



Reviewing Deluce's Jets Proposal: What the City Has (and Hasn't) Done

A Report by CommunityAIR

September 24, 2013

Contact:

Brian Iler, Chair, CommunityAIR

416-835-4384 (cell)

416 598 0544 (work direct)

TABLE OF CONTENTS

1.	Executive Summary	4
2.	A Vision for Our Waterfront	6
3.	The Official Plan Framework	6
4.	City Ignores Its Own Official Plan	7
5.	What This Report Does	7
6.	Council: Engage the Toronto Port Authority and Transport Canada.....	8
7.	Funding	9
8.	Existing Tripartite Agreement Compliance	10
a.	Q400 is not a Dash-8, or STOL, and is not permitted for commercial service	11
b.	Q400 violates the prohibition on aircraft generating excessive noise	12
c.	The medevac exception from curfew and jet restrictions is abused.....	14
9.	Capacity.....	15
10.	Planning Framework	18
11.	Constraints on Expansion.....	19
12.	Operational Requirements.....	20
13.	Economic Impacts	21
14.	Any Other Appropriate Studies.....	26
a.	Porter’s Prospects.....	27
b.	Actual Noise Measurements	29
c.	Impact on the Community.....	29
d.	Engine Run-ups.....	30
e.	Health Impacts.....	31
f.	Climate Change.....	31
g.	Transportation Policy	33
15.	Emergency Services and Safety.....	33
16.	Open Skies.....	35
17.	Film Industry	37
18.	Other Cities	37

19.	Fairness Monitor	38
20.	TPA/Porter Tax Arrears	38
21.	No Runway or Marine Exclusion Zone Extension.....	39
22.	No Changes to Existing Noise Constraints	40
23.	General Aviation.....	41
	Schedule A: What was the Bridge Settlement About?	43
	Schedule B: Backgrounder: Slots and The Island Airport	47
	<i>Executive Summary</i>	47
	<i>Background</i>	47
	<i>1998: 97 Slots</i>	48
	<i>2001: 112 Slots</i>	49
	<i>2006: 167 Slots, reduced to 120?</i>	50
	<i>2006: 167 Slots – for Porter’s Investors</i>	50
	<i>The Christmas Eve Surprise – Up to 212 Slots!</i>	52

1. Executive Summary

The report is intended primarily for City staff to provide background on the host of issues that they are required by City Council to examine in response to Porter's request to introduce jets to the Island Airport.

It finds that the work to date has not been informed by the City's own Official Plan, that commits the City to a spectacular waterfront that is healthy, diverse, public and beautiful, and to protect, preserve, and add to, whenever feasible, Toronto's Green Space System, which includes the waterfront.

The Official Plan explicitly states that changes to the Island Airport may only be made if

the City is satisfied that the improvements to the airport facilities and operations can be **made without adverse impact on the surrounding residential and recreational environment** [our emphasis]."

From our examination, the reports received to date tend to respond primarily to Porter's agenda, are only preliminary, and don't ask many of the questions that need answers.

The report tracks every part of City Council's instructions, and indicates how well those instructions have been followed. Hence its detail.

Missing in the City staff reports provided to date are:

- The required signed letters of intent from the Toronto Port Authority and the Government of Canada
- A secure funding commitment for the Phase 2 work
- Any report on the extent to which commercial and general aviation operations at the Island Airport conform to the current terms and conditions of the Tripartite Agreement.
- How any expanded operation at the Island Airport could possibly be accommodated, given the traffic mess, and parking shortage, that already exist
- Costs of any required infrastructure measures, and how they could be paid
- Any analysis of how the noise contour compliance could be achieved

- A comprehensive and balanced economic analysis that include economic detriments resulting from expansion
- A frank analysis of Porter's prospects, as extending the runway would be for naught if Porter ceased to exist.
- A study of the actual noise inflicted upon the waterfront and its residents to assess the impact of the existing operation, and the additional impact the Deluce proposal would have.
- A comprehensive study of the impact on the abutting neighbourhoods and recreational facilities of both the current Island Airport operation and the proposed expansion.
- Any examination of the impact on human health of both the current Island Airport operation and the proposed expansion
- the impact of short-haul flights, such as Porter's, on climate change, as they are particularly significant emitters of greenhouse gases on a per passenger basis in comparison to more benign modes of transportation.
- Any review of how Porter's proposal fits into the GTA's transportation policy framework, and Canada's.
- Safety issues, particularly given the massive number of large birds on the waterfront, and the 73-inch air intakes of the CS100.
- the implications of the Open Skies agreement with the United States, as a number of airlines have already objected to Porter's near exclusive use of the Island Airport
- TPA/Porter's property tax arrears, that should be addressed as a pre-condition of the City's consideration of Porter's proposal.
- Transport Canada's verdict on expansion of the Marine Exclusion Zone
- The impact of Porter's proposal on general aviation.

The report provides readers with the factual basis they need to evaluate Porter's proposal.

2. A Vision for Our Waterfront

Toronto's waterfront has changed immensely since the 1950s, when it was a busy, but declining, industrial port.

Now, it is home to many thousands, and valued as Toronto's prime recreational resource by millions of its citizens and visitors.

Recognizing that change, the City of Toronto, [on its website](#), sets out this vision for its waterfront:

“Toronto's waterfront is our front porch to the world. With the right kind of investment, the waterfront will become a necklace of green, with pearls of activity; people living, working and enjoying it with pride and passion.”

This vision inspires Torontonians, and is embraced by them as the guiding principle for decision-making on waterfront issues.

3. The Official Plan Framework

In a formal way, our City has endorsed the new reality of our waterfront in its Official Plan.

In it, the City commits to:

- “a spectacular waterfront that is healthy, diverse, public and beautiful” (page 1-2), and
- Toronto's Green Space System, which includes the waterfront, should be “protected, preserved, and added to whenever feasible” (page 2-23)

While permitting the Island Airport's current operation - provided that it operates in accordance with the lease between the City, the Port Authority and the Government of Canada (the **Tripartite Agreement**) - the City's Official Plan requires the immediate conversion of the Airport lands to recreational and residential purposes when the Airport ceases operation.

Until then, the Plan requires that the Tripartite Agreement may only be revised (as Porter's Robert Deluce proposes),

“provided the City is satisfied that the improvements to the airport facilities and operations can be **made without adverse impact on the surrounding residential and recreational environment** [our emphasis].”

An Official Plan is a legally binding document: section 24 of the Ontario *Planning Act* makes that clear:

“Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and ... no by-law shall be passed for any purpose that does not conform therewith.”

The Official Plan provisions provide the framework within which the Porter jets proposal must be considered.

4. City Ignores Its Own Official Plan

To date, none of the reports released by the City utilize this framework in any way.

How'd the City get it so wrong?

Telling was this statement, made on September 4, 2013, at the first City community consultation on Robert Deluce's jets proposal, by Chris Dunn, the City employee with responsibility for the reports:

“Sometimes what consultants come back with is not what the public wants to hear.”

The City's been asking questions that Porter and the Toronto Port Authority want it to ask.

And it's not asking the questions that the community needs answered – or that fit within the framework that the Official Plan mandates.

5. What This Report Does

This report reviews the instructions given to City staff by Toronto City Council, considers the reports City staff have released to date, and, in light of this required Official Plan framework, and the many concerns raised by concerned individuals and organizations,

- identifies where the wrong questions were asked,
- sets out the right questions on Deluce's proposal – that remain unanswered – and
- notes the many gaps in the City's consideration to date .

6. Council: Engage the Toronto Port Authority and Transport Canada

At its May 7, 2013 meeting Toronto City Council decided:

City Council request a signed letter of intent from the Toronto Port Authority and the Government of Canada (represented by the Minister of Transport) confirming:

- i. their interest in responding to the proposal from Porter Airlines to examine the feasibility and implications of commercial jet service at BBTCA,
- ii. their agreement to provide information that may be requested from them to conduct a technical assessment of the Porter Airlines proposal and
- iii. to work cooperatively with the City, which may include the provision of their resources.

Two months later, In their report to the City's Executive Committee meeting on July 3, City staff stated:

The City has approached the TPA and the Government of Canada to seek their positions on the Porter Airlines request and will report on their formal response in the September report. To date the TPA has been cooperative with City staff and have provided materials and resources to assist staff and their consultants with the review.

To this date, four months later, no confirmation, as required by Council, has been posted on the City's website, and they may, or may not, be forthcoming.

The requested confirmation from the other two parties to the Tripartite Agreement is a reasonable pre-condition to treating the Deluce proposal seriously.

If neither the TPA nor Transport Canada is prepared to provide this basic confirmation in a timely way, why would the City act with such haste to devote significant scarce staff resources to considering the Deluce proposal?

Why is the City acting at all without "a signed letter of intent" from the Toronto Port Authority and the Government of Canada?

To their credit, City staff have expressed their dissatisfaction with the manner in which this was done, and the absence of the required "signed letter of intent" in their report to Executive Committee this month:

The request to permit jet-powered aircraft at BBTCA is unusual because it did not originate from the owner and operator of the airport (the Toronto Port Authority). Typically, a process for reviewing and evaluating changes to an airport's configuration, regulations or expansion, would require the airport's tenants (i.e. the airlines operating at the airport) to develop an overall plan with the owner and operator of the airport that addresses their operational and long terms goals and objectives. The airport regulator would review the proposal to ensure that it complies with appropriate aviation regulations standards and, once a comprehensive evaluation is completed, the municipality would then be consulted and presented with a complete proposal for consideration. In this instance, the airport tenants (Porter Airlines) have approached the City directly without securing the initial support of the airport owner and operator (the Toronto Port Authority) and the approval of the regulator (Transport Canada).

In order to respond to the request from Porter Airlines, and in the absence of information from the TPA and Transport Canada, the City has retained consultants with expertise to review the proposal. This is a difficult and complex undertaking for the City as the review does not have the benefit of prior examination by the TPA and Transport Canada.

...

The City needs to secure the commitment of the TPA to satisfy any conditions that City may request, including the full funding of groundside infrastructure improvements resulting from increases in airport passenger volumes, as a condition of any amendment to the Tripartite Agreement. Timely receipt of this commitment is a necessary requirement to City Council making an informed decision on this proposal.

In addition to the review of this proposal, the City of Toronto and the Toronto Port Authority have ongoing, unresolved issues on several matters including the Cherry Street Bridge, Payment in Lieu of Taxes (PILTs), noise complaints related to airport operations and construction, and taxi staging and airport-related traffic congestion.

7. Funding

At its May 7, 2013 meeting Toronto City Council decided:

City Council increase the 2013 Approved Operating Budget for City Planning, in the amount of \$275,000 gross, \$275,000 revenue and \$0 net, for the purpose of Phase 1 of

the evaluation of the Porter Airlines request subject to receipt of third party funding from the Toronto Port Authority;

City Council request the Deputy City Manager responsible for the Waterfront Initiative to secure a funding commitment from the TPA for the proposed Phase 2 work.

There is no indication that any funding has been secured beyond the initial Phase 1 funding, contrary to this requirement.

Instead, City staff reported to the July Executive Committee meeting that:

Additional funds are required to complete the Phase 1 work and it is estimated that less funding will be required to complete Phase Two. The expected budget increase to complete the anticipated work for Phase 1 is \$400,000. This amount is in addition the original estimate of \$225,000 to \$275,000 for the completion of Phase 1. Staff is in discussions with the Toronto Port Authority regarding funding this work.

This month, City staff reported that:

To date, the Toronto Port Authority has forwarded \$566,531.25 for costs incurred by the City. In a letter to the City dated September 11, 2013, the TPA indicates that it remains committed to providing financial support for the City's review.

What are the terms of that commitment? What limits have been imposed?

Has the Toronto Port Authority agreed to fund any cost overruns?

How much City staff time has been – and will be - applied to this project?

How is that being funded?

These questions are fundamental. Why should any public funds – whether from the City or the TPA be spent to investigate the desires of one private business?

No answers are provided in the documents currently available.

8. Existing Tripartite Agreement Compliance

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the extent to which commercial and general aviation operations at BBTCA conform to the current terms and conditions of the Tripartite Agreement.

Four months later, no such evaluation has been posted to the City's website.

It will require a legal opinion or preferably, a court application to have a judge decide what the restrictions for the protection of the waterfront communities mean.

This issue has been a major one for the communities affected by the noise and pollution from the Island Airport.

There are three aspects:

a. Q400 is not a Dash-8, or STOL, and is not permitted for commercial service

The Tripartite Agreement restricts the TPA's use of the Airport to "general aviation and limited commercial STOL service operations".

"General aviation" is defined¹ to consist of:

all civil aviation activities, other than a limited commercial STOL service, undertaken in the operation of civil, state and private (personal and business) aircraft; [and] the operation of ... the de Havilland Dash-8 aircraft.

Transport Canada confirms that the Q400 is not STOL.

Both the TPA² and Transport Canada³ take the position that, as the Q400 is classified "aeronautically" as part of the Dash-8 family of aircraft, and is therefore a Dash-8 for the purposes of the Tripartite Agreement.

This is patently wrong:

¹ Paragraph 1 (d)

² Per Lisa Raitt, CEO of the TPA in an e-mail to CommunityAIR's Brian Iler on August 31, 2006:

Bombardier Aerospace Dash 8 family of turboprop regional airliners includes the 37 passenger Q100 and Q200, the 50 to 60 passenger Q300 and the 70 to 80 passenger stretched Q400. The Tripartite Agreement specifically allows for Dash-8 aircraft.

³ Per Jodi Diamant Boustead, Acting Director, Aircraft Certification, Transport Canada, to CommunityAIR's Bob Kotyk, on May 10, 2006:

The Bombardier DHC-8-400 aircraft is the latest derivative of the original DHC-8, which is specifically permitted to operate to the Toronto City Center Airport by the Tripartite Agreement. It is sometimes referred to as the Q400, for marketing purposes.

When the Dash 8 was added to the Tripartite Agreement as a permitted aircraft (for “general aviation” purposes) in 1985, the only Dash 8 plane that could have been in the contemplation of the parties was the Series 100/200 – a 37 to 40 passenger plane – about half the capacity, and about 60% of the weight of the Q400⁴, which was developed in the 1990s, and has very different performance characteristics⁵.

The understanding of the parties at the time as to what they considered to be a Dash-8 is determinative, in law. The fact that the aircraft industry, and Transport Canada, consider the Q400 a derivative of the earlier Dash-8 models (and therefore within the family of Dash-8s) is strictly an administrative qualification and quite irrelevant to the correct interpretation of the Tripartite Agreement.

b. Q400 violates the prohibition on aircraft generating excessive noise

A February 2009 PowerPoint presentation by the TPA to a now-defunct community advisory committee meeting admits that even the Q400 (technically the Q402, flown by Porter and Air Canada) offends the Tripartite Agreement’s definition of aircraft generating excessive noise on two of the three limits. Breach of any one prohibits the aircraft.

Here’s page 26 from that PowerPoint:

⁴ Weight of the Series 100 operating empty 10,250kg (22,600lb); of the Series 400: 16,580kg (36,520lb): per <http://www.airliners.net/aircraft-data>

⁵ Per wikipedia (readily verifiable through Bombardier, the manufacturer) the “Dash-8” has evolved:

- Series 100: Original 37–40 passenger version that entered service in 1984.
- Dash 8M-100 : Two aircraft for the Canadian Department of Transport.
- Series 200: Series 100 airframe with more powerful Pratt & Whitney Canada PW123 engines for improved performance
- Series 300: Stretched 3.4 m (11 ft) over the Series 100/200, a 50–56 passenger version that entered service in 1989.
- Series 300A : Version of the Series 300 with increased payload.
- Series 400: Stretched and improved 70–78 passenger version that entered service in 2000.

TRIPARTITE AGREEMENT COMPLIANCE



	<u>Q402</u>	<u>Tripartite</u>
Flyover	78	84
Lateral	84	83.5
Approach	93.1	92

Comparison of Q400 to Limits in Tripartite

TCCA Noise Management Study
Advisory Committee Meeting

26

JACOBS Consultancy

Even the Toronto Port Authority's own study shows that noise from the Q400 [technically, Q402] violates the Tripartite Agreement. It also should be remembered that even a small increase in decibels means a significant increase in noise, as decibels are measure on a logarithmic scale. It is clear that to date, the TPA has failed its duty to the public to enforce that prohibition.

How can Porter and the TPA say the Q400 "meet the noise restrictions at the airport"? They cannot – on the facts.

Instead, the TPA claims it can "trade-off" one breach with another's compliance, borrowing from one parameter that is not breached to address a breach of another.

The "trade-off" concept does exist – but only to enable aircraft to meet the maximum noise levels fixed by the ICAO.

The concept of "trade-off" does not appear in the Tripartite Agreement. This is the relevant excerpt from the Tripartite Agreement:

aircraft generating excessive noise shall ... include [those] which generate a noise level in excess of 84.0 EPNdB on takeoff (flyover), or in excess of 83.5 EPNdB on

sideline at takeoff (lateral) to the flight path) or in excess of 92.0 EPNdB on approach

The limits are the limits, and each stands alone.

We are please that the City has now accepted this analysis⁶, and requires compliance with all three noise limits for the CS100:

Porter Airlines and Bombardier have asserted that the CS-100 will have a cumulative noise level per the cumulative requirements set in the Tripartite Agreement (259.5 EPNdB). This noise measurement is only one part of the requirement to confirm whether the aircraft complies with the Tripartite Agreement. **Three key measurements in the aircraft's journey are required to confirm compliance** [our emphasis]:

- Lateral / Full Power: A point on a line parallel to and 450 metres from the runway centreline where the noise level is at maximum during take-off
- Approach: A point on the ground, on the extended centre line of the runway 2km from the threshold.
- Flyover: A point on an extended centre line of the runway and at a distance of 6.5km from the start of the roll.

Porter Airlines and Bombardier have been advised by City staff that if these three measurements are not provided to the City in advance of the anticipated completion of this review (anticipated to be the first week of November), City Council will have insufficient information to make an informed decision on whether the CS-100 aircraft can operate at BBTCA in compliance with the Tripartite Agreement.

What's still missing is a report on compliance with these requirements by the TPA and Porter's current operations.

c. The medevac exception from curfew and jet restrictions is abused

The Tripartite Agreement establishes very strict rules for flights during curfew hours:

⁶ <http://www.toronto.ca/legdocs/mmis/2013/ex/bgrd/backgroundfile-61636.pdf>, at page six

The Lessee (i.e. the Toronto Port Authority) acknowledges and agrees that all flights into and out of the Toronto City Centre Airport shall operate between the hours of 6:45 a.m. and 11 :00 p.m., with the exception of medical evacuations and other emergency uses.

And jets may only be used for true emergencies:

The Lessee shall not permit jet-powered aircraft to operate to and from the Toronto City Centre Airport with the exception of medical evacuations and other emergency use...

It is clear from this that only true emergency flights are permitted during curfew, and jets may use the airport only if a true emergency is present.

That excludes patients who are stable and are simply being transferred.

And it excludes aircraft returning to base after the emergency is addressed.

CommunityAIR has repeatedly insisted that these provisions be enforced by the TPA. They are not.

Enforcement of the existing protections for our waterfront in the Tripartite Agreement was raised as an issue in NoJetsTO's May 1 brief, posted on the City's website.

This issue has been ignored by City staff, to our knowledge.

9. Capacity

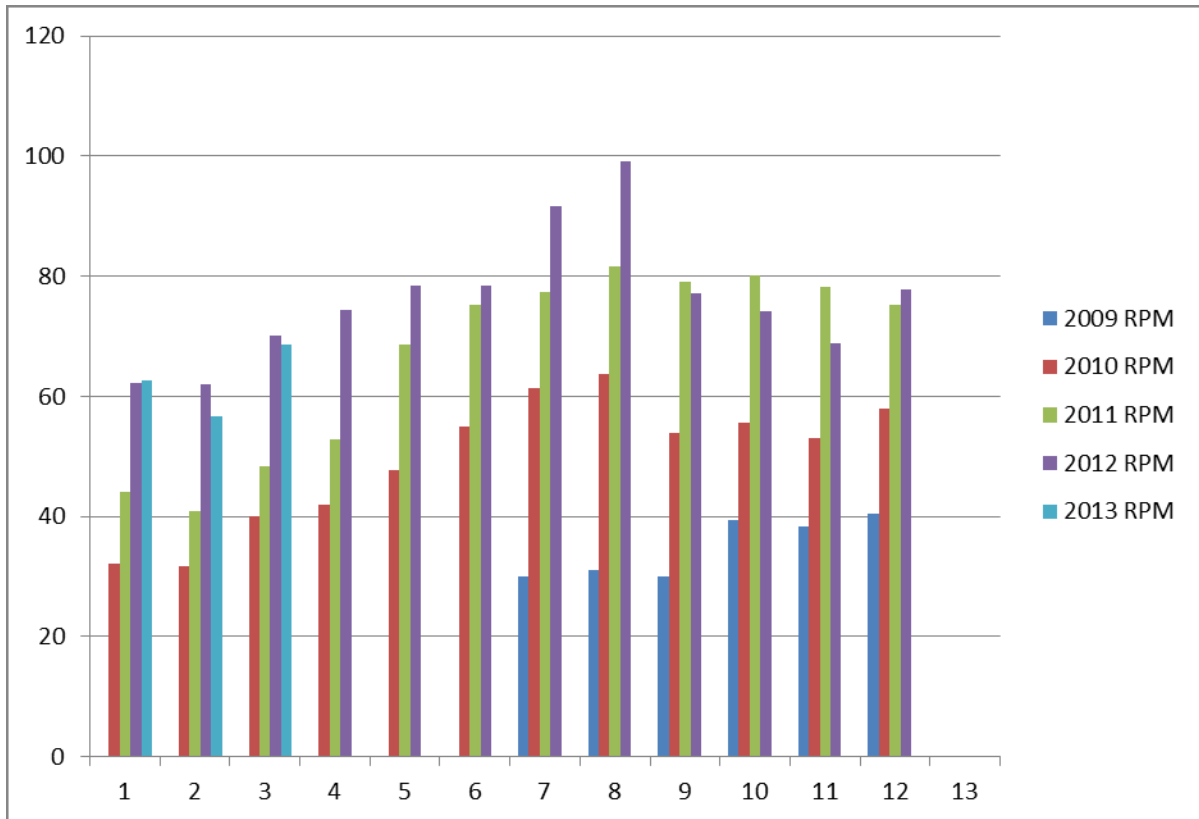
At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the overall passenger and airport capacity that can be achieved in accordance to the Tripartite Agreement

AirBiz, in its [report](#) suggests that the the annual capacity of the airport could grow to 4.6 million and 4.8 million passengers.

The City's information booklet, and the June AirBiz report both include a graph that shows steady and significant growth in passenger traffic.

The reality, omitted by them, is that Porter's growth stuttered to a halt in 2012, declining, on a year-over-year basis, in five of the last seven months it reported (based on Porter's reported revenue passenger miles):



The AirBiz report fails to assess whether the CS100 would comply with the NEF Noise Contour constraints in the Tripartite Agreement:

At present it is not possible to reliably assess the impact of the CS100 aircraft on compliance to the contours Schedule A of the Tripartite Agreement [page 7].

According to AirBiz, with jets, the requirements for the terminal building change :

This will restrict operations on Taxiway Delta and prevent the CS100 from parking on the south side of the passenger terminal building [page 5].

The only place to park aircraft is on the south side of the terminal building. Unanswered is where Porter's CS100 jet aircraft would park.

The Bathurst Quay community is overrun with traffic at just two million annual passengers.

There is grossly inadequate parking for the current level of use. Far too many Porter passengers arrive and depart by private car or taxi. The July City staff reports states:

Currently, the modal split for passengers arriving and departing the airport is 75% in favour of vehicles (taxis and private vehicles) and 25% for all other forms. If the airport is to continue to grow its passenger volumes, a balanced approach to ground transportation and access must be implemented that minimizes the impact on the adjacent community, schools, parks and community and recreational facilities. This is a fundamental component of this review that is required to address existing traffic and congestion conditions related to the airport [page 5].

While “fundamental,” no “balanced approach” is offered in the AirBiz reports, or elsewhere.

Children attending the schools at the intersection of Queen’s Quay and Eireann Quay are so endangered at that intersection that parents last year held banners to protect their children from racing airport traffic ignoring the crossing guard. This media advisory from last year describes the problem:

Parents’ Banners Protect Children from Island Airport Traffic Mess

Media Advisory

What: Waterfront Parents Unfurl Banners in Pedestrian Crossing

Where: South side of Queen’s Quay at Bathurst Street/Eireann Quay Intersection

When: 8:30 a.m. Monday, April 16, 2012

“Taxis speeding to the Island Airport are endangering our children. The Port Authority refuses to act. We have no choice but to act ourselves.” said Kathryn Exner, a parent at Waterfront (elementary) School, located at the intersection of Queen’s Quay and Bathurst Street/Eireann Quay.

Starting at 8:30 a.m. Monday morning, parents of children attending the schools on Bathurst Quay will stretch banners across the road to protect their children as they cross to attend school.

The banners have a red STOP sign and read: "WATERFRONT SCHOOL CROSSWALK: A safety message brought to you by CommunityAIR and the parents of the students at Waterfront School"

While the street has a crossing guard on duty for a few hours per day, there have been many close calls from taxis turning from Queen’s Quay past the guard to deliver their passengers to the Airport.

The banner will protect the students by preventing drivers from ignoring the crossing guard.

“We shouldn’t have to do this. We’ve repeatedly asked the Toronto Port Authority to deal with the huge traffic mess its airport generates. It used to hire paid-duty police to protect our children, but it now refuses to do so,” said Beverly Dywan, Parent Council chair at City School, also located at that intersection.

“There must be an effective reduction of traffic on this road to make it safe, yet the TPA only has one passenger delivery model in mind, and the speeding taxis and cars make it unsafe for children. Their planning indicates that construction is their priority, with no measures to keep traffic down. It is a mess. ”

The Toronto District School Board is contemplating closing the schools on Bathurst Quay if it cannot ensure its pupils’ safety.

A traffic study was commenced by the City last year. Unfortunately, it has ceased to progress, owing to the Deluce proposal, we understand.

The report by BA Consulting, presented orally at the recent Public Consultation, has not been posted to the City’s website for public review.

In its report to Executive Committee this month, staff state, after summarizing a shopping list of possible improvements:

These concepts are preliminary and do not represent the full range of options that are available to address current and possible traffic volumes generated by the airport. Staff will seek public and stakeholder comment on concepts to address transportation issues through the consultation process.

No viable solution to the current traffic and parking mess is proposed, let alone one where significant expansion is allowed to occur.

10. Planning Framework

At its May 7, 2013 meeting Toronto City Council requested the following work:

Establish a methodology for evaluating the airport within the broader planning policy framework

The City has obtained a [report from Urban Strategies](#). Self-described as “preliminary,” the report cites the key requirement of the Official Plan: that the Tripartite Agreement may only be revised (as Porter’s Robert Deluce proposes)

“provided the City is satisfied that the improvements to the airport facilities and operations can be **made without adverse impact on the surrounding residential and recreational environment**”

but fails to give it the fundamental weight this legally binding requirement should have, and gets sidetracked with examination of other urban airports around the world that is not particularly helpful.

11. Constraints on Expansion

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the airside and landside constraints and related infrastructure requirements relevant to expansion of aeronautical and non-aeronautical operations at BBTCA;

In July, the Executive Committee asked:

That the Deputy City Manager, Cluster B expand the study area for the traffic study to incorporate the areas between the Jameson ramps and to York Street ramps to the Gardiner, north to Front Street with the cost covered by the Toronto Port Authority.

Twelve deputations, and a host of written communications were delivered to Executive Committee. There is no summary of the issues raised by them posted on the City’s website, or any effort to ensure they are addressed, that we are aware of.

After four months, no traffic study has been posted. Traffic, absence of parking and congestion have been cited as the most serious physical barriers to further expansion. Where are the studies? Are there any realistic solutions?

City staff, in its report to Executive Committee this month, have at least identified the issue, and place responsibility squarely on the TPA/Porter:

The City needs to secure the commitment of the TPA to satisfy any conditions that City may request, including the full funding of groundside infrastructure improvements resulting from increases in airport passenger volumes, as a condition of any amendment to the Tripartite Agreement. Timely receipt of this commitment is a necessary requirement to City Council making an informed decision on this proposal [page 5].

At this time, we have no idea what groundside infrastructure improvements are being contemplated, as there are not documents yet available.

However, given that the TPA in its 2010 Agreement with Porter, has agreed to charge Porter only its operating costs, and those capital costs agreed to by Porter, it is Porter, and not the TPA, that must agree to fund any contemplated infrastructure improvements. The TPA has no ability to fund any projects without Porter's approval.

12. Operational Requirements

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the physical and operational requirements associated with Porter Airlines proposal for the use of regional jet aircraft (Bombardier CS-100 series) including, but not limited to: City infrastructure required to support an increase in aeronautical and non-aeronautical operations, compatibility with current Noise Exposure Forecast (NEF) Contour standards, and changes to takeoff and landing approach surfaces, protected airspace and the marine exclusion zone.

The [AirBiz report](#) obtained by the City failed to consider the NEF contour requirements, stating:

[page 3] For the purposes of this study, a base assumption, agreed to with the City of Toronto staff and based on advice from the Toronto Port Authority that no changes are being considered, is that the 202 slot cap will remain as a known constraint.

It is dangerous to rely on that statement from the TPA – the number of slots permitted has increased over the years – from 97 in 1998 to 112 in 2001, to 120 in 2003, to 167 in 2006, and to 202 in 2009⁷.

And Porter's people have said as much:

Michael Deluce, Porter chief financial officer, said there is no reason assume that the airline won't continue to increase its footprint on the Island.

"Here is what you need to know: Porter is going to remain the leading carrier at Toronto City airport until at least 2033," Mr. Deluce said.

"202 slots is not a permanent ceiling on flights. The number of slots has increased since Porter began operations, and that number can be raised again as airport infrastructure expands," he added⁸.

⁷ See Schedule B for details.

Robert Deluce threatens 300:

“...But Mr. Deluce said the TPA isn't constrained by the existing cap, and could increase the total number of commercial slots available to 300 within three years, if a pedestrian tunnel is built by 2012 or so. [our emphasis] "It's very much dependent on improvements to infrastructure," he said after a presentation to Insight Information Co.'s airline investment conference in Toronto⁹”

There is ample evidence that the limit should be 120 – that’s the basis for the payment to Porter of \$20M by the federal government as “compensation” for the cancellation of the bridge in 2004. See What was the Bridge Settlement About?, on this issue, appended as Schedule A to this Report.

AirBiz excluded any considerations of the road access system and parking facilities which was not considered as part of its review. To date, no comprehensive study has been revealed on parking and traffic issues, identified as a very significant issue that requires a solution before jets can be considered.

13. Economic Impacts

At its May 7, 2013 meeting Toronto City Council requested the following work:

Conduct a preliminary analysis of economic impacts and opportunities regarding maritime, aviation, and other uses and users that may be affected by the physical and operational expansion of BBTCA including the introduction of regularly scheduled regional jet service, and the impact on the manufacturing sector in Toronto of the assembly of CS-100 aircraft in Canada;

In a similar circumstance, David Cameron, now the British Prime Minister noted, in 2008 that:

“There are now increasing grounds to believe that the economic case for a third runway [at Heathrow] is flawed, even without addressing the environmental concerns”.

Central to the UK opposition to that third runway was the economic case: [a 2008 report](#) by Dutch consultant CE Delft sets out five main observations:

⁸ <http://www.vancouver.sun.com/business/fp/Porter+touts+airport+domination/2989790/story.html#ixzz0nAlHWPQv>

⁹ November 16, 2010 Globe and Mail

First, a sector's direct, indirect and induced employment levels and its contribution to GDP are not valid indicators of its importance to the economy, nor in the case of aviation can they be used to substantiate the argument in favour of expanding runway capacity. In the absence of structural unemployment, if the aviation sector were to offer less employment, people would find jobs in other sectors, albeit at possibly slightly lower wages.

Similarly, if consumers were unable to spend money on aviation, they would spend it in another sector, potentially deriving a slightly lower consumer surplus, but nonetheless still giving rise to indirect and induced employment. Not accounting for these alternatives significantly overstates the sector's importance.

Second, in keeping with its brief, the OEF report [which attempted to make the case for economic benefits from Heathrow expansion] discusses at length how aviation supports other parts of the economy. Many different indicators are presented, showing how aviation supports trade, investment, growth sectors, business efficiency and economic growth, but essentially they all relate to much the same process. Aviation opens up new markets, allowing producers to purchase inputs at lower costs and sell outputs on global markets, and so potentially enabling economies of scale in production processes. Hence the global economy becomes more efficient. The economy as a whole clearly benefits, but these benefits are not well expressed by the indicators presented. The ability of UK producers to sell goods on a wider market goes hand-in-hand with foreign producers selling their products on the UK market, in competition with local producers. Globalisation may or may not be beneficial for social welfare, but the benefits cannot be measured well by the amount of trade.

Third and fourth, we note some peculiarities of OEF's model and its underlying assumptions, and the implications of its results. A crucial input to OEF's calculations is the number of additional business passengers that runway expansion will attract, because OEF assumes that only business passengers generate wider economic impacts. In estimating the impact of mixed-mode operation at Heathrow, OEF assumes that there will be, not 0.5 million additional business passengers in 2015 as forecast by the UK Department for Transport, but 3 million. We do not feel the OEF report provides a satisfactory justification for this assumption. The impact of additional flexibility offered to business passengers by additional services on existing routes should already be captured by the underlying demand included in DfT's estimates. In addition, while it may be true that adding runway capacity will to some extent encourage business investment

and allow businesses to operate more efficiently, these wider impacts themselves need to be demonstrated by the OEF model, rather than being assumed from the outset and rather arbitrarily quantified in terms of additional business passengers.

The OEF model estimates that the full implementation of the White Paper runway proposals would deliver an economic impact of around £ 120 per additional passenger or about £ 400 per additional business passenger (again, on the assumption that only business passengers cause wider economic impacts). This compares with an estimate of an additional consumer surplus of 'perhaps £ 30 per additional passenger' which OEF derives from DfT estimates. OEF assesses its estimate as 'consistent with plausible analysis from other perspectives about the additional value of a business trip by air'. However, the direct economic value of a business trip is already captured by the willingness of business passengers to pay, and hence by the consumer surplus estimate of £ 30 over all passengers.

Assuming that this figure is of the right order of magnitude, OEF's economic impact estimate implies that aviation has very significant positive external effects on the economy, and that these effects are even substantially larger than the value a business passenger (or their employer) derives from their trip. This seems an implausible implication.

Fifth, OEF's results are presented in a potentially misleading manner. Although this is not always stated explicitly, the estimates of economic impacts presented are often upper limits, and so illustrate the maximum possible economic impact rather than the most likely or plausible outcome. For example, the illustrated impacts of the third-runway scenario are based on the highest passenger forecast scenario produced by DfT. A second example relates to the interpretation of the estimated cost of congestion (in itself another upper limit). Only a part of this cost can be attributed to insufficient runway capacity - queues for security checks and delays due to bad weather or industrial action (either in the UK or elsewhere) will not be resolved by expanding capacity.

The City has obtained a [report from HLT Advisory](#) that has striking similarities to the OEF report so severely criticized by the above excerpt.

The City must retain a consultant with the broader public interest perspective that CE Delft provided to provide the necessary balanced perspective that is not provided by the HLT Advisory study.

Like the previous study carried out by the TPA, these questions were unanswered by the HLT Advisory study:

1. The TPA report, accepted by HLT, claims the airport has generated \$200 million in direct gross domestic product, \$900 million in economic output and 1700 jobs. This isn't new business. Wouldn't this economic activity have occurred at Pearson if Porter and Air Canada Jazz flights were located there? This study does not ask – or answer - that question.
2. Is there a net benefit from the Island Airport to the tourism industry? Are tourists coming to Toronto replacing those Torontonians who now find it more convenient to fly – and spend – elsewhere? As Tom Hatcher wrote to the City recently¹⁰:

Since Porter is a Toronto centric airline, more of their traffic;

a) Originates in Toronto, goes somewhere, then returns to Toronto, than

b) Originates elsewhere, comes to Toronto, returns elsewhere.

In scenario a), representing the majority of Porter's customers, there is a net cash flow out of the city since Toronto resident's money is being spent elsewhere and, equally importantly, they are not doing their normal day-to-day spending here.

Only in scenario b) is there a guaranteed net gain to the local economy.

Porter's list of new planned jet destinations includes popular tourist locations like Las Vegas and the Caribbean. These locations are not selected to bring Caribbean or Nevada residents to Toronto. These destinations are selected to sell vacation packages to Torontonians. If priced lower than the competition, these tourist destinations may be able to marginally increase the aggregate demand for Toronto airport travel, and could then represent a significant net outflow of Toronto dollars.

3. In other words, is the net impact of the Island Airport that more money leaves Toronto than comes to it? This study does not answer that question either.

¹⁰ <https://www.facebook.com/notes/tom-hatcher/public-consultation-process-proposed-bbtca-expansion-for-the-introduction-of-jet/10151718051003271>

4. Similar aviation industry studies in the UK have overstated the economic benefits of aviation, and failed to consider the “tourism deficit” – see “Pie in the Sky”, a vigorous critique by Friends of the Earth of the dubious economic benefits of aviation.
5. Aviation is an intense carbon emitter, compared to other readily available forms of transportation – particularly the short-haul flights this Airport is limited to. Have the environmental and economic costs of flying as they impact climate change been considered in this report? No.
6. Would alternative, and more environmentally friendly, means of transportation, such as high speed trains, provide more economic benefit – even before factoring in the environmental costs? Not even asked in this report.
7. The federal and provincial governments are investing millions in the fixed rail link between Union Station and Pearson. Once that rail link is opened in 2015 there is no justification for keeping the Island Airport open. Travelers from downtown will be able to get to Pearson as easily as getting to the Island Airport. Why is the TPA investing in what will soon be a “white elephant” of an airport?
8. A recent study by the TPA discloses that the Island Airport is predominantly used by people from a very small downtown area – mostly from the business district. Pearson serves the rest of the GTA. Does a luxury service for, mostly, the downtown elite justify the environmental impact? Not asked.
9. Porter’s not having the success it would like you to believe: according to its own data, its sales (in revenue passenger miles) fell by 25% over the last two months, and by 7.5% this October, compared to last October. If it fails, who is on the hook for the outrageously expensive (\$85M) tunnel? Was this potential taxpayer liability considered in this report? No.
10. Given the horrendous traffic, pollution and noise that this Airport inflicts on Toronto’s waterfront – its recreational jewel, isn’t it better all round for Porter move to Pearson? There are significant costs borne by the local residents, and commuters as a result of the traffic congestion and safety problems from Spadina to Stadium Road and Lake Shore Boulevard caused by this Airport. Did this report consider the negative economic and environmental impact this Airport has on our waterfront, its millions of users, and its thousands of residents? Again, no.

11. A recent meeting of the Community and Stakeholder Group, convened by the City of Toronto, looked at how to address the destructive impact of the Airport on the Bathurst Quay community and its schools, day care centre, community centre and park. Some extremely expensive ameliorative measures are under consideration. These included burying Eireann Quay and extending the park over top to protect the children at school. Were these anticipated costs included in this study? Not at all.

[AirBiz](#) states:

The preliminary cost estimate relates solely to the propose (sic) runway 08-26 extension at both extremities and is defined as approximately \$80 million dollars. [page 8].

There is no indication as to how that cost would be funded.

There are no studies on the impact of the Island Airport on property values or property tax revenues, or on the economic cost of the constraints of the existing and possible future height restrictions imposed on lands around the Airport.

The City leases several parcels of land to the TPA – part of the actual airport lands, the queuing lanes on Eireann Quay, and the parking lot on Little Norway Crescent. The City received no rent for any of these parcels. The loss of the economic benefit of those lands (and the lost revenue from these lands if an appropriate market rent were charged) is not considered.

The City appears to have recognized this – in the staff report to this month's Executive Committee meeting, this appears:

A third-party review of the economic impacts is necessary to confirm these findings [page 9].

That third party review must be credible - Dutch consultant CE Delft, in our view, would be an excellent choice.

14. Any Other Appropriate Studies

At its May 7, 2013 meeting Toronto City Council asked its staff to:

Bring forward any other information/studies deemed appropriate.

In our view, at a minimum, these studies are necessary:

a. Porter's Prospects

To allow the runway to be extended, only to discover then that Porter is not financially viable, makes no sense. Porter must disclose its finances in order that its viability can be ascertained now, before irreversible steps are taken.

The most recent information publicly available, from Porter's aborted 2010 initial public offering, discloses this:

- Net income of \$455,000 in Q4, 2009, slid in Q1 2010 to an operating loss of \$5,972,000 in Q1 2010. That loss over three months is \$1,363,000 greater than the total loss for all of 2009.
- Its accumulated losses were \$44,505,000 to March 31, 2010

This, after spending \$7.4 million on sales and marketing in Q1 2010, and regularly offering discounted pricing.

Porter's business declined significantly, over the last six months Porter reported monthly passenger numbers – to March, 2013. It stopped reporting them in April of this year, implying that they continue to reflect poorly on its prospects.

Given positive reports from Porter's customers, one would have expected the numbers to be much more positive. Producing worsening numbers after almost four years of operation and massive expansion strongly suggests there's something deeply wrong with their business model.

As one long-time industry insider put it:

"Their operating margin including interest as an expense places them squarely, and quite handily, as the worst performing airline in North America in 1Q 2010. For the record, that margin is -16.11%. As I recall, the next worst was AMR [American Airlines] at -10%."

Porter Has another significant vulnerability that needs to be considered: Porter Air requires a foreign air carrier permit from the United States Department of Transportation to fly to U.S. destinations, or an exemption from that requirement. In the absence of this permit or exemption, Porter may not fly into the U.S. Porter's current temporary exemption expired on July 10, 2011.

A decision on Porter's pending application for its permit has been delayed for years (the decision on the initial application for an exemption took only 28 days).

All of the documents related to Porter's applications are on the public file, at <http://www.regulations.gov/search/Regs/home.html#docketDetail?R=DOT-OST-2007-27402>.

Porter originally obtained an exemption from the requirement for a permit on the strength of a May 10, 2007 letter from (then) Toronto Port Authority CEO Lisa Raitt, enclosing her correspondence with U.S. Airways agreeing to permit it to fly between the Toronto Island Airport and Philadelphia.

That correspondence was the sole evidence of compliance with the US requirement that the rights sought by Porter to fly into the U.S. must be reciprocated, which was evidently relied upon by the Department of Transportation in granting the original permission. This is from the decision of June 20, 2007:

On May 10, the Department received a letter from the TPA stating that it has never denied a U.S. carrier access to TCCA. It states that the most recent application by a U.S. carrier to operate from TCCA was filed by US Airways in December 2006 and that this request was promptly granted. The TPA states that no other requests have been made by any other U.S. carrier for access to TCCA.

But, as reported by Bloomberg News on October 20, 2009,

Porter's agreement with the authority barred regional carriers, including Jazz Air, from flying between the airport and New York, Chicago, Boston, Washington, Philadelphia [our emphasis], Cincinnati, Detroit and Cleveland.

The U.S. Air offer could not have been consummated, as it contravened the exclusivity already held by Porter.

The TPA misled the United States government, to assist Porter.

CommunityAIR has suggested to the U.S. Department of Transportation that it would be worth inquiring of both the TPA and U.S. Air as to the circumstances of their correspondence, in light of that (now public) exclusivity:

- Was U.S. Air aware of the prohibition?
- If not, why did the TPA not advise U.S. Air of it?

- If it did, why were these letters prepared?
- And why did the TPA not advise the Department of Transportation of this prohibition, instead of submitting documents which misled the Department as to the true situation?

These questions remain unanswered. Perhaps this is the reason why the current decision has been long-delayed.

Regardless, the existence of this application made to the US government, the unusual delay in receiving any response, and the very significant impact on Porter's prospects from an adverse decision, are, in our view, material facts.

It makes no sense to expand the runways 200 meters on either end, with landfill that cannot be easily removed, irreparably damaging the recreational potential of the lake and harbour, for Porter's scheme, if the company has not demonstrated that they can survive and be profitable

b. Actual Noise Measurements

A study of the actual noise inflicted upon the waterfront and its residents is essential to assessing the impact of the existing operation, and the additional impact the Deluce proposal would have.

No such study has been carried out.

The TPA did [conduct a few noise measurements in 2009](#). The only measurement of noise as it affects Bathurst Quay (location #1) [see page II-9] that identifies the source of noise, was taken for a 30-minute period on a day when wind was blowing from the north, reducing the impact of airport noise significantly. Still, it did indicate that the airport is the primary source of unacceptably loud noise.

c. Impact on the Community

Many reports of unacceptable impacts by Porter's operations on local residents lives exist.

Here's one:

"They have no idea what Porter has done to our neighbourhood! I try so hard to sleep past about 6:25 a.m., when the [Porter aircraft] run-ups go into high, but rarely accomplish that, even now that it's not light then."

The overnight noise curfew at the Island Airport ends at 6:45 a.m.

And another:

“This is now the fourth evening that we are getting ready to eat supper and the entire neighbourhood stinks of jet fuel. Not a very nice atmosphere to eat. We already are bombarded by the noise, so please give us a break and keep the jet fuel out of our air.”

Toronto’s marvellous Music Garden has been severely impacted by Porter’s operations:

“After 12 years of attending the Music Garden concerts, I can testify that when the waterfront is downwind from the airport – which is almost all the time, in summer – the noise of airplanes landing, taxiing, idling and taking off makes it impossible to hold a conversation in the Music Garden and its environs; it drowns out even the amplified music of the Music Garden concerts. The smell of airplane exhaust is disgusting and of course damaging to our health. This noise was an occasional irritation in the early years of this millennium, when Air Canada was running a small number of noisy turboprops out of the Island Airport. But in recent years the situation has deteriorated dramatically, due to the ever-growing number of flights, exacerbated by an amplification/echo effect created by all the new condo buildings erected in the area.”

Particularly given the requirements of Toronto’s Official Plan, a comprehensive study of those impacts on the abutting neighbourhoods and recreational facilities is essential.

d. Engine Run-ups

AirBiz [correctly identifies Porter’s engine run-ups as a serious issue](#) (at page 10), and notes that the run-up enclosure recommended in February 2010 but as yet unbuilt would not provide much relief.

In its report to Executive Committee this month, City staff state:

Staff requested AirBiz to report on engine run-up procedures at the airport and options for reducing their impact on the adjacent community.

There has been no report issued that addresses this issue, as yet.

Any discussion of changes to the Island Airport must include a total ban on engine run-ups at the Airport.

e. Health Impacts

The potential effect of the CS100 and the airport's present and future fuel and exhaust emissions on air quality is unknown. The city's background report stated,

“An examination of the impact on noise and air quality will need to be undertaken as part of this assessment to confirm whether the introduction of jet aircraft and over all increases in passenger volumes will have any affect on the Central Waterfront Area.”

In addition, there is no indication that any studies exist that report air quality around the airport based on actual samples. The City's AirBiz study simply reported Bombardier's CS100 emission standards claim.

The City did not retain any consultant to do so. Instead, following numerous complaints at public meetings that this had not been done, City staff, in its report to Executive Committee this month, stated it had:

Consulted with Toronto Public Health on health effects associated with jet-powered aircraft operations at BBTCA (specifically human health effects, noise and air quality issues) and developed a scope of work for the completion of a Health Impact Assessment for the status quo and expansion of the airport. This work is ongoing and will be reported as part of the report targeted for December.

Given the requirement of the Official Plan that the City be satisfied that “improvements to the airport facilities and operations can be **made without adverse impact on the surrounding residential and recreational environment** “, these studies are fundamental.

Physicians attending the public consultations expressed concern that that allows insufficient time to address this key issue.

f. Climate Change

We raised environmental issues as an area requiring study at a meeting with City staff last July.

In particular, we are concerned about the impact of short-haul flights on climate change, as they are a particularly significant emitters of greenhouse gases on a per passenger basis than other more benign modes of transportation. This illustrates the issue:

This UK site: http://www.flybe.com/pdf/eco_labels_make_own.pdf uses ICAO emissions data.

Fuel efficiency correlates directly with CO2 emissions, of course.

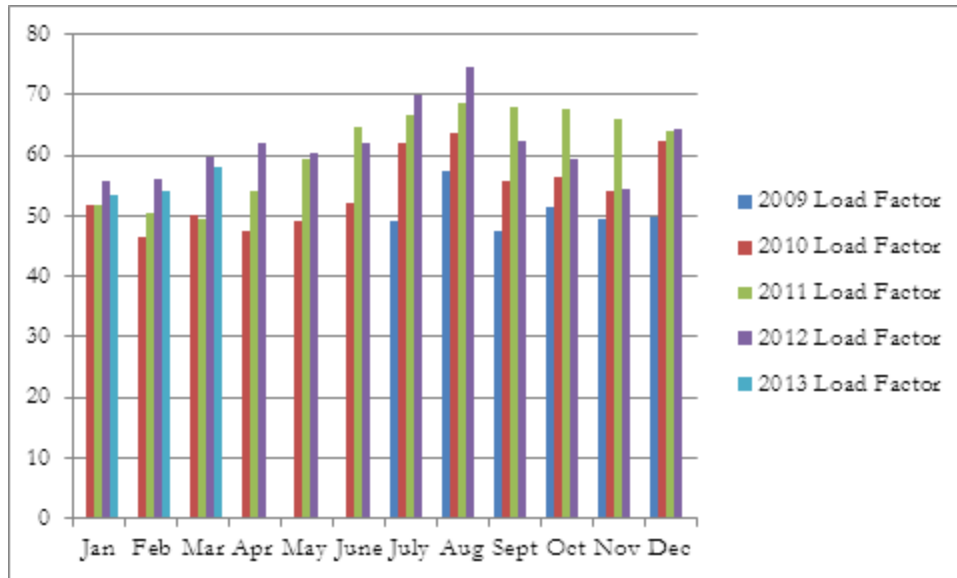
The 78-passenger Q400 is absolutely in line with those aircraft used by your competitors on short haul flights such as the Airbus 319 and Boeing 737 for CO2 emissions on a passenger seat basis for a 500km flight:

Here is Flybe's analysis:

- Standard Q400 with 78 seats: Total fuel consumed 1044kg and CO2 emitted/passenger **42** kg
- Porter Q400 with 70 seats owing to the short runway at the Island Airport: Total fuel consumed 1044kg and CO2 emitted /passenger **46.8** kg – **higher owing to the reduced number of seats**
- Airbus 319 with 156 seats: Total fuel consumed 1961 kg and CO2 emitted /passenger: **40**
- Boeing 737-300 with 149 seats: Total fuel consumed 2002kg and CO2 emitted /passenger: **42**

These per passenger figures assume 100% of the seats are filled.

Porter's emissions are far worse, on a per-passenger basis, as it struggles to fill 60% of its seats, according to its own data [load factor is the percent of seats filled by paying passengers]



No study of the impact of Porter’s flights on climate change has been posted.

g. Transportation Policy

Similarly, one would expect that there would be some review of how Porter’s proposal fits into the GTA’s transportation policy framework, and Canada’s.

According to a Via Rail Press Release, dated July 16, 2009, \$923 million is being invested by the Government of Canada in passenger rail renewal and expansion – much of it to improve service between Toronto, Montreal and Ottawa.

Why should the City encourage further expansion of air travel, when the federal government, and many countries around the world are opting for fast passenger rail service as the more cost-effective and environmentally preferred mode.

15. Emergency Services and Safety

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the impact to emergency services navigating from the harbour, through the Western Gap, to Lake Ontario.

No report on this matter has been presented.

There is a highly relevant safety concern that has not been addressed, as set out in this CommunityAIR Press Release from May 15 of this year:

Island Airport: How Safe is an Airport Surrounded by Water and Birds?



A Lion Air B737 landed in water short of the runway in Bali last April 13

The wisdom of locating a busy commercial airport on Toronto's waterfront is questioned once again by these recent incidents:

- Yesterday (May 14, 2013), a Porter aircraft hit a bird on take-off at the Island Airport and returned to have it checked out. Fortunately, no damage, and no injuries: see [this CADORS¹¹ report](#)
- On Monday (May 13, 2013), another Porter plane struck a bird, approaching the Island Airport from Chicago: See [this CADORS report](#).
- Last Saturday, a Cessna 172 crashed nose first into the harbour just short of the Island Airport runway. Here's an eye-witness account:

"Because it was a 'pontoon plane' she righted herself and the pilot was not injured but had it been a jet it would have been disastrous. Had there been boats or the ferry in her path the results would have been all the more dire. A police boat was dispatched and arrived within 5 minutes - the Algonquin Queen

¹¹ CADORS is Transport Canada's Civil Aviation Daily Occurrence Reporting System

(the Queen City Yacht Club ferry) diverted course towards the airport to assist but was called off by the police.”

See [this CADORS report](#)

- And [last April 13](#), a Lion Air passenger jet landed in the ocean, about 1nm short of the runway while attempting to land on the Indonesian resort island of Bali. Fortunately, all occupants survived, but 46 people required medical treatment.

Accidents will happen. Risk of accidents increases when serious risk factors are present.

Situating an airport on a waterfront, next to a bird sanctuary, in the presence of thousands of waterfowl is a significant risk factor.

Here is a [chilling video](#) of a swarm of cormorants flying by the Island Airport.

Porter’s Robert Deluce has dismissed bird strikes as an issue:

Mr. Deluce said the risk Porter faces from bird strikes is reduced by the type of aircraft it flies. "We're using turboprops," he said. "They handle bird strikes better than jets."
Globe and Mail Jan. 17 2009

However, the jets proposed by Deluce have [73-inch diameter](#) air intakes, far larger than the Q400 air intakes.

Rescuing passengers from an aircraft landing in Toronto Harbour or Humber Bay is compounded by deep water off the ends of the main east-west runway, and the absence of the bridge proposed by the Toronto Port Authority in 2003.

Then TPA CEO Lisa Raitt said in a press release on October 16, 2003:

“The fixed link (bridge) is a public safety issue. In the event of an emergency, it could take up to two hours to get the appropriate equipment over to the island and that's not acceptable.”

What this says is that a major commercial air operation belongs at Pearson, not on Toronto’s waterfront.

16. Open Skies

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the implications of the Open Skies agreement with the United States

The Open Skies agreement states that neither Canada nor the U.S. shall unilaterally limit the aircraft type or types operated by the designated airlines of each country.

Neither the AirBiz study nor the HLT Interim Findings reference the question of Open Skies agreement.

Who is undertaking examination of this issue? What work has been done to date?

No evaluation has been released.

This is a serious issue that requires immediate attention. If the Open Skies agreement requires that the TPA grant permission to all jet aircraft, and those aircraft flagrantly violate the noise and pollution regulations in the Tripartite Agreement, then it is not possible to amend the agreement to allow jets.

And are Porter and the TPA not vulnerable to complaints by U.S. carriers about monopolistic behaviour owing to the five-year monopoly given to Porter, and the near monopoly – 85% of the available slots, with Air Canada restricted to fly only to Montreal?

The Open Skies Agreement and their monopolistic behaviour have been raised as barriers to Porter's licence to fly into the U.S.

The public file on Porter's application for that licence (stalled since 2007) is found [here](#). In it, there are objections to Porter's flying into the U.S. because the Island Airport is not open to U.S. airlines:

From Continental:

Under these circumstances, the Department should not award a permit to Porter unless and until competitive access at TCCA is secured by Continental.

From Northwest:

Northwest is a strong supporter of U.S.-Canada Open Skies. However, granting unique airport access privileges to Porter at the Toronto City Centre Airport contravenes the letter and the spirit of the Agreement.

From Air Canada:

...[T]here are several features of Porter's proposed service which would violate the spirit, if not the letter, of the 1995 Canada-US Air Service Agreement and the pending US-Canada Open Skies Agreement, and which merit a closer DOT inquiry into this request, if not outright disapproval.

In a nutshell, Toronto City Centre Airport ("the Airport") is de facto a private airport at which competitors of Porter are strictly limited in their ability to offer competing services, if not barred outright. As will be explained below, Air Canada's commuter affiliate, Air Canada Jazz is severely limited in its ability to offer any service from this airport, even though it wishes to do so, because of an anticompetitive secret agreement between the Toronto Port Authority, which operates the Airport, and Porter. This secret Agreement sharply restricts the services which may be offered by airlines which compete with Porter.

It also is essential to note that the terminal at the Airport, and all but one building on the very small Toronto Island, are owned, controlled and administered by Porter or its affiliates.

Given the Department's recent victory in concluding an Open Skies Agreement with Canada, thereby lifting all of the legal barriers to new service in the Canada-US market, it would be ironic indeed if Porter were granted de facto exclusive right to serve the United States from the Airport to the exclusion of other US and Canadian competitors at this time.

Accordingly, the Department should not grant the authority requested herein until it receives appropriate assurances that US and Canadian carriers can compete at this Airport on equal terms.

When the U.S. government addresses the Porter application, it may well decide that the Island Airport must be opened to U.S. airlines as a condition of granting Porter its long-delayed licence to fly into the U.S.

17. Film Industry

At its May 7, 2013 meeting Toronto City Council requested the following work:

Evaluate the implications to Film Port and the film industry.

Aside from some anecdotal statements resulting from conversations, there is no evaluation posted by the City.

18. Other Cities

At its May 7, 2013 meeting Toronto City Council decided:

That City Council request the City Manager, in his forthcoming report, to include an analysis on the precedents of jet use in other major waterfront cities and any cost/benefits of such.

The [AirBiz report](#) considers several airports in a cursory way. We are aware of serious noise and pollution impacts on residents living close to the London City Centre Airport, which is located some 12 km east of London Bridge. No mention of the impacts on the surrounding communities is mentioned in the report.

None of the airports referred to are located in a city's prime recreational area, as the Toronto Island Airport is.

19. Fairness Monitor

At its May 7, 2013 meeting Toronto City Council decided:

That City Council direct that a third party fairness monitor, to be paid for by the applicant, be commissioned to oversee the contract.

Given the widespread complaints at the recent two public consultations, the fairness monitor should be engaged to review and comment on the fairness of the consultation process to date.

20. TPA/Porter Tax Arrears

At its May 7, 2013 meeting Speaker Nunziata ruled the following motion out of order "as the matter of payment in Lieu of Taxes for the Toronto Port Authority is not before Council":

That consideration of the item be deferred until the Toronto Port Authority pays all outstanding Payment in Lieu of Taxes (PILT's) for the Billy Bishop Toronto City Airport and agrees to pay future PILT's based on current value assessment as determined by the Municipal Property Assessment Corporation.

It is essential, from the community perspective, that the TPA's failure to pay its required fair share of taxes be placed before Council as part of its consideration of the Deluce proposal.

The TPA owes the City in excess of \$50 M for unpaid property taxes on all its properties, going back to 1999.

The Supreme Court of Canada has twice, in 2010 and in 2012 rapped the Federal Government for its agencies' practice of refusing to pay their fair share of property taxes¹².

The Federal Court of Canada has agreed, in this specific dispute, that those decisions are binding upon the TPA.

The City had valued the Island Airport lands for tax purposes at \$42,944,060 in 2007. The TPA took the position they had only nominal value.

Certainly, 215 acres in downtown Toronto, with water on three sides, will have a market value far in excess of the City's valuation.

Pursuant to the terms of the 2010 Commercial Carrier Operating Agreement that Porter and the TPA signed, Porter is responsible for approximately 85% of the property taxes payable.

The City should not even contemplate the Deluce proposal until the arrears are paid.

21. No Runway or Marine Exclusion Zone Extension

At its May 7, 2013 meeting Toronto City Council passed this motion:

¹² In 2010, in [Montréal \(City\) v. Montreal Port Authority](#), the Court stated:

"Parliament intended Crown corporations and managers of federal property to make payments in lieu on the basis of the existing tax system in each municipality, to the extent possible as if they were required to pay tax as owners or occupants.[para. 42]

"Thus, the purpose of the *PILT Act* is to establish a system of payments in lieu that reflects the actual tax situation in the places where federal property is located." [para. 46]

Again, in 2012, the Court in [Halifax \(Regional Municipality\) v. Canada \(Public Works and Government Services\)](#) stated:

"Just as fairness to the Federal Crown demands that the Minister retain the discretion to come to his own opinion on property value, fairness to municipalities demands that the Minister's opinion be informed by the tax system that would apply to the federal property in issue if it were taxable [para. 42]. ...

"But the Act is directed to fair and equitable PILTs with reference to what taxes would be payable if the site were taxable" [para. 57].

The Court then ruled

"The TPA attempted to enjoy the benefits of [a per-passenger fee]. ...The ... legal error is compounded by the absence of any explanation as to the merits of the quantum of the per passenger amount.

"Therefore, the [per-passenger fee] ... is not sustainable as a matter of jurisdiction nor as a matter of reasonableness."

That City Council direct that any of the requested studies to be conducted exclude any consideration of either a runway or an extension of the Marine Exclusion Zone as currently configured, that would materially encroach upon the western channel shipping channel.

The likelihood that the Marine Exclusion Zone will necessarily be expanded is of grave concern to Toronto's boating community.

While Robert Deluce can make all the promises he wants, he does not determine the location of the Zone's boundaries – Transport Canada does. Any consideration of Deluce's proposal should surely await Transport Canada's verdict on this fundamental issue.

It appears from the June AirBiz report that, to avoid extending the Zone, Porter's proposed jets must land with a steeper glide path. AirBiz comments that:

Transport Canada is normally quite hesitant to grant exemptions to the design criteria without significant supporting justification as to why such an exemption is "in the public interest" and how an "equivalent level of safety" can be maintained despite the deviation from criteria. Transport Canada's willingness to consider these specific approach parameters should be ascertained before committing significant resources.

There is no indication that Transport Canada has given any such indication.

And until Transport Canada has completed its review, and fixes the appropriate flight path requirements, the impact of the Porter proposal on development in the Portlands, at Ontario Place and at Exhibition Place cannot be determined.

22. No Changes to Existing Noise Constraints

At its May 7, 2013 meeting Toronto City Council decided:

That City Council direct that any of the requested studies to be conducted exclude changes to the existing noise guidelines for individual airplanes or amendments to the provisions and guidelines that set the NEF contours currently in place.

As noted above, the current use of the Island Airport is not in compliance with the noise limits for aircraft. At a minimum, the Island Airport must operate in compliance with those limits.

The Tripartite Agreement prohibits an aircraft from using the airport based on its noise profile. The noise profile of an aircraft is based on sound measurements at Take-off, Flyover, Landing.

The sound measurements are certified by Transport Canada and approved by the International Civilian Aviation Organization (ICAO).

The ICAO is not expected to certify the CS100 noise profile until 2014. How can the City recommend adoption of the Porter request without knowing if the CS100 noise profile meets the Tripartite Agreement requirements?

23. General Aviation

At its May 7, 2013 meeting Toronto City Council decided:

That City Council advise the Toronto Port Authority and the federal Minister of Transportation of City Council's expectation that all protections and provisions for General Aviation governed and protected by the Tripartite Agreement be upheld and enforced by the Toronto Port Authority.

AirBiz [reports](#) on this issue with one sentence:

General Aviation activities were found to be generally unaffected by the Porter Airlines proposal.

However, later in its report, Airbiz states that, owing to the steep glide slope required to land the CS100 without moving the MEZ buoys,

This would mean that private IFR aircraft, or aircraft without the required OPS SPEC, would not be authorized to fly this approach. No publicly available ILS would be at BBTCA as a result [page 8].

This suggests that general aviation would be significantly affected by the Deluce proposal.

Detailed evidence, ignored by AirBiz, of how Porter and the TPA have constrained the use of the Island Airport by general aviation is provided in an affidavit by [Alex Giannalia](#) and filed in a [court action](#) commenced by the General Aviation pilots at the Island Airport, claiming, with much justification, that they are being systematically pushed out by the TPA and Porter, contrary to the provisions of the Tripartite Agreement that require the Island Airport to

“continue to be maintained and operated for the purpose of a permanent public airport for general aviation, and ... available for limited commercial STOL service operations.”

While the City staff report notes, in its report to Executive Committee this month [at page 8] :

An understanding of how the TPA plans to balance between General Aviation and commercial operations is needed to ensure that expansion of commercial operations is consistent with the Tripartite Agreement,

no such understanding is provided in the material available to date.

Schedule A

What was the Bridge Settlement About?

A CommunityAIR Backgrounder

Following David Miller's election as mayor, Toronto City Council passed a motion requesting the federal government to cancel the Toronto Port Authority's planned bridge to the Island Airport. Then Prime Minister Paul Martin agreed, and his government cancelled the bridge by enacting a Regulation that prohibited "a bridge or similar fixed link".

While Mayor Miller and community members insisted that no compensation should be paid to the TPA or Porter, as all of the required approvals were not in place at the time of the decision, Transport Canada, the TPA and Regco (Porter's prior name) secretly negotiated "compensation" in the amount of \$35M, \$20M of which was paid to Porter.

Porter used that \$20M as seed capital to start its operations.

How was the \$35M Calculated?

The negotiators first took the costs incurred by the TPA and Porter as a direct result of the bridge cancellation.

Then, they agreed that, as 167 slots (landings plus take-offs) were to be permitted for large turboprops with the bridge, a lower limit of 120 slots would apply for operations without the bridge. They then calculated the lost revenue each of the TPA and Porter might experience over the remaining 28 years of the Island Airport's lease.

The amount of that hypothetical lost revenue was then negotiated to arrive at the \$35M amount that all parties ultimately agreed upon.

That limit was then entrenched in a Commercial Carrier Operating Agreement signed by the TPA with Porter on May 3, 2005, the same day the \$35 million settlement was reached.

What's the evidence that supports that 120-slot limit?

While the negotiations were secret, an investigation into the TPA was initiated by the Harper government, and conducted by Roger Tassé, a retired civil servant. He may have revealed more than what was intended.

And prior to the release of the Tassé Report, an internal Transport Canada document was leaked to the press that disclosed details of the calculation.

The Tassé Report

The Tassé Report released in October, 2006 (formally, "Review Of Toronto Port Authority Report", found at <http://www.tc.gc.ca/media/documents/policy/tpa.pdf>) contains this (our emphasis):

[at page 54] RegCo's [now Porter] initial position was that any settlement would have to encompass compensation for the sunk costs that were expended in pursuit of an operation with a fixed link. In addition, RegCo obtained estimates of the profit differential between its original business plan and the somewhat smaller operation that would result from the cancellation of the fixed link, and took the position that all of these foregone profits should also form part of the settlement.

[at page 57] ...As stated above, the mitigation which was possible with RegCo also permitted the TPA to ensure the viability of the Island airport and to mitigate its own losses, although it is clear that one effect of the cancellation of the fixed link was to limit the number of flights and passengers to a level beyond that required by the NEF- 25 limits in the Tripartite Agreement.

[at page 60] In June 2003, RegCo would have understood that the total ceiling for large turboprop movements (number of departures and landings) would be 167 in and out of the airport each day. Under the 2006 CCOA with RegCo, the number of movements is far lower than the number contemplated in 2003, as the ceiling for total flights is now 120 movements. Within this 120-slot ceiling, some movements are reserved by the TPA for domestic and cross-border carriers. **[The TPA later granted Porter all of these 120 slots]**

The Leaked Document

Calculations, found in a document leaked to the media in September 2006, and attached, set out in detail how that 120-slot limit was used to calculate the damages.

This sticks out:

Also, the TCCA had 167 slots per day for large turboprops. The settlement limits the TCCA to 120 slots per day, which represents approximately \$3.7 million/year in lost revenues assuming the previously available slots were used six days per week, based on

68 seat 4-400 aircraft with a 50% load factor and a \$15 AIF per enplanement. The present value of this over 28 years, at 5%, is \$58,489,000.

The settlement referred to is the \$35M settlement. The reduced number of slots was applied to the full 28-year remainder of the term of the Tripartite Agreement to reach the calculated sum, which was reduced in the course of negotiations to \$35M.

Where did the 120-slot limit come from?

This is entirely unclear.

According to Tassé, above, that was an assumption shared by all the parties to the settlement – Transport Canada, TPA and Porter, and underlies their justifications for the federal government's spending \$35 million of taxpayers' money in this manner.

Transport Canada therefore has an obligation to ensure that the money paid remains justified – that can only happen if it insists that the 120 slot limit be respected – or the money repaid.

The TPA is breaching that settlement, and needs to be brought into line by Transport Canada.

If there is a 120-slot limit, why is the TPA handing out slots in excess of that?

A very good question.

The TPA has ignored the basis for that settlement, and proceeded to utilize another less stringent limitation on the expansion of the Island Airport, the NEF contour, established under the Tripartite Agreement, and agreement entered into by Transport Canada, the TPA, and the City of Toronto. It is this contour that led the TPA to conclude that 202 slots are available.

The TPA quietly amended its agreement with Porter CCOA on April 9, 2010 to provide:

The parties hereto acknowledge and agree that the maximum daily number of Slots that are available for use at the Airport is restricted to the following during the following periods:

(a) during the period from and including October 21, 2009 to and including April 20, 2010, 120 Slots which have been allocated for use (but calculated and expressed on a per day basis for a six day week);

(b) during the period from and including April 21, 2010 to and including the date immediately preceding the Commissioning Date [the date all 10 gates in Porter's terminal are in operation], 140 Slots; and

(c) during the period from and including the Commissioning Date until determined otherwise by TPA based on the then Coordination Parameters, acting reasonably, 202 Slots or such greater or lesser number of Slots that are available for use by air carriers based on the then Coordination Parameters, all as determined by TPA acting reasonably.

The 2006 operating agreement is not publically available.

Does that mean that that \$20 million paid to Porter and the \$15 million paid to the TPA can no longer be justified?

We think it does.

Schedule B

Backgrounder: Slots and The Island Airport

Executive Summary

Limits on the expansion of the Island Airport derive from the tripartite agreement, which establishes Noise Exposure Forecast (NEF) Contours that cannot be exceeded. NEF Contours are calculated by software and are based on the intensity and frequency of noise from aircraft landing and taking off. The maximum number of slots ((landings and take-offs) at the Island Airport are derived from the NEF Contour calculations.

Based on information obtained by CommunityAIR, the slots available for large turboprops are either :

- 97 per Transport Canada on July 21, 1998: - based on the use of the Dash 100 not the Q400 which is a much larger aircraft, or
- 112 per consultant Sypher Mueller's December 2001 report to the TPA – but states that even at that level, the NEF Contour would be breached, or
- 120 per City of Toronto in 2003 and 2006 Tassé Report, or
- 167 per airport consultant Pryde Schropp McComb in a 2005 report to Porter's investors.

And on December 24, 2009 the Toronto Port Authority stated that its current consultant “anticipates” that up to 212 daily take offs and landings of large turbo prop aircraft are permissible at the Island Airport. No details of their study were released.

Given this wild variety of numbers, an official and peer-reviewed NEF Contour study is overdue. The TPA's study is not that.

Until such a study is concluded, no prospective user of the Island Airport should count on capacity being available to it.

In fact, it may well be that the current use of the airport is at the limits of what is permitted under the agreement that governs the airport.

Background

In 1983 when the City of Toronto was under pressure to allow commercial air service out of the island airport, a clause was put into the Tripartite Agreement with the aim of controlling the level of noise that the busier airport would produce. Rather than putting a finite limit on the number of flights landing and taking off, the clause specified a Noise Exposure Forecast (NEF) contour that had the effect of limiting the total airport activity.

To determine a NEF contour, Transport Canada uses its software to analyze the noise levels of aircraft and the number of noise events in order to establish an objective way of measuring the impact of aircraft landing and takeoff noise in areas around airports.

Other sources of noise are, unfortunately, not included in calculating a NEF contour: it excludes bird dispersal cannon and engine maintenance run-ups, both of which are major irritants to the surrounding communities.

The purpose of the NEF contour is to encourage compatible land use planning in the vicinity of airports. As indicated above, it was included in the Tripartite Agreement to ensure the level of island airport use did not conflict with the City's plan for the waterfront. That, at least, is the theory. Reality, however, can be a stern teacher.

In 1995, with the federal government getting out of the airport business and the provincial government cutting ferry subsidies, the island airport's future looked grim. The Canadian Urban Institute took it upon itself to sponsor a two-day conference on Toronto's City Centre Airport.

Judging by the record of its proceedings, Toronto's City Centre Airport: What is its Future Role?¹³, the event seemed to galvanize the airport's proponents to such a degree that while there may not now be the bridge that was called for then, there is certainly the expanded airport that the attendees demanded. But, how could this be, given the NEF contour limitation in the Tripartite Agreement?

It appears the NEF calculation is a very strangely elastic way of determining the number of flights permitted at the airport.

1998: 97 Slots

In 1989, as part of its obligation under the Tripartite Agreement, Transport Canada produced an NEF contour map for the island airport using traffic figures at that time. According to Transport Canada documents, new noise planning contours were prepared in 1990 but never formalized. The 1989 effort was Transport Canada's last official one. CommunityAIR has not been able to access the 1989 data.

The matter of updating the NEF 25 contour lay dormant until 1998 when the TCCA manager (still under the Toronto Harbour Commission) advised Transport Canada that four new air operators would start service. A July 21, 1998 Transport Canada, Ontario Region Civil Aviation document states,

"In accordance with the Tripartite Agreement, the available number of daily large turbo propeller-driven movements for allocation is a total of 97. The number proposed for the new services totals 84. The 97 available movements for allocation include a strategic reserve of 15%, to ensure that the NEF contour is not exceeded."

¹³ Stevenson, Don, and Andrew Farncomb, eds. Toronto: Canadian Urban Institute, 1995

The 97 available movements figure was repeated in Transport Canada documents dated September 15, 1998 and April 7, 1999. The number 97 stood for three years.

2001: 112 Slots

A new NEF calculation did not come until December, 2001 when TPA consultants Sypher Mueller, in their roadmap for Island Airport expansion: Toronto City Centre Airport - General Aviation and Airport Feasibility Study - Small Footprint - Big Impact analyzed a number of expansion alternatives, including a “2020 turboprop expansion” of up to 112 large turboprop (i.e. Q400) slots.

In modelling future noise it assumed that (at page 79)

“the Airport will continue to be operated as a daytime facility. Hours of operation would be from 0700 to 2200”

This assumption is wrong, as the airport operates from 6:45 a.m. until 11:00 p.m. Night-time landings and takeoffs are weighted far more heavily in NEF contour analysis, given their much greater impact on abutting communities.

This suggests that the 112 figure should be lower still.

Sypher Mueller’s conclusion (at page 79):

“For the Turboprop Scenario in 2020 there is a minor extension of the 28 NEF beyond the official 25 NEF on the east side.”. It then recommends that, “through the implementation of a noise management plan, these deviations could be eliminated, using:

- Departure procedures (turn on departure and minimum noise routes);
- Circuit training flight restrictions (alternating days, time of day restrictions, time of week restrictions);
- Preferential or rotational runway use;
- Airport operating time restrictions;
- Noise budget restrictions (i.e. Stage 3 or 4 aircraft only); and
- Aircraft power and flap management.”

Porter has already exceeded – or will soon - the 112 slot threshold.

To CommunityAIR’s knowledge, none of these mitigation measures have been implemented.

Even then, noise mitigation measures cannot be used to bring the airport’s NEF Contours into compliance with the tripartite agreement.

Somehow, the 97 daily flights in 1999 expanded to 112 daily flights in the space of three years.

2003 – 120 Slots

In 2003, a Clause embodied in Report No. 6 of the Policy and Finance Committee, as adopted by the Council of the City of Toronto at its meeting held on June 24, 25 and 26 stated,

“Research conducted by consultants on behalf of the TPA and the City has determined that the proposed enhancement to Airport operations can easily be accommodated within this restriction (up to approximately 120 large turboprop flights per day).”

It was on the basis of this statement, among others, that City Council agreed to settle a spurious lawsuit brought against it by the TPA, and to amend the tripartite agreement to allow a bridge to be built.

112 became 120 in just two years.

2006: 167 Slots, reduced to 120?

Roger Tassé in his October 2006 report on the Toronto Port Authority, at page 60, states:

In June 2003, RegCo would have understood that the total ceiling for large turboprop movements (number of departures and landings) would be 167 in and out of the airport each day.

Under the 2006 CCOA with RegCo [the operating agreement Porter currently is governed by], the number of movements is far lower than the number contemplated in 2003, as the ceiling for total flights is now 120 movements. Within this 120-slot ceiling, some movements are reserved by the TPA for domestic and cross-border carriers.

The overall maximum number of movements in and out of the airport will fall well within the parameters of the Tripartite Agreement.

At the time of the Tassé report release, there had been no public disclosure that 167 slots had been contemplated by – or promised to – Porter.

2006: 167 Slots – for Porter’s Investors

However, the number of allowable daily movements would change once again.

On March 2, 2006, Robert Deluce, President and CEO of Porter Airlines emailed Michael Stephenson, Transport Canada’s Acting Regional Director General – Ontario on the subject of the TCCA NEF Update Final Report. Attached to the email was a 12-page report.

The report was prepared by airport consultants Pryde Schropp for potential Porter Airlines investors, Edgestone Capital, Borealis Infrastructure Management and Caisse de depot et placement du Quebec, “to test the capacity for a Dash-8 and Q400 scenario” and “to determine the maximum number of scheduled Dash-8 and Q400 aircraft movements available within the ...NEF Contour”.

The scenarios examine various combinations of general aviation (private plane traffic) and commercial turboprop use, concluding that 120 slots for Dash-8 and Q400 is the limit if general aviation expands, but 167 slots (25 Dash-8 and 145 Q400) could be achieved through a combination of

- Constraining general aviation
- requiring the Q400 to land at the unusually steep angle of 5.5° and
- prohibiting flight schools from the airport.

The 167 figure appears to have been the minimum requirement of those investors.

On March 21, 2006, then TPA airport manager Bill Yule wrote Dave Bayliss, Regional Manager, Aerodromes and Air Navigation, Transport Canada, about the Porter investors' Pryde Schropp data, requesting Transport Canada investigate the methods and practices used to arrive at the movement limits:

"It would be prudent to know if the information contained in the above mentioned study is factual and properly represents limits that can be relied on"

On March 27, 2006, Tom Lowrey, Program Manager, Noise Management & Land Use, Transport Canada, responded to Mr. Yule in the affirmative. The NEF model was applied correctly according to accepted practice and it performed correctly, Mr Lowrey wrote. He cautioned, however, that the contour that Pryde Schropp produced was not an NEF contour but rather a planning contour.

According to Transport Canada's website, the planning contour is produced to investigate planning alternatives and must be labelled as such. It may be released to the public by a regional TC Aviation office without Headquarters' (Ottawa) approval. Any agency may produce these contours as they do not have any official status.

The Missing Factor: Helicopters

None of the studies above consider helicopter noise in assessing noise limits.

But the tripartite agreement requires helicopter noise to be included in the NEF Contour analysis once certain conditions are met.

Helicopter movements are required to be included when:

- there are over 4,000 movements a year. The following chart lists the number of helicopter movements per year for the last five years according to StatsCan figures.

Year	# of Movements
2004	5,001
2005	5,251
2006	6,135
2007	5,621
2008	5,191

- the City of Toronto requests that Transport Canada specify flight paths for helicopters. The City made such a request – twice – in letters dated March 1, 2006, and again on May 2, 2008.
- six months has elapsed since those flight paths were specified by Transport Canada – which it is required to do after such a request is made.

To our knowledge, Transport Canada has refused to specify flight paths. It then relies on its own failure to specify flight paths to justify its refusal to include helicopter noise in the Savard study.

CommunityAIR, in a letter to Transport Canada on November 13, 2009, stated:

“It is now essential that you confirm that helicopter noise is included in that study. If it is not, the study will be of no value whatsoever to the communities it is designed to protect, and Transport Canada will have wholly demonstrated its abdication of its responsibilities to the citizens of Toronto.”

There has been no response on this issue from Transport Canada.

The Christmas Eve Surprise – Up to 212 Slots!

Mid-afternoon on Christmas Eve, 2009, the TPA issued a press release that included this:

“[The TPA] has received a preliminary executive summary outlining the results of an updated noise impact study and capacity assessment for the [Island] Airport....

The study also considered that existing [Island Airport] commercial carrier operations will utilize approximately 120 slots...

Based on the initial results of the study, the TPA anticipates that once phase two of the new terminal is fully completed in the second half of 2010, between 42 and 92 additional commercial slots will be available”

Adding 120 to 92, yields 212 slots. That volume of traffic implies that noise from the airport will be virtually constant.