Transport Canada Transports Canada

Staff Instruction

Subject: **CAR 307 – Aerodromes – Consultations**

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1.0 INTRODUCTION

1.1 Purpose

(1) The purpose of this document is to provide Transport Canada personnel with support material to effectively and efficiently carry out the implementation and enforcement of CAR 307, *Aerodromes – Consultations* (the Regulation).

1.2 Applicability

(1) This document applies to Transport Canada Civil Aviation (TCCA) personnel.

1.3 Description of Changes

(1) Not applicable.

2.0 REFERENCES AND REQUIREMENTS

2.1 Reference Documents

(1) It is intended that the following reference materials be used in conjunction with this document:

(a) Part III, Subpart 7 of the *Canadian Aviation Regulation* (CAR) - *Aerodromes – Consultations*;

(b) Advisory Circular (AC) No. 307-001, CAR 307 - *Aerodromes – Consultations*

2.2 Cancelled Documents

(1) Not applicable.

2.3 Definitions and Abbreviations

(1) The following **definitions** are used in this document:

(a) **aerodrome work** means work, other than work necessary to comply with a new requirement imposed by or under the *Aeronautics Act*, carried out for any of the following purposes:

(i) building a new aerodrome; or
(ii) at an existing aerodrome,
(A) building a new runway for aeroplanes, or
(B) increasing the length of an existing runway for aeroplanes by 100 m or by 10%, whichever is greater.

(b) **proponent** means a person who proposes to carry out aerodrome work.

(c) **protected area** means a natural area or habitat that is protected by or under federal legislation.

(2) The following **abbreviations** are used in this document:

(a) **CAR**: *Canadian Aviation Regulation*
(b) **PRS**: Policy and Regulatory Services at TCCA
(c) **TC**: Transport Canada
(d) **TCCA**: Transport Canada Civil Aviation

3.0 BACKGROUND

(1) The Aerodrome Work Consultations Regulation - CAR 307 - was born out of the concerns raised by interested parties adversely affected by aerodrome developments, by proponents frustrated by costly administrative and legal delay, and by the general aviation community concerned for their future in Canada. The nature of the concerns centred on improved communication in advance of construction between proponents of aerodrome developments and those most likely to be affected by such development. Requiring consultation in advance of commencing construction will allow for concerns to be proactively raised and mitigated.

(2) Prior to the coming into force of CAR 307, the regulatory requirement to consult was limited to those seeking certification and, even then, they were only required to consult with local land use authorities [as per paragraphs 302.03(1)(a) and 305.08(1)(d)]. The CARs did not define what constituted meaningful consultation, which lead to inconsistent approaches and uncertainty around whether the requirement has been met.

(3) CAR 307 broadens the requirement to consult to include anyone seeking to undertake a prescribed aerodrome work at a certified or non-certified aerodrome, whether it is the creation of a new aerodrome or, at an existing aerodrome, lengthening an existing runway or making a new one. The Regulation also provides minimum expectations for how the consultation should be conducted, including timelines, who to notify and under what circumstances.

(4) The intent of the Regulation is to compel consultation in advance of an aerodrome work that will result in sustained and regular impact on interested parties as identified in the Regulation.

(5) Given the definition of "aerodrome" as per the *Aeronautics Act*, which describes any place an aircraft lands or takes off as an aerodrome, the following exclusions are outlined in the Regulation:

(a) Heliports and aerodromes primarily used for helicopter operations;
(b) Temporary aerodromes for the provision of emergency services such as forest fire suppression, medical necessity, law enforcement activities and search and rescue;
(c) Aerodromes used primarily for agricultural operations;
(d) Military aerodromes; and
(e) Water aerodromes.

(6) In addition to the above, it is not the policy intent of the Regulation to capture occasional or one-off landings on the tundra or in private fields, or temporary landing sites for mining and resource exploration in northern and remote areas. Aviation refers to this kind of activity as “itinerant aircraft movements” However, once the activity stops being itinerant and becomes regular and sustained, it may likely be subject to the Regulation. It is the responsibility of the proponent to determine if they must comply with the Regulation.

(7) A graphic organizer of the consultation process can be found in Appendix A of this document.

4.0 ROLE OF THE REGION - ADVISORY AND COMPLIANCE AND ENFORCEMENT

4.1 Advisory

(1) It is anticipated TC will receive queries from proponents and some interested parties seeking clarification of the requirements of the Regulation. The Regulation provides minimum standards of what is expected by TC with respect to consultations and it is up the proponent to comply with the Regulations and to demonstrate how they have done so in the Summary Report, the written record of the consultation that is prepared by the proponent and submitted to TC.

(2) There may be elements of the Regulation that draw some questions from the proponent, such as who to contact if a federally protected area is involved or if they are required to consult for more

than the minimum number of days specified in the Regulation. To ensure that TC can provide consistent responses, a large portion of this document is dedicated to providing the context and rationale for the inclusion of various elements in the Regulation.

4.2 Compliance and Enforcement

(1) TC Regional Offices also play a key compliance and enforcement role by confirming the consultation has been completed in accordance with the Regulation and reviewing and assessing the content of the Summary Report. The "Assessing for Compliance" section of this document contains information on how to assess for compliance.

5.0 PRE-CONSULTATION CONTACT WITH INTERESTED PARTIES

5.1 Rationale for Pre-Consultation

(1) Although not required in the Regulation, an industry best practice is to pre-consult with key stakeholders during the planning and development stage and is highly recommended. It permits the proponent to ascertain the feasibility of a project and establish proof of concept that can be presented during the actual consultation period. Proponents who go forward without proof of concept will do so at their own peril and may experience consequential delays if safety or navigation related issues arise.

(2) It is highly recommended that at least Transport Canada, the air navigation service provider and the local land use authority be engaged at the pre-consultation stage. Pre-consultation is not the same as consultation. Interested parties contacted during the pre-consultation must still receive the notice during the actual consultation period.

5.2 Transport Canada

(1) During pre-consultation, proponents should contact the appropriate regional office of TC since personnel will have and will want a greater situational and operational awareness of the development and will be in the best position to identify potential issues such as safety concerns.

(2) Pre-consultation would also be the time for proponent to ask questions and seek clarification from TC with respect to the Regulation, such as ascertaining if their project is within a built-up area or using an alternative consultation process.

5.3 Air Navigation Service Provider

(1) It is recommended that proponents pre-consult with the appropriate air navigation service provider, particularly when a change in operations may affect the level of service or safety of air operations that requires an aeronautical study as per Canadian Aviation Regulation - Part VIII - Section 806. This would include but is not limited to items such as airspace designation or instrument approach procedures. Because aeronautical studies can take up to 18 months to undertake, proponents should be contacting the service provider well in advance of the commencement of the consultation period.

(2) The NAV CANADA contact information for aeronautical study-related questions and pre-consultation is found in 10.2(1) of this document.

5.4 Local Land Use Authority

(1) Proponents are encouraged to share their plans with the local land use authority before the consultation period. The local land use authority may have information about other nearby projects or developments that could impact on the proponent's plans.

6.0 BUILT-UP AREA

(1) Since more people are likely to be affected by an aerodrome work in a more populated area, section 307.04(1) of the Regulation requires more stakeholders be consulted if the proposed aerodrome work falls in the built-up area of a city or town. Because there is no definition in the CARs for built-up area, some guidance has been prepared for use with CAR 307.

(2) Using generally accepted terms and jurisprudence, a built-up area is a group of structures that are erected or built by people. A built up area is not confined merely to the structures that have been built upon; it also includes the surroundings of those structures, especially those features that are necessary for the use and enjoyment of a structure, such as roads and parking lots.

(3) A built-up area is not limited to an incorporated area. The density of structures can be a decisive factor.

(4) In the instance an operator wishes to use a site for taking off or landing an aircraft, the primary reference point for making an evaluation of whether the area is built up shall be the take-off and landing area.

(5) Consideration is given to the ease with which an aircraft can be landed and the inherent danger in an emergency.

(6) Areas marked in pink on 1:50,000 scale National Topographic System maps are considered built-up. Areas marked in yellow on aeronautical charts are considered built-up. Areas not marked in pink or yellow on their respective maps may still contain elements that would be considered built-up. As maps and charts are only as valid as they are current, the information should be validated against the situation on the ground.

(7) If it is unclear whether the location of the proposed aerodrome work is in a built up area or not, Appendix B provides a series of questions that TC will use to determine if notification should be sent to interested parties as per 307.04(1)(a) (built up area) or 307.04(1)(b) (non-built up area) of the Regulation. The questions in Appendix B are included in AC 307-001 on CAR 307 so that the proponent may see how TC will make its determination.

7.0 TRANSITION PERIOD

(1) It is possible that some proponents will contact TC seeking clarification on the requirement to consult on projects that were planned and ready to go but for which physical construction did not or could not commence prior to the coming-into-force date of the Regulation. The requirement to consult may be waived upon careful examination of the circumstances and it is up to the proponent to provide evidence to support the request.

(2) The likelihood of these situations arising will continue to diminish and will ultimately be reduced to zero as the coming-into-force date moves further away.

8.0 CONSULTATION PERIOD

(1) The Regulation must accommodate all types of aerodrome works, from small grass strips to large international airports. The minimum time period of 45 days was established as the time in which

consultation for smaller projects affecting fewer people could be sufficiently undertaken. More complex projects - particularly those affecting more people - may require additional time and it is up to the proponent to determine how much time is required to undertake meaningful consultation.

9.0 ALTERNATIVE CONSULTATION PROCESSES

(1) The Regulation prescribes a minimum standard of consultation that TC expects proponents to undertake. Larger aerodromes and certified airports are likely to already have an established consultation process and may seek approval to use their process instead of what is prescribed in the Regulation. How proponents choose to incorporate the CAR 307 requirements into their planning and development process is up to them but it is incumbent on the proponent to comply with the Regulation in its entirety.

10.0 CONSULTATION POINTS OF CONTACT FOR PROPONENTS

(1) Whether it is a nearby aerodrome, a piece of land under federal protection, the neighbors or vacant Crown land, the onus is on the proponent to have correctly identified the specific individual or office that must receive the notification to comply with the Regulation.

(2) Under risk of sanction as per the Designated Provisions or a Ministerial order to undertake a new consultation, it is advisable for the proponent to identify the points of contact during the planning stage to ensure that all interested parties have the benefit of the full consultation period.

10.1 Transport Canada

(1) As the regulator responsible for aviation, Transport Canada has an obligation to ensure the safe operation of aircraft and aerodromes. Proponents are required to consult TC to ensure there are no safety or other concerns with respect to the proposed aerodrome work.

(2) Proponents are to contact their regional Transport Canada representative because they are likely to have or want greater situational and operational awareness. A proponent that contacts TC HQ will be directed to the appropriate Regional Office of TC.

10.2 NAV CANADA

(1) Proponents are required to consult with the appropriate air navigation service provider. Should TC be contacted by a proponent on matters for which NAV CANADA is responsible, provide the following contact information:

AIS Data Collection Unit and Land Use Office
NAV CANADA
1601 Tom Roberts Road
P.O. Box 9824, Station T
Ottawa, ON K1G 6R2

Tel: (866) 577-0247
Fax: (613) 248-4094
Landuse@navcanada.ca

10.3 Local Land Use Authority

(1) Municipalities have the responsibility for managing the broader planning and development of their communities. As such, they may have or know of long-term plans or other pending developments

that may conflict with the proposed aerodrome work, i.e., a proposed ring road, a new subdivision, a wind turbine development.

(2) The proponent is not required to obtain municipal permission for their project but they are required to share their plans. It is envisioned the proponent will work with the local land use authority to resolve conflicts that may arise over aerodrome work.

11.0 ASSESSING FOR COMPLIANCE

11.1 Summary Report

(1) The purpose of the Regulation is to compel meaningful consultation so that concerns from interested parties can be solicited and mitigated in advance of construction. The Regulation provides a process by which this can be achieved. Proponents of an aerodrome work must follow the process and must document their compliance in the Summary Report.

(2) There are two components of compliance that must be confirmed by TC, both of which can be assessed in the Summary Report: first, that the actual consultation process has been properly undertaken and, second, that the Summary Report accurately reflects the process followed and that the results of the consultation have been documented and concerns addressed as per the TC Assessment Checklist found in Appendix C.

(3) A copy of the Summary Report and the completed Checklist found in Appendix C, as well as any accompanying notes or correspondence related to the consultation and Report, should be kept on file by TC.

(4) As per the Regulation, the proponent must wait 30 days from the time the Summary Report is presented to TC before they may commence work. TC will use this 30-day period to review the Summary Report to ensure the proponent is in compliance with the Regulation.

11.2 Reviewing the Summary Report

(1) Even though there is a prescribed process, the outcome of the consultation and the level of detail in the Summary Report content will vary from situation to situation. It is anticipated proponents will enter into the consultation process in good faith and with the intention of doing what is possible to mitigate concerns.

(2) TC should be satisfied with the content of the Summary Report and feel confident that the proponent followed the Regulation properly. If there is ambiguity or missing details in the document, TC should seek clarity or additional information as needed. If it appears a proponent is not consulting in good faith, TC may need to play a stronger role of encouraging the proponent to address concerns.

(3) If the final Summary Report reveals the proponent is not in compliance with the Regulation, TC is obligated to advise the proponent that proceeding with the aerodrome work under those circumstance may result in action against them, ranging from fines as per the Designated Provisions all the way to a prohibition order imposed by the Minister as per Section 4.31(1) of the *Aeronautics Act*.

12.0 STAKEHOLDER COMPLAINTS OR CONCERNS

12.1 Receiving a Complaint or Concern

(1) In the event TC receives a complaint or concern regarding the consultation process or the Summary Report, TC must first confirm the complainant is an interested party as per 307.04 of

the Regulation. If the complainant is not an interested party, TC should advise them accordingly that consultation with them is not required. In addition, TC should review the information and/or pass it along to the proponent for information or consideration and advise the complainant accordingly. If the complainant is an interested party but did not participate in the consultation process, the proponent is not required to respond after the fact. In both cases, and unless there is a safety issue, TC should consider the matter closed.

(2) If the complaint received is from an interested party, it should be reviewed within the context of the consultation process and against the Summary Report. The Summary Report will contain the details of how the consultation was conducted as well as who was notified, what concerns were received and that reasonable steps were taken to mitigate them. The test of reasonableness will obviously vary depending on the circumstances and proponents should have demonstrated this in their actions and in the Summary Report. It is incumbent on the proponent to defend the extent to which they mitigated concerns.

(3) In addition to clearly identifying the concerns they have received and what steps they have taken to mitigate them, the proponent is also required to have clearly identified any concerns not addressed and provide a rationale for not doing so. For example, astakeholder may have objected to the aerodrome work because they are concerned an aircraft may crash into their house. The proponent may have chosen to not address this objection on the grounds that airworthiness of aircraft, weather conditions, human factors, etc., are outside the control of the proponent and the scope of the Regulation.

(4) Based on the Summary Report, TC must decide if the consultation has been carried out as per the Regulation and if the proponent has sufficiently addressed the concerns raised. If TC feels a concern could or should have been addressed in a better way, TC should approach the proponent and raise the matter. TC should similarly approach the proponent if the response to an addressed concern is unclear or does not adequately mitigate it or address it directly. The proponent may or may not change their response but TC will have the benefit of additional information from the proponent as a result of the communication.

(5) TC should follow up as needed with the stakeholder that raised the concern.

12.2 Addressing Noise and Quality of Life Concerns

(1) Noise is a consequential by-product of aviation activities. Concern about noise from aviation operations and its impact on the quality of life of nearby stakeholders is likely to feature in most consultations.

(2) The proponent is expected to have demonstrated they understand the nature of the concerns with noise and impact on quality of life and that they have made reasonable efforts to mitigate the concerns, or, if the proponent opts to not address it, to have provided an explanation as to why no mitigation was undertaken.

(3) Short of not proceeding with the aerodrome work, concern about noise is likely not something the proponent will be able to entirely mitigate. And provided the consultation has been properly carried out and concerns have been reasonably mitigated, and unless there is a prohibition on the grounds of safety or public interest (Section 4.31(1) of the *Aeronautics Act*), consequential noise from operations in itself is not likely to be a reason to stop an aerodrome work.

12.3 False or Inaccurate Statements in the Summary Report

(1) The onus is on the proponent to be truthful in its dealings with interested parties and TC. If at any time it should be revealed that the proponent has failed to comply with any part of the Regulation - even after the 30-day Summary Report review period and the consultation process has been deemed as complete by TC - the proponent can be subject to a fine as per the Designated

Provisions, be required to undertaken consultation again, or even face the shut-down of operations by way of a Section 4.31(1) prohibition order.

13.0 ROLE OF TRANSPORT CANADA CIVIL AVIATION HEADQUARTERS

(1) Transport Canada Civil Aviation (TCCA) Headquarters (HQ) will play two functions. The first will be to provide an advisory function to the Regions on questions related to intent or clarification of the Regulation. The second will be to provide additional guidance and oversight to ensure a greater level of national consistency.

(2) TC Regional personnel are encouraged to contact TCCA Policy and Regulatory Services (PRS) at TC Headquarters if they have any questions or concerns or if it appears the invocation of a public interest prohibition is possible. Contact details for PRS can be found in section 17.0 of this document.

(3) If a proponent or interested party contacts TCCA HQ, they will be directed to the appropriate Regional Office of TC.

14.0 NATIONAL CONSISTENCY

(1) TC Regions are encouraged to reach out to one another and to TCCA HQ to compare and confirm how Summary Report reviews are being undertaken and to ensure the advice being given regionally and across the country is relatively consistent.

15.0 INFORMATION MANAGEMENT

(1) The Summary Report will become the record of consultation and the document by which TC will be able to defend its decision. A copy of the Summary Report and the completed Summary Report - TC Assessment Checklist (Appendix C) and any accompanying notes or correspondence related to the Report should be kept on file by TC.

16.0 DOCUMENT HISTORY

(1) Not applicable.

17.0 CONTACT OFFICE

For more information, please contact:

Michel Béland
Director,
Policy and Regulatory Services (AARB)
Transport Canada
Phone: 613-949-2385
E-mail: michel.beland@tc.gc.ca

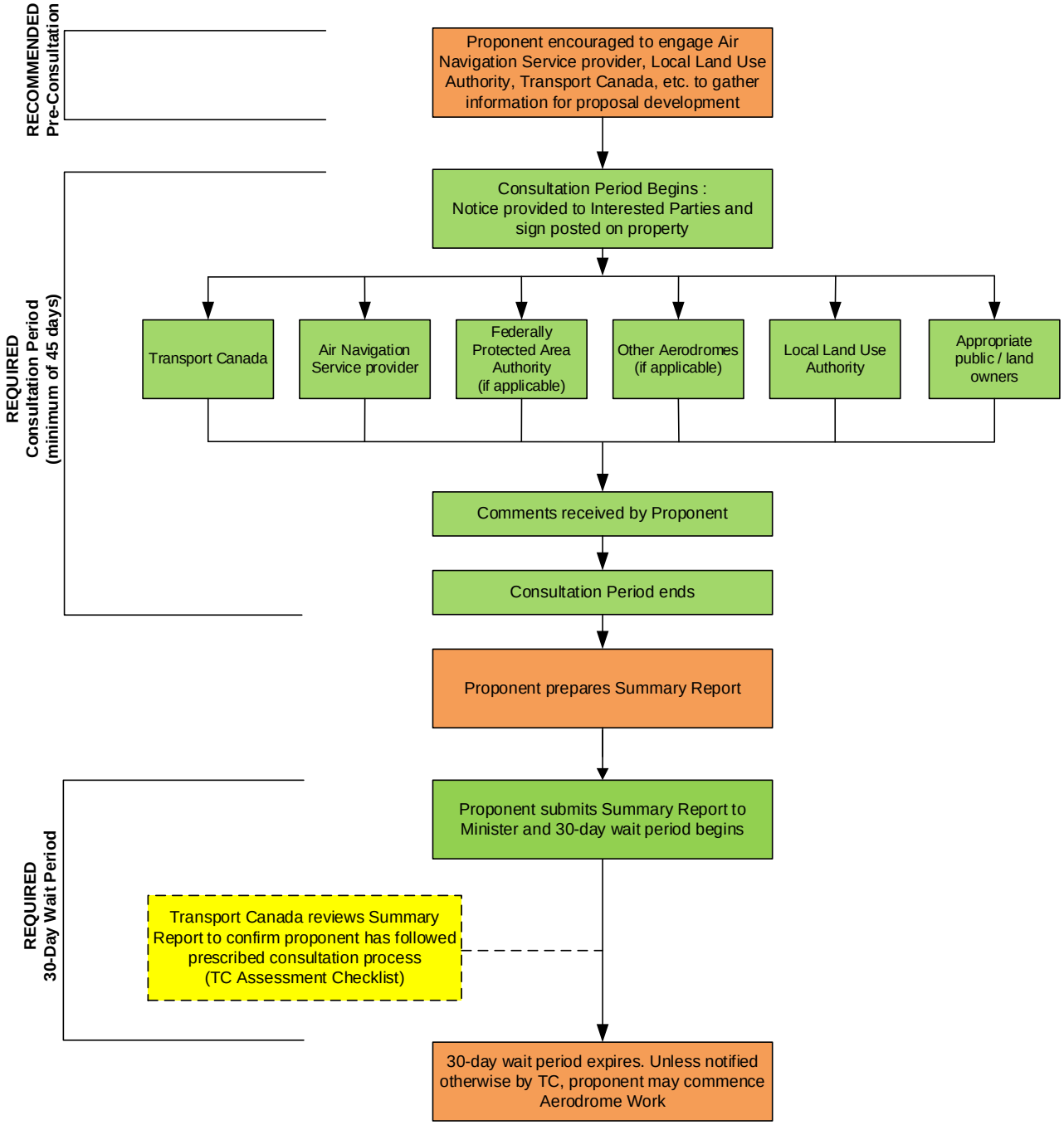
Suggestions for amendment to this document are invited, and should be submitted via the following e-mail address: AARTinfoDoc@tc.gc.ca

Original signed by Pierre Ruel for

Robert Sincennes
Director, Standards Branch
Civil Aviation

APPENDIX A — GRAPHIC OVERVIEW FOR PUBLIC CONSULTATION PROCESS

Transport Canada Aerodrome Work Public Consultation Process



APPENDIX B — ASSESSING IF AN AREA IS BUILT UP

BUILT-UP AREA ASSESSMENT TOOL FOR CAR 307

The following series of questions will be used by Transport Canada to assess if an area is built-up as per CAR 307.04. Except for questions 1 and 2, the responses are purposefully not definitive as each situation is unique.

1	Is the area marked in yellow on an aeronautical chart, such as a VNC or VFR Terminal Area Chart?	Yes No	Area is built-up Possibly not built-up
2	Is the area marked in pink on a 1:50,000 National Topographic Society map?	Yes No	Area is built-up Possibly not built-up
3	Does the area have a largely residential population?	Yes No	Probably built-up Probably not built-up
4	Are the lots similar in size to city lots, as distinct from larger semi-rural lots?	Yes No	Probably built-up Probably not built-up
5	Would a pilot easily see the structures and recognize the area as populated?	Yes No	Probably built-up Probably not built-up
6	Is there an empty area adjacent to the runway that can be used for emergency landings?	Yes No	Probably not built-up Probably built-up
7	Is there a pattern of at least three streets?	Yes No	Possibly built-up Possibly not built-up
8	Is there a group of man-made structures?	Yes No	Possibly built-up Possibly not built-up
9	Are the structures mainly along a single road (ribbon development)?	Yes No	Possibly not built-up Possibly built-up
10	Is the area incorporated as a town or city (not as a rural municipality)?	Yes No	Possibly built-up Possibly not built-up
11	Is the area within a designated practice area as shown on an aeronautical chart?	Yes No	Possibly not built-up Possibly built-up

APPENDIX C — SUMMARY REPORT ASSESSMENT CHECKLIST

SUMMARY REPORT – TC ASSESSMENT CHECKLIST

Before an aerodrome work may be commenced, **Canadian Aviation Regulation – Subpart III - Section 307 (Aerodrome Work Consultations)** requires proponents of an aerodrome work to undertake consultation as prescribed in the Regulation and to submit proof of having undertaken consultation to Transport Canada by way of a Summary Report.

Aerodrome work means work, other than work necessary to comply with a new requirement imposed by or under the Act, carried out for any of the following purposes:

(a) building a new aerodrome; or

(b) at an existing aerodrome,

(i) building a new runway for aeroplanes, or

(ii) increasing the length of an existing runway for aeroplanes by 100 m or by 10%, whichever is greater.

This Assessment Checklist will assist TC to ascertain if the consultation has been properly undertaken. If "**NO**" or "**UNCERTAIN**" is checked off for any of the following questions, TC should seek clarification from the proponent and may wish to request the Summary Report be modified accordingly.

TC can only confirm compliance with the Regulation when all questions below have been answered with "**YES**."

Part I

As per section **307.08** of the Regulation, the proponent shall, as soon as practicable after the end of the period referred to in paragraph 307.06(f), provide the summary report to the Minister and make it available to the interested parties.

	Yes	No	Uncertain
1. Was the summary report provided to TC within a reasonable amount of time following the end of the consultation period?	[ ]	[ ]	[ ]

Part II

As per section **307.07** of the Regulation, the Summary Report shall include the following:

	Yes	No	Uncertain
1. a description of the proposed aerodrome work	[ ]	[ ]	[ ]
2. a description of the measures taken by the proponent to comply with the requirements of this Subpart;	[ ]	[ ]	[ ]

3. the interested parties who were notified of the proposed aerodrome work;	**Yes**	**No**	**Uncertain**
i. the Minister,	[ ]	[ ]	[ ]
ii. the providers of air navigation services,	[ ]	[ ]	[ ]
iii. the operator of a certified or registered aerodrome located within a radius of 30 nautical miles from the location of the proposed aerodrome work,	[ ]	[ ]	[ ]
iv. the authority responsible for a protected area located within the radius of 4 000 m from the location of the proposed aerodrome work,	[ ]	[ ]	[ ]
v. any local land use authority where the proposed aerodrome work is to be carried out, and	[ ]	[ ]	[ ]
EITHER if a built-up area of a city or town is located within a radius of 4 000 m from the location of the proposed aerodrome work,			
vi. members of the public who are within the radius of 4 000 m from the location of the proposed aerodrome work;	[ ]	[ ]	[ ]
OR in any other case,			
vii. the owner of any land bordering the land on which the proposed aerodrome work is to be carried out.	[ ]	[ ]	[ ]
4. a summary of the comments and objections received, the actions that the proponent proposes to take to address those comments and objections, and any objections that were not addressed, if applicable.	[ ]	[ ]	[ ]
If "**NO**" or "**UNCERTAIN**" to any of the above, follow up with proponent for clarification as to why the information is not included in the Summary Report.			