residents of the RDN, and others with an interest residing within the catchment area of the Nanaimo Airport was undertaken between November 2011 and March 2012. The report of this consultation forms Appendix B.
• Recommendations for a process and set of principles for the development of an MOU and an approach to include the airport lands in the Electoral Area OCP has been prepared and is included in section E of this report.

C. JURISDICTIONAL REVIEW

The consultants reviewed the ownership, operational authority, relationship with local government, and zoning status of a range of airports in BC that have some similarities with the Nanaimo Airport. In the process of doing so, it is also important to provide some background on how and why local airport authorities were first established.

Federal Divestiture of Airport Lands

In the early 1990s the federal government adopted a National Airports Policy (NAP) and, over the ensuing years, divested itself of federal management and operations of most airports. There were two significant elements of this policy that have particular relevancy to this review:

1. The principles that airports should be operationally sustainable, operate on a user-pay basis, and that local interests will lead to improved management and efficiencies; and,

2. Three categories of airports were created:
   2.1. Nationally significant airports (handling over 200,000 passengers per year) where the federal government retained ownership of the lands but the facilities typically are managed by a local authority (there are 4 airports in BC designated this way and 26 in Canada);
   2.2. Regional and local airports serving fewer than 200,000 passengers per year (unless it is a national, provincial or territorial capital). In most instances, management and ownership of the airport lands went to either local government or a locally established airport authority or commission; and,
   2.3. Small, remote or arctic airports where federal ownership of the airport lands remains.

The vast majority of airports, including Nanaimo Airport fall within category 2.2 above as a regional or local airport.

Legislation

Applying the principle of paramountcy of federal authority as conveyed in the Constitution Act of 1867, the federal government is not subject to local government control or regulation unless otherwise delegated. Prior to divestiture, when airports were largely federally maintained and operated, local government zoning or building requirements were generally not observed. The Aeronautics Act added to federal powers, including the right to regulate and “zone” private or public lands to ensure that land in the vicinity of airports are not used in a manner that is incompatible with the safe operation of the airport. Subject to certain procedural requirements, it can effectively control such things as use and height and would supersede local government zoning. It includes a provision that no person is entitled to compensation for federal airport zoning regulation of lands, buildings or structures.
**Practical Consequences of the Airport Divestiture and Legislation**

1. Where airport lands are owned by the federal government, the question of jurisdiction is clear; the federal government does not have to comply with local government regulations (e.g. Victoria Airport Authority).

2. Where the airport lands are owned (and usually operated) by the local government, there appears to be synchronization between land use policy, zoning and uses permitted on airports lands. This comes as no surprise, since the local government has a direct interest (as owner) in the airport’s viability. (e.g. City of Kelowna).

3. Where airport lands are owned by a local entity (airport commission) and operated either locally or by contract with another body (e.g. Nanaimo or North Peace Regional Airport), there is much less jurisdictional certainty. Aviation and aviation-related uses are outside of the control of the local government, however uses that are not ‘vital to the operation of an airport’ are subject to land use regulation by local government. There does not appear to be any substantive case law that provides precedent for specifically prescribing a list of activities and/or uses that are considered to be ‘vital’ to the operations of the airport, or, whether financial sustainability or operating viability of an airport are legitimate criteria to consider it “vital to the operations”.

**Other Jurisdictions**

The consultants undertook a jurisdictional review of airports in a number of local governments in BC. The complete review is found in the appendices.

Of all of the jurisdictions investigated, the North Peace Regional Airport in Fort St. John offers the best comparison with the Nanaimo Regional Airport. These airport lands, located within the Peace River Regional District, were transferred to the North Peace Airport Society in 1997. The airport is managed by the Society (operations are contracted to YVR). An airport development plan was developed by the Society in close collaboration with the Regional District. At the time of preparation of the report, the development plan had not been adopted by the Regional District Board.

Land uses permitted by local government zoning on airport lands vary considerably in all of the jurisdictions investigated. With the exception of the RDN, where the current zoning does not include airport or airport related uses, the list of permitted uses runs the gamut from being more or less restricted to airport and airport related uses to, more often, a more complete list of uses, from retail stores to gas bars, to accommodation and in some instances even shopping centres.
Based on the consultant’s review and past experience, the greatest certainty appears to be achieved where there is collaboration between the local government and the airport authority in the planning process for the airport lands, regardless of legal rights and jurisdiction under the Aeronautics Act or the actual ownership of the lands (federal, municipal or society). This collaborative planning also assumes a shared vision or understanding of the purpose and mandate of airport development, as well as public engagement in the process. Regular community updates and communication can lay the groundwork for public confidence and acceptance.

D. PUBLIC CONSULTATION

The purpose of the public engagement was to meet the following objectives:

- Provide information to stakeholders and the public about the roles, responsibilities and jurisdiction for planning and regulating land use on airport lands;
- Gather views on the future direction of land use and development at the Nanaimo Airport;
- Gather views on how the public should be engaged in future land use and development on the Nanaimo Airport lands; and
- Consider a framework for an understanding between the RDN (Regional District of Nanaimo) and the NAC (Nanaimo Airport Commission) regarding future development and land use regulation of Nanaimo Airport lands.

Consultation has consisted of the following:

- Three public meetings, held in Cedar, Parksville and Cassidy (total attendance about 145 people);
- A meeting with the Area A Citizens Advisory Committee;
- Input received through dedicated email address nanaimoairport@cityspaces.ca, which was distributed at the public meetings and posted on the RDN website;
- Telephone interviews with CAOs and/or directors of planning in neighbouring local governments (Nanaimo, Ladysmith, Lantzville, Qualicum Beach, Parksville, and Alberni-Clayquot Regional District). Cowichan Valley Regional District CAO has not responded to requests for an interview;
- Interviews with Chambers of Commerce in Ladysmith and Nanaimo; and
- Telephone interview with the CEO, Nanaimo Development Corporation.

It was agreed that consultation with local First Nations was important and most appropriately undertaken directly by the RDN and NAC staffs.
Key Messages from Consultation

- The airport is seen in the broader region as a vital transportation link, especially for business and attracting future business. It is a regional asset.

- Concerns about environmental impacts of aviation and non-aviation related uses, particularly concerns about the aquifer, were strongly expressed in the public meetings.

- Some local, rural residents feel they get little benefit from the airport and expansion means more noise and more potential risk to the environment. In some instances the response to any development, airport related or otherwise, was considered too much.

- A dominant concern from public discussions is over the “lack of certainty”. This uncertainty gets translated into what was described as “mistrust”, both in the public’s attitude toward the Regional District and YCD. Better communication can alleviate concerns that processes be open and transparent.

- There is general agreement that engaging local residents is key, but that other stakeholders throughout the region want to be consulted as well.

- There is a general consensus that future considerations for development of airport lands should be developed jointly between the Airport Commission and the RDN, and that the community should be engaged through a public process.

E. RECOMMENDED PROCESS AND PRINCIPLES FOR MOVING FORWARD

There are three significant steps to be taken to achieve the level of certainty desired by the RDN, the NAC, and the public. These steps require collaboration between the RDN and NAC as well as public review and consultation.

The steps are:

- Development of an agreement between the RDN and the NAC that describes the relationship and sets out agreed principles and a process that will guide development of a Master Development Plan (MDP) for the Airport;

- Preparation of a MDP that will result in an amendment to the Area A OCP referencing the MDP; and

- Concurrent with the OCP amendment, development and adoption of a zoning bylaw that reflects the uses outlined in the MDP.
**Preparation of an MOU**

A number of airport jurisdictions have entered into MOUs with the local jurisdiction(s) that define relationships, outline development principles and set out communications protocols between the parties and the public.

Subject to agreement between RDN and NAC, the consultants recommend:

- The development of an MOU between the two parties that will set out an agreed set of principles (draft principles are provided in the following section);
- The MOU will set out the process to achieve a MDP for the airport lands that can be recognized in an amendment to the Area A OCP; and
- That a zoning amendment be made concurrently with the OCP amendment, which will reflect the MDP.

**Draft Development Principles for MOU**

The following are draft principles that would form the framework for an MOU between the RDN and NAC, and subsequent affirming of a land use plan for the airport lands.

1. The RDN and NAC will agree to work collaboratively in future land use decision making;
2. To build trust in the community, agreements between the NAC and RDN will be open, transparent and include stakeholder and community consultation;
3. Protection of the Cassidy aquifer will be of paramount consideration in planning for any activities on airport lands and future development will avoid deleterious impacts on the aquifer. Development applications will include a report on impacts and mitigation measures from a certified professional engineer experienced in groundwater hydrology;
4. A recognition that the Nanaimo Airport provides a regional function and serves the local and regional economy;
5. The needs for the Nanaimo Airport to generate “ancillary” revenue to maintain and enhance airport facilities and be operationally sustainable (National Airport Policy objective) is recognized;
6. In consultation with the RDN, a Master Development Plan will be prepared with the intention of including it as an amendment to the Area A OCP;
7. A zoning bylaw amendment would be submitted, concurrent with the OCP amendment application; and
8. Uses identified in the previous Area A OCP (now superseded) can be used, in part, as a starting point for discussion.

*Note: These principles, in a general way, have been discussed with members of the Board of the Nanaimo Airport Commission and there is general agreement to pursuing this direction.*
Public Review and Consultation

Public confidence in an “open and transparent” process is important to buy-in and acceptance by the majority of the public. Members of the Area A OCP Advisory Committee suggested that there be citizen representatives from Area A participating in the development of an agreement between the RDN and the NAC, and that this agreement be appended to the Area A OCP.

The consultants recommend that the discussions to develop an MOU include the Director for Area A as the most appropriate representative of the interests of the area immediately adjacent to the airport lands. It is further recommended that the public be informed and allowed to comment on the draft MOU prior to sign-off, to ensure transparency. Based on the principle of regional influence, such public review should include areas beyond Electoral Area A, including the CVRD. Finally, it is recommended that the development of a MDP for the airport include opportunities for public input from the residents of Area A, stakeholders and interested individuals throughout the region.
F. NEXT STEPS AND SEQUENCING

1. Agreement of RDN Board to proceed with a collaborative process to develop an MOU and subsequent OCP amendment and zoning for the airport lands.

2. Joint meeting between the RDN and NAC to discuss “way forward principles” and structure of an MOU;

3. Assuming agreement, prepare draft MOU;

4. MOU agreement-in-principle between the RDN and NAC;

5. Provide public review of draft MOU (website, circulate to stakeholders and one public meeting);

6. Official signing of MOU;

7. Subject to the terms of the MOU, prepare/complete a plan for airport lands through a collaborative process. (Note: anticipate the MDP to be prepared on a broad land use level with visual vignettes of future opportunities);

8. Recognize the airport’s MDP in an amendment to the Area A OCP, including provisions for Development Permit Area designation; and

9. At the same time as the OCP amendment process, submit an application for a zoning amendment that reflects the MDP strategies.
Appendix A:
Airport Land Use Process:
Comparable Jurisdictions

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Appendix A
AIRPORT LAND USE PROCESS - COMPARABLE JURISDICTIONS

The Regional District of Nanaimo (RDN) is seeking clarity with the Nanaimo Airport Commission (NAC) over land use jurisdiction on lands owned by the NAC. This brief paper provides some case examples of the relationships and agreements between other airports in BC and the local government jurisdiction within which the airport is located, that provides some context for the current work being undertaken.

BACKGROUND

Role of the Federal Government

Historically, many airports in Canada were owned and operated by the federal government, through the Ministry of Transportation or the Department of National Defense. In 1994 the federal government developed a National Airports Policy and its implementation began the following year. The principles of the policy include:

- Airports should be operated on the basis of user pay; and
- Transfer of airports to local interests will lead to improved management and efficiencies.

The National Airport Policy sets out the framework to define the federal government’s role with airports. That role is defined through two main levels of federal involvement in airports with scheduled passenger traffic:

- Nationally-significant airports that form the National Airports System (NAS); and
- Regional/local airports.

The 26 NAS airports in Canada (those that handle over 200,000 passengers/year or serve the national capital or provincial or territorial capitals) continue to be owned, for the most part, by the federal government. Responsibility for the operation, management and development of NAS airports has been transferred to local airport authorities. BC airports in the National Airport System (NAS) are Kelowna, Prince George, Vancouver and Victoria.

Under the National Airports Policy, Canadian airports that handle fewer than 200,000 travelers a year are considered regional/local airports, unless they serve the national capital or a provincial or territorial capital. Under this policy, ownership and operation has been transferred to provincial, local or private sector interests. The non-NAS airports in BC are Abbotsford, Campbell River, Castlegar, Cranbrook, Dawson Creek, Fort Nelson, Fort. St. John, Kamloops, Nanaimo, Penticton, Port Hardy, Powell River, Prince Rupert, Quesnel, Smithers, Terrace, Vernon and Williams Lake.

There are three additional categories of airports owned and operated by the federal government:

- Small airports (a group of federally supported airports that have no scheduled air service);
• Remote airports (where air service is the only year-round access); and

• Arctic airports (the federal government is currently negotiating the transfer of some these airports to the respective territorial governments).

RELATIONSHIPS BETWEEN AIRPORT AUTHORITIES AND LOCAL GOVERNMENTS

The Nanaimo Airport is operated by the Nanaimo Airport Commission, a not-for-profit authority established under the Canada Corporations Act, which assumed management of the airport in 1992. In 1996 the Commission was granted title to the airport lands. The Board is comprised of four members nominated from local governments in the region, one nominated by the Chamber of Commerce and the four remaining appointed by the Board representing the community at large. The airport lands are located in Electoral Area A of the Regional District of Nanaimo.

As shown on the table below, the governance structure, land-ownership pattern and relationship with the local government having jurisdiction, differs from most other airports in the Province. However; like most, the NAC, is a product of the Federal aviation divestiture program that occurred in the 1990s and these examples can provide some guidance moving forward.

Case Examples

The consultants reviewed the ownership, operational authority, relationship with local government and zoning status for several of BC’s airports. The following table 1. provides a summary of the findings.

Table 1: Examples of BC Airports and their Local Government

<table>
<thead>
<tr>
<th>Airport</th>
<th>Ownership</th>
<th>Operator</th>
<th>Relationship to local government</th>
<th>Local Govt. Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kelowna International Airport</td>
<td>City of Kelowna (largest local-owned airport in Canada)</td>
<td>City of Kelowna</td>
<td>Airport Advisory Committee is a standing committee of City Council. Airport Master Plan adopted in 2007</td>
<td>Permits “airports” as only principle use &amp; includes a long list of “secondary uses”</td>
</tr>
<tr>
<td>North Peace Regional - Fort St. John</td>
<td>North Peace Airport Society (Vancouver AA)</td>
<td>N. P. Airport Services</td>
<td>Airport Development Plan completed in 2008, not yet in Regional District Zoning By-law</td>
<td>Proposed CD zone permits “uses identified in the NP Airport Development Plan.” Intention to include the plan in the Zoning By-law</td>
</tr>
<tr>
<td>West Kootenay Regional Airport - Castlegar</td>
<td>City of Castlegar</td>
<td>City of Castlegar</td>
<td>Operated in accordance with the “Castlegar Airport Operations Manual” issued by MOT (1997)</td>
<td>Permits wide range of uses; airports, shopping centres, arcades, auto/rev sales, restaurants, hotels, etc.</td>
</tr>
<tr>
<td>Airport</td>
<td>Ownership</td>
<td>Operator</td>
<td>Relationship to local government</td>
<td>Local Govt. Zoning</td>
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<td>----------------------------</td>
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<tr>
<td>Abbotsford International Airport</td>
<td>City of Abbotsford</td>
<td>Abbotsford Airport Authority</td>
<td>Transferred to the City in 1997. Strategic direction: “Develop the airport property in a way that is consistent and supportive of the City/Regional plan”; Prudently use aviation lands for other uses on an interim basis</td>
<td>Permits airport, airport industrial and aerospace industrial</td>
</tr>
<tr>
<td>Kamloops Airport</td>
<td>Kamloops Airport Authority Society</td>
<td>Kamloops Airport Ltd. (subsidiary of Van. Airport Services)</td>
<td>Comprehensive Plan prepared with City of Kamloops, and forms one of the City’s local area plans</td>
<td>Zoning not changed to match local area plan. Restricted to airport terminals and airport-related commercial and airport (defines permitted uses) accessory uses are discretionary for city staff</td>
</tr>
<tr>
<td>Prince George Airport</td>
<td>Gov’t of Canada</td>
<td>Prince George Airport Authority</td>
<td>Accord between PGAA and City</td>
<td>Contains 2 zones within airport property, one that permits airports and related uses and the other is an airport plaza zone that permits a host of commercial uses designated by “west” and “east” zones</td>
</tr>
<tr>
<td>Vernon Regional Airport</td>
<td>City of Vernon</td>
<td>City of Vernon</td>
<td>Agreement between the Minister of Transportation and the City of Vernon to regulate lands surrounding the airport</td>
<td>Permits a list of “primary uses” and “secondary uses”. Primary uses limited to: airport/ aerospace/sales repairs/ r&amp;d/vehicle rental, gas bars, parking, &amp; utilities</td>
</tr>
<tr>
<td>Victoria International Airport</td>
<td>Gov’t of Canada</td>
<td>Victoria Airport Authority</td>
<td>Accords with District of North Saanich and Town of Sidney</td>
<td>Zoning restricted to airports and aviation related uses</td>
</tr>
<tr>
<td>Nanaimo Airport</td>
<td>Nanaimo Airport Commission</td>
<td>Nanaimo Airport Commission</td>
<td>In RDN, no Accord.</td>
<td>Zoning does not permit airport or any other related uses; limited to agriculture. Operates under Aeronautics Act</td>
</tr>
</tbody>
</table>
Of the examples outlined above, the North Peace Regional Airport and the Kamloops Airport provide the closest “match” in terms of their ownership and operation structures and relationships with the local government within which the airport is located. The Accord between the City of Prince George and the PGAA and the City of Prince George’s approach within its Zoning By-law may also offer some assistance. These case examples are expanded below:

**North Peace Regional Airport/City of Fort St. John**

The North Peace Airport Society obtained ownership of airport lands from Transport Canada in 1997. The Society contracted with North Peace Airport Services, a wholly owned subsidiary of the Vancouver Airport Authority, to operate the airport. An airport development plan was completed in 2008, in close consultation with Peace River Regional District staff. The PRRD Zoning By-law currently outlines a specific list of permitted uses in its AP (Airport Industrial Zone). A proposed By-law amendment that would replace the existing list of permitted uses with uses identified in the North Peace Regional Airport Development Plan, failed to pass at the Regional District Board. Likely reasons for the By-law amendment being rejected include: (1) although there was close collaboration between the Airport Society and Regional District staff and airport stakeholders (those leasing land or buildings) were consulted in preparing the development plan, there was no broader public consultation and no consultation with the Agricultural Land Commission. (2) A political issue arose around a regional director’s lease of airport lands to harvest hay. The Peace River Regional District intends to re-introduce the By-law amendment in the spring of 2012. The PRRD would conduct a public process to amend the Zoning By-law, thereby giving the general public opportunity to comment on the Airport Land Use Plan. Any future changes to the plan would require a zoning amendment, which would be subject to public review.

**Kamloops Airport**

The Kamloops Airport is owned by the Kamloops Airport Authority. The board of the authority is comprised of City of Kamloops Council members, City of Kamloops staff and members drawn from the public at large. The airport is operated by Kamloops Airport Ltd., a subsidiary of Vancouver Airport Services (subsidiary of the Vancouver Airport Authority). The City of Kamloops Zoning By-law pre-dates the transfer of the airport to a local authority. The By-law lists 10 permitted uses. City of Kamloops planning staff have discretion over approval of uses “accessory” to these permitted uses. Given the make-up of the board, there is a close relationship with the City and there have been no issues with the existing By-law.

Approximately 10 years ago the Airport, in conjunction with the City of Kamloops, prepared a local area plan and development plan for the airport and the adjacent lands. The plan provides for significant growth and development of the airport lands. Implementation of the plan called for amendments to the Zoning By-law, replacing the existing zoning with five development zones. At this stage, the ‘original’ zoning is still in force and effect.
_Prince George Airport_

The Prince George Airport is one of four NAS airports in BC. The land is owned by the Ministry of Transportation, but responsibility for airport operations was transferred in 2003 to the Prince George Airport Authority (PGAA). In 2004, the City of Prince George and the PGAA signed an “Accord” to establish the terms for the conduct of their relations. Section 4 of the Accord addresses land use planning and the Airport Master Plan. “The Authority shall engage in timely and meaningful consultations with the City for the portion of the lands, which are located in the City, and will notify in writing and seek the opinion of the City when developing the Authority’s revised Land Use Plan and Airport Master Plan. This coordination is intended to ensure that the proposed Land Use Plan and the Airport Master Plan is consistent with the City’s Official Community Plan and Zoning Bylaw”. The Accord includes a reciprocal obligation for the City to consult with the Authority on land use and transportation planning that may affect airport operations. The Accord also includes a dispute resolution process.

The Airport Master Plan was developed in collaboration with City of Prince George staff.

The airport is identified as a specific DCC area (Development Cost Charge) in order to fund projects directly related to future development on airport lands.

The Prince George Zoning By-law includes the airport lands in a site specific zone with “airport” as the principal use and a list of 17 secondary uses.

**PRELIMINARY ASSESSMENT**

No two airport governance and relationships with local government are alike. None of the airports that have been examined have exactly the same governance, land-ownership and local government structure or by-law regulations as the Nanaimo airport has with the RDN. Like Nanaimo, the airport lands at Kamloops and North Peace (Ft. St. John) are owned by a local airport authority (society). North Peace airport is also located in an unorganized area and the local government authority is the Regional District. However, the airport is not operated by a local operating authority.

Where land continues to be held by the Federal Government, the question of jurisdiction is very clear; the Federal Government does not have to comply with local government regulations, even where the land is occupied by a tenant not using the land for “federal purposes”, and, even if the terms of the lease stipulated that the tenant must comply with all laws of all jurisdictions. The Victoria Airport is a case in point. The airport authority leases to tenants carrying out activities not permitted in the local zoning by-law nor, in fact, do they take out building permits. The recent announcement of a new 35,000 sf Sobeys (formerly Thrifty Foods) distribution centre, now under construction on Victoria airport lands, does not comply with the District of North Saanich zoning by-law nor have any permits been issued by the District. The airport lands remain on title with the Federal Government.

Issues relating to aeronautics were not a constitutional consideration in 1867 (for obvious reasons) and are now governed by the Aeronautics Act (refer to earlier section). A recent
Supreme Court of Canada decision (2010) reaffirmed that local governments have no authority to regulate airports not only where the Federal Government has licensed an airport but also where a licensed aviator wishes to use the land or water, irrespective of who owns the land. Local by-laws that prohibit airport use where airports are licensed or merely where a licensed operator lands, were deemed to be unconstitutional.

All local zoning by-laws in other jurisdictions investigated allow for uses ranging from “airport” and airport-related uses to a much broader range of activities, including shopping centres. In some instances, the by-laws prescribe primary and secondary uses and define secondary uses as either ancillary to the primary use and/or a lesser function by square footage than the primary use. Nanaimo airport zoning is unique, at least from the other jurisdictions investigated, in that it does not permit airports. Base on clarity provided in recent high court decisions, the current zoning by-law is ultra vires.

In most jurisdictions examined, airport lands are identified in local government land-use policy as being an economic hub for their region and tie policies relating to transportation and economic development in the discussion of airport lands.

It is clear that where airport lands are owned by the Federal Government, the local government does not have control over land use neither aviation nor non-aviation uses. Where airport lands are not federally owned, issues of authority to regulate land-use over non-aviation lands is not entirely clear. Under the Aeronautics Act, it seems clear that regulation of airports and aviation related uses are beyond the jurisdiction of local government. However, the question of uses not related to aviation is unclear.

Where airports are owned by local government, there seems to be a reasonable synchronization between land-use policy, zoning and uses permitted on airport lands. This should come as no surprise as the local government has a direct interest in the airport’s viability. In some local government jurisdictions, regardless of land-ownership, local plans have been developed that have incorporated, or are propose to incorporate, the master development plans of the airport in the local government zoning by-law.

The greatest certainty over jurisdiction and non-aviation uses on airport lands appears to be achieved where there has been collaboration between the local government and the airport authority in the planning process of the airport lands, regardless of legal rights and jurisdiction under the Aeronautics Act or the actual ownership of the airport lands (federal, municipal or society). In making this observation, there is an assumption that some form of public consultation is included in the process. For example, the District of North Saanich has been consulted on the master plans for the Victoria airport, and, even though the airport does not choose to comply with the zoning or take out permits, there is a positive and collaborative relationship between the airport authority and the District.

There are a number of jurisdictions where the local government authority and the airport authority have entered into some form of MOU that describes the relationship and in some cases, clearly articulates the approvals process. But, to be successful, there must be a willingness by the parties to work together, and in principle, have a complementary vision or understanding of the purpose and mandate of airport development.
With respect to clarifying jurisdiction over non-aviation related uses at the Nanaimo Airport, the Regional District of Nanaimo and the Nanaimo Airport Commission would seem to have three options to consider. The parties could:

1. Go to court and have the courts decide. This is not a particularly desirable alternative;

2. Come to an agreement on a long list of uses that are or are not “aviation related” and that the non-aviation uses would be subject to Regional District regulation (which would not rule out option 1 from subsequently occurring), or;

3. The Airport Authority and the Regional District could agree on a land-use process and a master plan for the airport that would be included in the Electoral Area Community Plan. It would include a public consultation process and ultimately be implemented through a replacement zoning by-law. The Regional District has to amend its zoning by-law in any case as the existing by-law is unconstitutional. (according to the 2010 Supreme court ruling cited earlier). So a community plan review and zoning by-law replacement has significant logic.

The third alternative would, in the consultants’ opinion, provide the most certainty and substance in terms of outcome. There is certainly precedence in other jurisdictions where this kind of process has been followed and where it would appear to lead to effective community support and airport stewardship.
Appendix B:
Summary of
Consultation Process

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Appendix B
The purpose of the public engagement was to meet the following objectives:

- Provide information to stakeholders and the public about the roles and responsibilities and jurisdiction for planning and regulating land use on airport lands;
- Gather views on the future direction of land use and development at the Nanaimo Airport;
- Gather views on how the public should be engaged in future land use and development on the Nanaimo Airport lands; and
- Consider a framework for an agreement of understanding between the RDN (Regional District of Nanaimo) and the NAC (Nanaimo Airport Commission) regarding future development and land use regulation of Nanaimo Airport lands.

Consultation has consisted of the following:

- Three public meetings, held in Cedar, Parksville, and Cassidy;
- A meeting with the Area A OCP Citizens Advisory Committee;
- Input received through a dedicated email address - nanaimoairport@cityspaces.ca, which was distributed at the public meetings and posted on the RDN website;
- Telephone interviews with CAO's and/or directors of planning in neighbouring local governments (Nanaimo, Ladysmith, Lantzville, Qualicum Beach, Parksville, and Alberni-Clayquot Regional District). Cowichan Valley Regional District CAO has not responded to requests for an interview;
- Interviews with Chambers of Commerce in Ladysmith and Nanaimo; and
- Telephone interview with CEO, Nanaimo Development Corporation.

It was agreed that consultation with local First Nations is important and most appropriately undertaken directly by the RDN and NAC staffs.

PUBLIC MEETINGS

Two public meetings were held in November 2011. The first session was held at the Cedar Heritage Centre on November 10th and the second at the Parksville Community and Conference Centre on November 15th. A third public meeting was held in Cassidy on March 7, 2012. In addition to advertisements in the Nanaimo News Bulletin and the Parksville Qualicum Beach News, email invitations were sent to identified stakeholder groups including:

- Nanaimo Flying Club;
- Electoral Area ‘A’ OCP Citizen’s Review Committee members;
• Mid Island Sustainability Stewardship Initiative;
• Nanaimo Area Land Trust; and
• South Wellington and Area Community Association.

Approximately 50 people attended the meeting in Cedar and about 35 attended in Parksville. Approximately 55 people attended the meeting in Cassidy. Several individuals attended more than one of the meetings.

Each session began with a Powerpoint presentation providing information about land use, government jurisdiction, and about the consultation process. Participants were asked to respond to two questions:

1. What are your views on the direction of land use on Nanaimo Airport lands?
   • What are the issues?
   • What are the opportunities?
   • What uses do you feel would be appropriate?

2. How should the community be engaged in future development on airport lands? Recognizing:
   • The authority of the airport; and
   • The requirements of local government.

**Comments from Nov. 10 public meeting**

• A covenant was placed on the land when it was excluded from the ALR in 1997 that would not permit an industrial park.

• Concern that the airport may go beyond self-sufficiency into commercial real-estate operation.

• Would like more information about Airport Commission's plans and intents.

• Would like clarity of existing zoning on hangar and combined services building as airport is advertising land with an “industrial zone”.

• It will cripple the local economy if the airport fails — needs to be self-sufficient.

• Concern about loss of control over the Cassidy aquifer after decades of work to protect the aquifer.

• Protection of the aquifer is the most important consideration.

• Watershed management needs to be taken care of first.

• If environmental issues can be mitigated, then agreement may be able to be reached between RDN, NAC and the community on what is acceptable.

• Airport provides important access for international students to VIU.
• Should not be any more development on airport lands.

• RDN could increase revenues by assessing higher taxes to NAC projects.

• Chambers of Commerce support expanding services at Nanaimo Airport. Would like to see direct flights to Calgary and Edmonton.

• Upset about the $20 million of public funds invested in what really is a private airport.

• Don’t need more infrastructure/services at the airport (hotels etc.). There are lots of services close by or can be built close by.

• With decreasing passenger loads, the NAC needs to increase revenue through development to support the Airport Commission objectives - the Commission is the issue.

• If the airport is not viable based on passenger loads, then it shouldn’t be there.

• This is a rural area that gets little benefit from the airport - only noise. Larger planes will only create more noise.

• WestJet and Horizon won’t use this airport due to safety and carrying capacity of the runway - it sits on a porous aquifer.

• Need to consult First Nations.

Comments from Nov. 15 meeting

• Need to know Airport Commission’s plans for the airport lands. Would like to see Airport Commission come up with a Master Plan; they know what their costs are and will be in the future. Show us what will work for them and give the public something to consider.

• Need collaboration between RDN and NAC - if development across the highway, it could be for airport-related uses.

• The airport can’t compete with passenger ferries and harbour flights.

• Lack of trust in all levels of government.

• During the OCP process, RDN insisted that they had no jurisdiction with respect to the airport.

• Need to sit down and work things out with the folks in Area A to find a resolution.

• Ladysmith has an economic interest in the airport, but the focus needs to be on Area A.

• It does not make sense to have development on an aquifer.

• Non-airport uses are driven by the need to raise money to be self-supporting.

• The environment is paramount; things like underground tanks should not be allowed.
• Any non-airport-related uses should be subject to an environmental assessment.

• Development of an accord between the RDN and NAC was not shared with the public. This process needs to be transparent.

• Zoning is a 3-director decision, but if this is a regional asset, then decisions need to be made by all 17 directors. Airport should be recognized as an important regional asset. Deal with the local area first and then bring the regional interests in at the end of the process.

• Aviation-related uses may be of more concern than non-aviation-related uses in terms of impact on the environment and, in particular, the aquifer (e.g. helicopter repair).

• The airport was placed in the wrong place to begin with. It should have been moved inland.

• Need to plan for current and future uses (consider what happened at Mirabel; consider plans for the University; consider future green transportation).

Comments from March 7 meeting

• Promoting economic development is inconsistent with being a non-profit society.

• Non airside land should fall under local control.

• There needs to be a full, open, transparent discussion amongst all the parties.

• There has been no independent study to determine the economic significance of the airport.

• A collaborative approach to developing a plan is preferred - NAC needs to take community interests into account.

• The viability of the aquifer is the primary consideration.

• Need to respect and protect ALR.

• The airport should follow existing RDN regulations.

• It is difficult to know what process is needed until we know what the plans of the NAC are. We would like the NAC to bring their draft Master Plan to the community. We understand that NAC has a 50 year plan; we would like to see it.

• Leave airport lands alone.

• If using a collaborative approach, need to include the ALC.

• Airport is marketing land for development.

• Agricultural and rural lands are the focus of the OCP. Airport lands should follow suit and conform to the Area A OCP (with development that is agricultural-related rather than industrial).
• Need a level of trust. Past experience has led us not to trust. There is a transparency/trust issue.

• Need to accept that the airport is sitting on farm land. Must not destroy the agricultural potential of the land; must not affect the aquifer; and must respect the rural character.

• Must not put other local businesses in jeopardy.

• There needs to be consideration of the value of the airport to the region, but it needs to be realistic and taken against the value of the agricultural land and the aquifer.

• Everyone could win with agricultural use of the lands.

• Timberland’s development will also affect the aquifer.

• Noise pollution is not affecting the Ladysmith Marina at this time - clients use the airport to get to the marina.

• A well functioning airport is important to the greater regional area.

• The highway parallels the airport and may have a greater impact on the aquifer.

• Should go through a DPA process.

• Need to establish jurisdiction - maybe an accord could work to resolve these issues.

• Need to set aside land to provide water to Yellow Point in the future.

• If the aquifer was an open body of water, it wouldn’t be treated this way.

AREA A OCP CITIZENS ADVISORY COMMITTEE

Eight members of the Area A OCP Citizens Advisory Committee and the Regional Director for Area A met with the consultants on March 22, 2012.

Summary of Comments from Area A OCP Advisory Committee meeting

Discussion:

• Would like the NAC to identify where they plan future development. The community needs more detail.

• Suggested a charrette hosted by the NAC and the RDN to plan the airports lands.

• Planning should not exclude people from outside of Area A.

• If the Airport Master Plan is included in the OCP, it needs to be very difficult to make significant changes to it.

• The airport will continue to make operational decisions while the planning process is undertaken.
Area A does not feel sufficiently represented on the NAC; its make-up is a source of mistrust. There is a lack of visibility/feedback. Suggest that airport do a monthly report in Take 5.

Key recommended actions/principles:
1. Planning for the airport could be initiated with a community charrette.
2. There needs to be a joint effort between the RDN and NAC and some type of formal understanding. An accord/agreement must be appended to the OCP. Development of an accord between the RDN and NAC should include citizen representatives from Cedar, Cassidy, South Wellington and North Oyster in Area H. Local area directors need to be involved; they have accountability to the community. Process must be transparent and inclusive.
3. Consideration of the aquifer must be paramount.
4. A plan must maintain the rural nature of the area.
5. The airport will continue to work cooperatively with the RDN and local municipalities to meet regional transportation requirements.

SUMMARY OF INDIVIDUAL SUBMISSIONS
- Nanaimo Flying Club expressing concern about the welfare and future of the club.
- Objections to expansion at Nanaimo airport.
- Jurisdiction of RDN over non-aeronautical uses needs to be spelled out in an addendum to the OCP and bylaws drafted to support it. Want to see the airport designated a development permit area with respect to the environment (especially the aquifer) and the look and appearance of the airport development. Suggest a public consultation like the one for Cedar Main Street, where the public can indicate online what development they see as appropriate.
- Request to have stakeholders identified.
- Request for a further opportunity for input.
- Request to meet with the South Wellington and Area Community Association or hold another public meeting in South Wellington.

SUMMARY OF INTERVIEWS WITH LOCAL GOVERNMENTS AND OTHER REGIONAL ORGANIZATIONS
- Huge potential for growth from a tourism perspective now that reliability issues have been addressed (runway expansion, navigation system).
- Airport is a huge benefit for business. Seen by the business community as absolutely vital.
- If the Malahat shuts down or ferries don’t sail, air travel is the crucial link to Victoria and to the mainland.
• Concern about industrial uses at the airport due to aesthetics, but also increased risk of fire.

• A major hotel would be in direct competition with the existing, planned or desired accommodations in other areas, and therefore should not be supported (however, one CAO stated: “If a hotel meant the difference between the airport being viable or not, then a hotel would be accepted”).

• Airport Commission has done a good job of consulting with local governments.

• Look for a niche market on airport lands - things related to air travel (e.g. accommodation for travelers arriving in private planes, rental of camping and hiking gear, etc.) - services that will direct tourists to other parts of the region to enjoy nature and other local amenities.

• Support uses that are compatible with travel, e.g. commercial uses for those in transit (gas station, restaurant).

• Some lands could be used for other commercial/industrial services such as aviation-related supply or business to remodel plane interiors.

• Non-aviation uses take away from the airport and can be confusing to consumers. Uses that are complementary to air travel will grow the core value of the airport.

• Division appears to be over those who supported (and lobbied for) funding for runway expansion and other improvements and those who opposed it and are resentful that money was received.

• Concerns about ability to service any further development at the airport.

• Studies to look at servicing growth areas should be completed before a plan is approved for any non airport-related uses at the airport.

• Growth should be promoted within existing urban areas.

• Airport is an important part of Nanaimo's Economic Development Strategy, therefore we support initiatives that will improve its financial success.

• Local governments want to be part of the process.

• Would like another carrier, specifically WestJet. That would increase the importance of the airport to the region.

• Don’t want uses that compete with services in the urban areas.

• See airports as an economic driver.

• Relatively small population base to support airport operation. Other airports, e.g. Alberni Valley, Tofino-Ucluelet looking to expand uses in order to generate revenue.

• Parksville residents may use Comox Airport more, but business clients and people doing business rely on the Nanaimo Airport.
• Support uses consistent with the Regional Growth Strategy - address sustainability and food security. Showcase sustainability in building design.

**Key Messages from Consultation to Date**

• Airport is seen in the broader region as a vital transportation link, especially for business and attracting future business. It is a regional asset and input is needed from the region, not just the local area.

• Concerns about environmental impacts of aviation and non-aviation-related uses, particularly, concerns about the aquifer, were strongly expressed in the public meetings.

• Some local, rural residents feel they get little benefit from the airport and expansion means more noise and more potential risk to the environment. In some instances the response to any development, airport related or otherwise, was considered too much.

• A dominant concern from public discussions is over the “lack of certainty”. This uncertainty gets translated into what was described as “mistrust”, both in the public’s attitude toward the Regional District and YCD. Better communication can alleviate concerns that processes be open and transparent.

• General agreement that engaging local residents is key, but that other stakeholders throughout the region want to be consulted as well.

• General consensus that future considerations for development of airport lands should be developed jointly between the Airport Commission and the RDN and engage the community through a public process.