

4. Acceptance and publication to the Gazette of this amendment to promote further define the requirements for the certification and operation of water airports in Canada and, allow a standardized application of these emergency response and safety requirements by Transport Canada.

EXECUTIVE SUMMARY

“Transport Canada is proposing an amendment to the Canadian Aviation Regulations (CARs) to establish regulatory requirements for the operation and certification of water airports in Canada. This amendment will ensure that water airports operate at an equivalent level of safety to land airports and heliports, which have existing regulatory requirements in the CARs.”

“The existing regulatory framework provides no certification, or operational requirements for water aerodromes. Some water aerodrome operators are using the existing *TP 4884 - Water/Ice Aerodrome Standards and Recommended Practice* as guidance in the conduct of their operations. *TP 4884* includes minimal standards and recommended practices for the development and operation of both water and ice aerodromes, however it has no force of law as it is not incorporated by reference into Part III of the CARs.”¹

The Victoria Harbour Airport is identified as one of the busiest water airports in North America. It remains the “jewel” of the Capital City and as an active, vibrant and entertaining “working” harbour, remains an important economic component of the daily activities of the City of Victoria. In 2008, the Fireboat “Protector” was implemented to provide enhanced fire protection to the many jetties, live aboards, residential, industrial and commercial buildings surrounding the waterfront. As an asset of the City of Victoria, response has been directed primarily towards protection of land-based assets (approachable from the marine side) of Greater Victoria Harbour Authority, Transport Canada and private industrial operations. Additionally, strategic effective planning has provided for enhanced marine response to any “threats” to the harbour and its operations including environmental, fire, life safety and rescue with, assistance to both internal and external departments and agencies.

The Victoria Harbour is an international border crossing, an airport, has four separate berthing and marine vessel marinas, four separate ferry companies operating within the harbour, kayaks and personal watercraft activity and three separate crossings (two automotive; one pedestrian, cyclist) within the City of Victoria boundaries. It is also providing access for larger vessels entering the drydock at Point Hope Shipyard and barges that work with both a steel recycler and concrete plant. It is imperative that the “risk” associated with the daily activities of the Victoria Harbour are properly assessed and that the harbour remains an active and economic hub for the varied activities associated with the waterways.

As both a certified water airport and federal navigational waterway, the jurisdictional authority of the harbour lies directly with the Crown, primarily through Transport Canada, with jurisdictional policing from Royal Canadian Mounted Police (RCMP), Fisheries and Oceans Canada through Canadian Coast Guard (CCG) and, Royal Canadian Marine Search and Rescue (RCMSAR). Additionally, the Victoria Harbour is an international border crossing and is staffed with members of the Canadian Border Services Agency. These agencies, independently, are not capable of provision of consistent rescue or marine response to effectively and efficiently protect the harbour assets and none, have the potential to provide any type of marine firefighting services.

¹ Cross reference to Canadian Aviation Regulation Advisory Council (CARAC), Notice of Proposed Amendment (NPA), Page 4, Consultation and RECOMMENDED SOLUTION

Council directed staff to execute a “legally non-binding” agreement (Memorandum of Understanding) in September 2018. As identified in that MOU, Transport Canada clearly indicates its authority of the federally regulated waterways. Under the title Emergency Response, it is stated:

“TC does not have any specific requirements or expectations for the City with regards to equipment, personnel or training. The City will respond to a vessel or aircraft fire on the water as per normal municipal response protocols. In the case of an on-water vessel or aircraft emergency, the City will respond under direction of the Joint Rescue Coordination Centre (JRCC) as a Vessel of Opportunity, when and if they are available. TC does not expect the City to be a primary marine responder or to maintain any specific state of readiness or response time; but acknowledges the great benefit to all harbour stakeholders of having a fire boat asset in the Harbour.”

Additionally, under Section Nine (9), Non-Legally Binding:

“This MOU is intended to express the current understanding of the parties, but this document is expressly confirmed to be not legally binding in any circumstances.”

Staff remain focused on working with Transport Canada and other external agencies through the Victoria Harbour Marine Emergency Response Coordination Committee (VHMERCC), established jointly through Victoria Fire, Victoria Police and Transport Canada in 2007. While progress has been accomplished regarding response to harbour emergencies, it remains the authority and jurisdiction of the federal government and clearly, the focus remains on the interpretation of the CARs as it relates to passenger numbers and, water airport operations. Promotion and acceptance of this proposal should have significant effect on the position of the federal government in relation to emergency response and, inter-governmental and inter-agency agency agreements.

PURPOSE

To provide Council with information related to the Notice of Proposed Amendment issued through CARAC, July 8, 2019. To seek Council direction with response to CARAC NPA with the understanding that this remains a consultation and not a publishing to the Gazette.

BACKGROUND

As stated, the Victoria Fire Department has developed a coordinated and respectful working relationship with Transport Canada operations in the Victoria harbour. As first responders and under direction of the City of Victoria, it is important that the harbour remains the “jewel” of the City in relation to any threats including vessel collision, aircraft collision, environmental threats and any other event which would require “on water” response to defuse. The Victoria Harbour provides distinct characteristics unlike any of the communities of the Capital Region and, lower Vancouver Island.

The Victoria Fire Department provides inter-agency assistance and inter-departmental assistance to events in the inner or outer harbour and, remains an effective and efficient response to requests for assistance on or near the water. While the jurisdictional authority remains under federal oversight, it is without question that Victoria Fire resources can and, are utilized in response to fires, rescues, collisions, environmental issues and agency assistance. While resources with the Victoria region have increased over time, the focus of the federal response is primarily on vessel rescue and assistance in the outer waterways of lower Vancouver Island.

The Victoria Harbour Airport has been operating under Transport Canada “draft” regulations since 1999 and through discussion with various departments of Transport Canada, little information or advancement of emergency services discussions have occurred. Through review of the list of water aerodromes provided in the NPA, staff suggest the first step will be review of certification of all water airports to determine service level needs and separation of service delivery characteristics of these aerodromes. The Victoria Harbour Airport is already a “certified” water airport which, will hopefully indicate expedition of acceptance of enhanced passenger safety and, the inclusion on the operator’s requirement for emergency service provision either through introduction or through agreement with emergency response agencies.

ISSUES & ANALYSIS

Staff do not expect any changes or operational impacts to the operations of the Victoria Harbour Airport. The Notice of Proposed Amendment provides for an opportunity on consultation and suggestion for the acceptance and enhancement of the Canadian Aviation Regulations (CARs) as it applies to the operation and certification of water airports in Canada.

Through submission, staff will have the opportunity to address and provide, under direction of Council, issues related to emergency response, passenger safety, noise exposure protection and forecasting but as an operational Certified Water Airport, it is unlikely there will be any expedited or effective changes to the present operations in the near future, specifically in the absence of direct consultation with the many stakeholders of the harbour, inclusive of the City of Victoria.

With the enhanced presence of the Victoria Fire Department on the water, primarily within the harbour, it is inherent that we would be called upon, as default responders or, vessel of opportunity to provide firefighting services, fire protection and assistance with rescue to external agencies when requested. These agencies are primarily Transport Canada, as the operator of the Victoria Harbour Airport, Canadian Coast Guard, West Bay Marina, the new Vancouver Island International marina and, municipalities whose jurisdictional boundaries include portions of the inner harbour. This also includes requests for inter-departmental assistance including Bylaw Services, Engineering and Victoria Police. The RCMP maintain jurisdictional authority over the harbour as the federal policing agency.

Staff continue to focus on building and supporting Transport Canada and, other external agencies that may request our assistance in the establishment of an agreed response role, recovery of costs associated with programming and the establishment of a formal Memorandum of Agreement or similar contractual arrangement to enable “cost recovery” of the assets, including capital costs, staffing, training and maintenance costs with little success.

Staff are hopeful that Transport Canada will implement the requirement for water airports to adhere to Standard 323 of the CARs in the establishment of dedicated firefighting services within the Victoria Harbour and, that these standards will be regulated through publication to the Canada Gazette as a regulatory requirement for the operation of the water airport.

Transport Canada is firm in its determination that the status of emergency response to any incident requiring attendance of fire personnel is an expectation of local government servicing and, the responsibility of local government to provide this service to ensure compliance with operations.

This is stated in Section 3 of the Memorandum of Understanding which states, *“The City will respond to a vessel or aircraft fire on the water as per normal municipal response protocols. In the case of an on-water vessel or aircraft emergency, the City will respond under the direction of the Joint*

Rescue Coordination Centre (JRCC) as a Vessel of Opportunity, when and if they are available. TC does not expect the City to be a primary marine responder or to maintain any specific state of readiness or response time; but acknowledge the great benefit to all harbour stakeholders of having a fire boat asset in the Victoria Harbour."

OPTIONS & IMPACTS

The primary focus of response to the NPA would be to again clarify the position of Transport Canada regarding local government compensation for the provision of firefighting services through legal agreement. This could be in the form of a Payment in Lieu of Taxes (PILT) or some other formal arrangement in which Transport Canada formally recognizes the potential value of the firefighting services provided through the Victoria Fire Department. Additionally, this training would provide benefit to the City in providing and enhancing marine firefighting response to other areas of the inner harbour.

Staff continue to clarify, identify and investigate cost recovery opportunities to provide an enhanced marine firefighting assistance to high risk venues within the harbour but have been met with a reply of a general expectation of this service will be provided. As the service delivery model is set through Council directive, it is important to further clarify with staff and stakeholders, the intended level of service provided and expected to marine stakeholders within the Victoria Harbour. It is the responsibility of staff to develop and train to this level of service expectation and, to ensure that competent and effective response is assured with the expectations of the service delivery identified.

While there remain many responders with different role expectations, the Victoria Fire Department remains the only practitioner of firefighting services which, are fundamentally focused on land-based assets. Coordination of resources is practiced annually but jurisdictional authority and coordination over response is through Transport Canada and federal agencies.

2018 – 2022 Strategic Plan

There is no impact to the Strategic Plan

Impacts to Financial Plan

There is no impact to the Financial Plan

CONCLUSIONS

It is encouraging to see action related to the operations and management of water airports in Canada. The existing six (6) certified water airports that operate within Canada will be required to re-apply for certification with the adoption of any new regulatory procedures. A Notice of Proposed Amendment was published in 1999 (NPA 199-280). Due to the significant delay in publication to the Canada Gazette, this new NPA was provided for stakeholder submissions and comments prior to any pre-publication process.

In a practical manner, staff will continue to develop and enhance response roles established in coordination of federal agencies and volunteer components such as Royal Canadian Marine Search and Rescue to provide effective protection and response to Victoria Harbour, as requested or, as

required to do so. The Victoria Harbour requires significant resources due to the economic viability and the varied operational transportation options that remain active within the waterways.

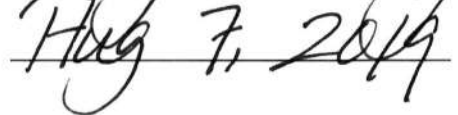
Respectfully submitted,



Paul Bruce
Fire Chief

Report accepted and recommended by the City Manager:

Date:

List of Attachments

Appendix A – Canadian Aviation Regulation Advisory Council
Notice of Proposed Amendment

Appendix B – Memorandum of Understanding – Transport Canada

Appendix C – Council Report – For the Meeting of November 15, 2018