

RESPONSE TO O. REG. 10/24 EXEMPTION REQUESTS



SUBJECT **RESPONSE TO “REQUEST FOR AN AMENDMENT TO MINISTER’S ZONING ORDER, O. REG. 10/24, CITY OF TORONTO”, ERO 025-0348, ERO 025-0804 & 025-1327 (EXEMPTION REQUEST FOR 636 BAY STREET AND 70 & 100 EDWARD STREET)**

TO Kyle Robinson, Chief Facilities Redevelopment & Sustainability Officer, Hospital for Sick Children
Michael Keen, Vice President of Facilities and Planning, Unity Health Toronto (St. Michael’s Hospital)

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PROJECT NO. 22-0018-02 / 22-0039-03-02

DATE December 15, 2025

1. INTRODUCTION

The Hospital for Sick Children (SickKids) is in receipt of a request for amendment to the Ministerial Zoning Order (MZO) O. Reg. 10/24, in respect of 636 Bay Street and 70 & 100 Edward Street (together the “Edward Street Site”). The Edward Street site has requested an exemption from O. Reg. 10/24, which has been filed as Environmental Registry of Ontario (ERO) 025-1327. SickKids has also received new documents in relation to the amendment requests previously posted on the ERO for 595 Bay Street, 304-316 Yonge Street and 14-80 Dundas Street West (collectively “Atrium on Bay”) and 15-17 Elm Street (ERO 025-0348), and a significant number of new documents in relation to the amendment requests for 295 Jarvis Street and 610 Bay & 130 Elizabeth Street (ERO 025-0804).

This memorandum provides our technical review and response to the new materials received in relation to the previous ERO postings, and the new Edward Street Site 025-1327 request.

Since the enactment of the O. Reg. 10/24, several requests, filed by Developers, some independently and some jointly, have been submitted to the Minister requesting site specific exemptions, through MZO amendments, for their respective development proposals. The MMAH has extended the automatic expiry date of the MZO to May 29, 2026 through the act of a separate MZO, O. Reg. 80/25. In light of continued uncertainty in regard to the protections afforded by O. Reg. 10/24, both SickKids Hospital and St. Michael’s Hospital continue to advocate for the permanency of the MZO in order to protect the continued use of their heliports in perpetuity in an obstacle environment and airspace that is already compromised.

The need for and importance of heliport flight path protections is underscored by correspondence on file from Ornge, which identifies that the flight path protections afforded by O. Reg. 10/24 are the best available to

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continue allowing air ambulance operations into these hospitals. Additionally, Ornge has determined that current flight paths already present operational challenges and restrictions at both hospitals. These limitations are attributed to encroachments from existing development and, on occasion, construction equipment, which have affected the level of service provided.

Importantly, the flight path protections introduced in 2016 and 2017, and protected under the City of Toronto's By-law 1432-2017, no longer adequately protect the existing airspace required to allow Ornge to continue operating, due to a change in how Transport Canada requires the SickKids and St. Michael's Hospitals to comply with "one engine inoperative scenarios" for H1 classified heliports. This means that new developments, including the construction of new developments (e.g. cranes), that comply with By-law 1432-2017, but not O. Reg. 10/24, will still lead to shutdowns and permanently compromised flight paths.

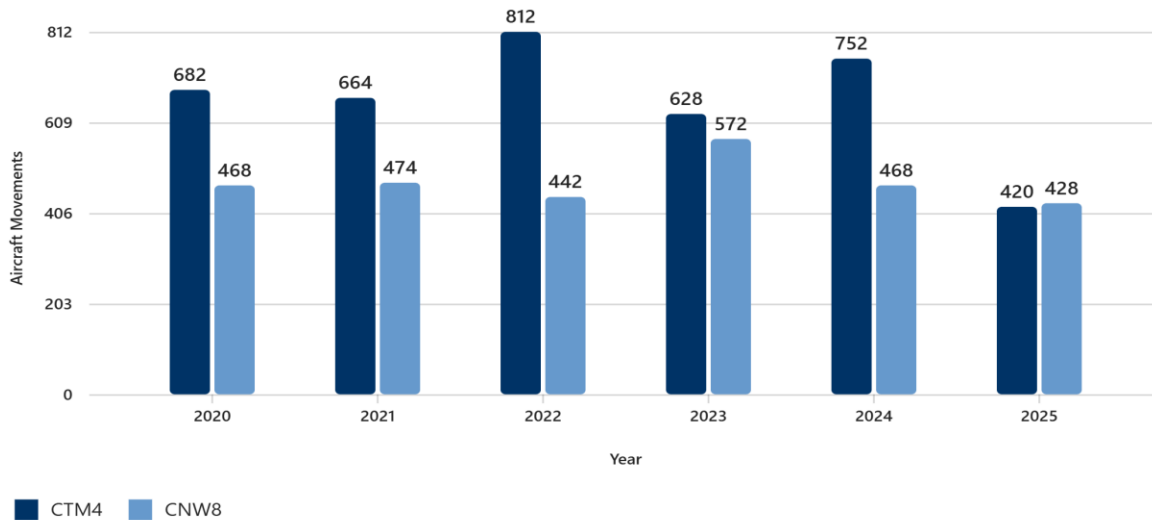
The role that SickKids and St. Michael's hospitals play in the Province's critical healthcare system cannot be understated. Both facilities are Level 1 trauma centres, with SickKids specializing in pediatric care as the country's first accredited pediatric trauma centre and ranked as the top pediatric hospital in the world in 2025.

Any reduction in flight path protections, as currently afforded by O. Reg. 10/24, at these hospital heliports will reduce the utility of the heliports and consequently the level of healthcare available in the province. Any claim that new development in currently protected airspace for the heliport will not affect heliport utility overlooks the current less-than-ideal conditions and cumulative risks from existing encroaching buildings, including those that comply with By-law 1432-2017. Each new obstacle can change or increase air turbulence or undermine safe operating standards and increase workload for a pilot in an already challenging environment.

The Hospitals have dedicated substantial resources to addressing developers' ERO submissions that request exemptions from MZO flight path protections, as well as reviewing proposed developments for MZO compliance. Recognizing the valuable contributions these Hospitals make on behalf of Ontarians and their vital role in the province-wide healthcare network, it is important that patient care be prioritized by supporting the long-term enforcement of the MZO and avoiding further encroachment into the flight paths.

To provide clarity regarding the patient transfer volume at each location, the following table presents the annual air traffic movements for St. Michael's (CTM4) and SickKids (CNW8) Hospitals from 2020 through the end of the third quarter of 2025. As noted in previous submissions from the Hospitals to the Minister, these heliports serve all of Hospital Row, not just SickKids and St. Michael's Hospitals.

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2. PREVIOUS RESPONSES TO ERO 025-0347/025-0348/025-0804

It is prudent to recap some previous responses on MZO amendment requests for other addresses, which are provided in the following subsections. The ERO responses received prior do not differ significantly from ERO 025-1327, in that the requests have been for exemptions from O. Reg. 10/24 for specific developments, which in opinion of Avia NG should not be entertained. The integrity of heliport operations at SickKids and St. Michael’s relies upon maintaining the obstacle environment without adding additional risk by way of introducing new obstacles.

What has been said previously in Avia NG responses to ERO postings remains true, however as new materials have been presented, these necessitate an additional response to ERO 025-0347, 025-0348, and 025-0804. With the recent posting of ERO 025-1327, Avia NG has reviewed the materials and provided responses to substantive comments within each of the postings. The thrust of these comments has not changed, as it is viewed that increased cumulative risk of the introduction of new obstacles in the vicinity of either of these heliports will result in a reduction in heliport utility, an increase in pilot workload, greater risk of unacceptable mechanical air turbulence or aerodynamic changes, thermal variation, visual obstruction, and other possible hazards. The airspace in the vicinity of these hospitals is already a congested and hostile environment¹ according to the definition put forward by the International Civil Aviation Organization - layering on additional changes to the airspace or eroding the airspace protections that are presently provided should not be permitted.

¹ The International Civil Aviation Organization (ICAO) defines a ‘hostile environment’ as one where safe forced landings are not possible due to inadequate surfaces, occupants cannot be protected from the elements, search and rescue capabilities are insufficient or there is an unacceptable risk to people or property on the ground. This definition is relevant to helicopter operations, including air ambulance services and flights in remote locations. ICAO Annex 6, Part III provides further guidance and operational standards for these environments.

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Many of the proposed developments simply would not allow for a helicopter departure to occur while maintaining the obstacle clearances prescribed by Transport Canada. Additional proposed developments will add to the disturbed wind flows creating flow distortions and turbulent wake in an already challenging environment. Generally, additional hazards presented by a hostile obstacle environment can lead to increased pilot workload, or be cause for restrictions, or a diversion from landing at the Hospital heliport. Diversions can add significant delays to the flight's mission, which are critical life saving flights that cannot tolerate increased patient transfer times.

2.1 ERO 025-0347

In response to the "Request for an amendment to Minister's Zoning Order, Ontario Regulation 10/24, City of Toronto" - ERO 025-0347, a Technical Summary Report, dated May 2, 2025, was written by Avia NG (the "Technical Summary Report" or "Report"). This Report was submitted to the Environmental Registry of Ontario by SickKids (SickKids) and Unity Health Toronto (St. Michael's Hospital) (the "Hospitals"). The Report and corresponding cover letter were documented as Comment ID [128725](#) to ERO 025-0347 in the ERO registry. Within the Report, a description of the history and need for hospital heliport flight path protections is provided along with examples of the myriad challenges faced by the Hospitals in operating the heliports that have been caused by external development pressures. The Report also provides a rationale to support the extension of the MZO in its current form. The Report should be reviewed to obtain a clear understanding of the rationale for implementation of the flight path protections afforded currently by the MZO, and as technical background and support for the Response set out below.

2.2 ERO 025-0348

ERO 025-0348 was posted by the Minister of Municipal Affairs and Housing after receiving requests from the owners of property at 15-17 Elm St., and 595 Bay St., 304-316 Yonge St., 14-80 Dundas St. W. (Atrium on Bay) to amend Map No. 345 and from the Hospitals to make several minor technical amendments to Map Nos. 345 and 346 to the MZO, O. Reg. 10/24. Requests from both Atrium on Bay and 15-17 Elm St. were responded to previously by Avia NG on behalf of St. Michael's Hospital and SickKids in comments to ERO 025-0347 (see Comment ID [128725](#)).

2.3 ERO 025-0804

More recently, ERO 025-0804 was posted by the Minister of Municipal Affairs and Housing following requests received from the owners of 295 Jarvis St., and 610 Bay St. & 130 Elizabeth St. to amend Map No. 345 to the MZO, O. Reg. 10/24. Specifically, the proposal made by these landowners is for site-specific amendments to Map No. 345 that forms part of O. Reg. 10/24 to reduce or eliminate the constraints imposed by said regulation on development at 295 Jarvis St. and 610 Bay St. & 130 Elizabeth St.

3. SUMMARY OF ADDITIONAL MATERIALS RECEIVED AND RESPONSE TO EXEMPTION REQUESTS

Since Avia NG's responses to ERO 025-0348 and 025-0804, new materials have been provided by MMAH to the Hospitals, which did not form part of the ERO 025-347, 025-348, or 025-0804 materials available online at the time the Hospitals' responses were filed under those postings. These new materials, received by the

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Hospital for Sick Children on September 5th have been summarised below in **Table 1** and are analysed in detail following.

Table 1 - Supplementary Documentation to ERO-025-0348 and ERO-025-0804

Address	Materials and Date	Avia NG Response
15-17 Elm Street	Bousfields planning rationale report, October 2, 2024	Response has been provided in Section 3.1.1
295 Jarvis	Goodmans LLP – Application to Amend Minister’s Zoning Order - April 22, 2025	Response has been provided in Section 3.1.2
	Chas Cormier Report – January 13, 2025	Response has been provided in Sections 3.1.3, 3.1.4
	Bousfields Flight Path Analysis – January, 2025	No response required, diagrams only.
595 Bay Street (Atrium)	Bousfields planning report September 26, 2024	Response has been provided in Sections 3.1.5, 3.1.6, 3.1.7, 3.1.8
610 Bay/130 Elizabeth – Bay Bus Terminal	Goodmans LLP Application to Amend Minister’s Zoning Order May 8, 2025	Response has been provided in Sections 3.1.9, 3.1.10, 3.1.11
	Chas Cormier Report May 7, 2025	Response has been provided in Section 3.1.12
	Bousfield planning and flight path analysis documents March and May 2025	Response has been provided in Section 3.1.8

3.1 SUPPLEMENTARY MATERIALS FOR ERO 025-0348 AND ERO 025-0804

The following tables identify specific points made by the applicants for amendments and/or their consultants or legal counsel, with a technical response provided by Avia NG.

3.1.1 BOUSFIELD’S INC. PLANNING RATIONALE LETTER

15-17 Elm Street
<p>Proponent: 17 Elm GP Inc.</p> <p>Comment: Bousfield’s Inc. Planning Rationale Letter dated October 2, 2024</p> <p><i>Loss of housing units by the implementation of the MZO.</i></p> <p>Avia NG Response:</p> <p>The direct impact to some proposed developments by implementation of the MZO is an unfortunate byproduct of the necessity to protect airspace for the safe operation of helicopters by the Medevac Air Ambulance provided Ornge.</p> <p>Bousfields has estimated the number of units to be in the thousands, when accounting for ‘soft sites’ which do not have active development applications. O Reg. 114/16 and O. Reg. 336/17 (the previous MZOs from 2016 and 2017), and By-law 1432-2017 had a similar effect whereby the Minister and City of Toronto</p>

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implemented flight path protections to preserve flight operations for the Hospitals. The heliports are unique facilities that cannot be simply replaced in another safe location while maintaining life-saving proximity to the Hospitals.

3.1.2 GOODMAN'S LETTER

295 Jarvis Street

Proponent: CentreCourt

Comment: Goodmans Letter dated April 22, 2025

Flight Path MZO: Unclear Justification and Efficacy. Mr. Cormier finds that the Flight Path MZO specifications seem to have no apparent regulatory reference.

Mr. Cormier notes that the Flight Paths, as protected by the Flight Path By-law [By-law 1432-2017], have been acceptable since 2017 and before, and that there were no apparent complaints or objections to these Flight Paths by the Hospitals nor ORNGE, as long as they were respected.

Avia NG Response:

The characteristics of aeronautical zoning regulations will often be found to differ from the operational flight path characteristics. The flight path protections identified in the MZO are indicative of the obstacle environment that existed at the time of their preparation. Some obstacle limitation surfaces were developed with consideration of lost airspace utility due to development. Some existing close-in obstacles are considered legally non-conforming given their proximity to the helipad and where no additional airspace loss is tenable. The justification for this has been thoroughly set out in Avia NG's Technical Summary Report dated May 2, 2025 documented as Comment ID [128725](#) to ERO 025-0347 in the ERO registry.

Ornge has provided documentation identifying that some obstacles that have been built up to the flight path protections in compliance with By-law 1432-2017 still exceed operating limitations, necessitating restrictions on flight path use. Flight paths protected by By-law 1432-2017 are insufficient as communicated by Ornge in letters to both Hospitals indicating a loss of utility as well as specific restrictions to flight operations where some developments had built up to the limits of By-law 1432-2017.

In contrast, the MZO flight path protections under O. Reg 10/24 are directly supported by Ornge. Enhanced flight path protections, as currently provided in O. Reg. 10/24, are warranted to minimize further reduction in utility of the heliports.

The reference to Canadian Aviation Regulations (CARs) in support of the characteristics of the flight path protections put in place by By-Law 1432-2017 is not sufficient and has been superseded by regulatory and operational interpretations for the one engine inoperative scenarios, as explained in Avia NG's Technical Summary Report dated May 2, 2025 and further described below.

Specifically, the protections provided under By-law 1432-2017 do not account for the requirements of H1 classified heliports and Category A flight operations, which apply to the Hospital's heliports

In accordance with CARs Part III Subpart 5 Division IV – General Certification Requirements– Heliports Standards 325:

*325.19(2)(a) helicopters permitted to use an **H1 heliport** shall be multi-engined and capable of remaining at least 4.5 m (15 feet) above all obstacles within the approach/departure area in accordance with subsection 325.29(3) when operating in accordance with their aircraft flight manual **with one engine inoperative**.*

325.29 (3)(a) in the case of approach or take-off surfaces, an H1 heliport shall comply with the following requirements respecting its OLS (Obstacle Limitation Surface) instead of the technical specifications provided in subparagraphs [325.29\(1\)\(a\)\(v\)](#) and [\(1\)\(b\)\(iv\)](#):

295 Jarvis Street

- (i) the take-off and approach OLS shall commence at the edge of the safety area and shall continue in a line that links the maximum elevation points of all critical obstacles within the approach/departure path,*
 - (ii) a survey of the approach/departure path area that determines obstacle information shall be carried out by the heliport operator at least once every five years unless no new obstacles have been established in the approach/departure path area during the five-year period and a report to that*
 - (ii) a survey of the approach/departure path area that determines obstacle information shall be carried out by the heliport operator at least once every five years unless no new obstacles have been established in the approach/departure path area during the five-year period and a report to that effect is made to the certifying authority,*
 - (iii) the obstacle survey shall be updated each time new construction is carried out that will penetrate the slope of the OLS established under subparagraph 325.29(3)(c)(i)*
 - (iv) the approach/departure path area shall consist of a quadrilateral area on the surface of the earth lying directly below the approach/take-off surface, with the point of origin at the end of the area declared suitable for take-off as specified in the HOM, and extend at the lessor of the point beyond where no obstacle that would*
 - (iv) the approach/departure path area shall consist of a quadrilateral area on the surface of the earth lying directly below the approach/take-off surface, with the point of origin at the end of the area declared suitable for take-off as specified in the HOM, and extend at the lessor of the point beyond where no obstacle that would adversely affect safety exists or 625 m, and*
 - (v) the width of the approach/departure path area at its point of origin shall be the same as the width of the safety area and*
- se at the rate of 0.15D where 'D' is the distance from the point of origin;*

These standards are further supported with the issuance of the Advisory Circular 305-001 *Standards Associated with H1 Classified Heliport*. This Advisory Circular was issued to provide clarification concerning heliport physical design characteristics associated with H1 classified heliports, which the Hospital for Sick Children and St. Michael's Hospital heliports are classified as by Transport Canada. Furthermore, the Advisory Circular provides further guidance concerning the performance requirements of helicopter operators operating into H1 classified heliports.

Section 4.0, paragraph 2: The heliport standard for H1 classified heliports requires the operation to be conducted in accordance with the Aircraft (Rotorcraft) Flight Manual (AFM / RFM). Category "A" limitations or supplement information provide performance criteria, departure and arrival profiles and sometimes specific procedures consistent with the H1 classified heliport criteria with the exception of obstacle height clearance. All conditions and limitations contained in the supplement must be followed for the performance charts to be applicable.

Section 7.1, paragraph 3: The publication of an H1 slope, identified as the slope joining from the edge of the safety area to the height of the most restrictive obstacle within the approach/departure pathway may lead a pilot to believe that the identified slope needs to be adhered to in order to avoid all obstacles on that approach/departure pathway. In actuality there may be few or no other restricting obstacles towards (from) the highest obstacle. Additionally, adherence to the published slope may eliminate any drop-off advantage that could be used from elevated or roof-top heliports.

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In other words, the publication of a defined slope can be misleading to a pilot and is neither a requirement of the CARs for H1 Classified heliports, nor recommended by the Advisory Circular AC 305-001. Ornge has been provided a copy of the H1 Survey diagram in accordance with CARs 325.39 (3)(a)(ii) for each heliport as required by CARs for the aircraft operator into an H1 classified heliport.

Some buildings and construction equipment that comply with By-law 1432-2017 have imposed flight restrictions on heliport operations to a degree that forced Ornge to cease heliport use until the intrusion had been rectified. By-law 1432-2017 protections are inadequate long-term protections for the hospital heliports. Revocation or reduction in the MZO protections would restrict the utility of the heliports.

3.1.3 CHARLES CORMIER LETTER

295 Jarvis Street

Proponent: CentreCourt

Comment: Charles Cormier Letter dated January 13, 2025

There was no consultation with stakeholders regarding this new MZO Zoning issued January 26, 2024. Apparently, there have been concerns expressed by ORNGE pilots with proximity of new cranes, but no data is available on such complaints.

Avia NG Response:

Significant consultation occurred in 2023 with Transport Canada, the City of Toronto, Ornge, The Hospital for Sick Children, and the St. Michael's Hospital. The purpose of these consultations was to ensure that the Hospitals and authorities involved in regulating the flight paths were made aware of the challenges that the heliports faced without enhancements made to the flight path protections, and to ensure full alignment with the technical basis for the new flight paths reflected in the MZO maps.

There is no regulatory requirement to share operational data on the part of either the heliports or the aircraft operators pertaining to challenges in a day of operation, nor is it considered appropriate to do so.

3.1.4 CHARLES CORMIER LETTER

295 Jarvis Street

Proponent: CentreCourt

Comment: Charles Cormier Letter dated January 13, 2025

The new 2024 MZO specifications with multiple sections, with variable slopes or flat, seem to have no apparent regulatory reference.

Avia NG Response:

The MZO surfaces have been developed to limit further erosion of airspace required by Ornge in safe navigation to the heliports. The MZO reflects existing lost utility, and seeks to ensure further loss of airspace is mitigated.

Refer to Avia NG response in 3.1.2

3.1.5 BOUSFIELD'S INC. PLANNING RATIONALE LETTER

595 Bay Street, 304-316 Yonge Street, and 14-80 Dundas Street West

Proponent: KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.

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Comment: Bousfield's Inc. Planning Rationale Letter dated September 26, 2024

Loss of housing units by the implementation of the MZO.

Avia NG Response:

Refer to Avia NG response in 3.1.1

3.1.6 BOUSFIELD'S INC. PLANNING RATIONALE LETTER

595 Bay Street, 304-316 Yonge Street, and 14-80 Dundas Street West

Proponent: KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.

Comment: Bousfield's Inc. Planning Rationale Letter dated September 26, 2024

Loss of housing units by the implementation of the MZO.

Avia NG Response:

Refer to Avia NG response in 3.1.1

3.1.7 BOUSFIELD'S INC. PLANNING RATIONALE LETTER

595 Bay Street, 304-316 Yonge Street, and 14-80 Dundas Street West

Proponent: KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.

Comment: Bousfield's Inc. Planning Rationale Letter dated September 26, 2024

The property has zoning approval in place from 2013 that would permit 5-storey additions to the two existing office buildings on site.

Avia NG Response:

As a byproduct of the MZO, those developments that had been progressing through ZBA, or Site Plan Control Applications but had not secured a building permit are directly affected by the MZO and the airspace protections that are necessary to continue to serve flight operations into the SickKids and St. Michael's hospitals.

3.1.8 BOUSFIELD'S INC. PLANNING RATIONALE LETTER

595 Bay Street, 304-316 Yonge Street, and 14-80 Dundas Street West

Proponent: KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.

Comment: Bousfield's Inc. Planning Rationale Letter dated September 26, 2024

It would have been possible to accommodate two 85-storey towers within the southwest portion of the property outside of the former flight path delineated by By-law 1432-2017. As well, two towers of 29 and 32 storeys would have been possible within the north central portion of the property below the height of the flight path specified in By-law 1432-2017. In total, it would have been possible to achieve approximately 3,317 new residential units in 5 new buildings on the subject property.

Avia NG Response:

The 5- tower iteration of the concept plan with towers up to 85 storeys was not publicly available prior to the implementation of the MZO. We have not been advised that any application had been made in respect of such a concept plan, nor is it known to us whether the City of Toronto would have approved this concept; accordingly, we cannot comment on the claim that "it would have been possible...". Allowing further intrusions to the MZO flight path protections will result in increased cumulative risk, and significant

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diminished utility of the heliports. Introducing 85 storey towers as close as 300 m from the inner edge of the heliport would undoubtedly force the closure of the eastern flight path for SickKids Hospital. The other iterations of the Site Plan at 595 Bay Street would necessitate operational restrictions by Ornge, similar to what has occurred at St. Michael's Hospital (permanent closure of eastern flight path for departures, per Ornge letter to St. Michael's Hospital March 31, 2023, included in our August 14, 2025 Response to ERO 025-0804).

3.1.9 GOODMAN LETTER

604-610 Bay Street and 130 Elizabeth Street

Proponent: 610 Bay LP and 130 Elizabeth LP

Comment: Goodmans Letter dated May 9, 2025

Our client's strong preference is a return to the Flight Path as protected by the Flight Path By-law, which excludes the Property from the Flight Path and could enable opportunities for approximately one hundred (100) additional housing units.

Avia NG Response:

It has been explained by Avia NG in comments to ERO 025-0347 (see Comment ID [128725](#)) that By-law 1432-2017 is under-protecting the heliports and not a tenable option for continued operations into the Hospital for Sick Children. A reversion to By-law 1432-2017 is not supported by the Heliport Operators, or Ornge. Transport Canada is supportive of the MZO flight path protections rationale and flight path surfaces.

3.1.10 GOODMAN LETTER

604-610 Bay Street and 130 Elizabeth Street

Proponent: 610 Bay LP and 130 Elizabeth LP

Comment: Goodmans Letter dated May 9, 2025

Inclusion of language for a transparent, coordinated and direct process for temporary exemptions for construction (including but not limited to construction cranes) in the Flight Path.

Avia NG Response:

The myriad requests for exemption have the same or worse effect as a reversion to By-law 1432-2017. Should intrusions be accommodated, the workload for each of the Hospitals will increase, the safety margins will decrease, and the potential for human error is increased. The Hospitals have already had flight path closures due to construction cranes. The cumulative requests will result in multiple days of closures, absolutely negating the purpose of the MZO flight path protections. With each closure of the heliport approach, medevac helicopters that would otherwise be coming to SickKids or St. Michael's hospitals would need to divert to an alternate hospital, or the Billy Bishop Toronto City Airport, adding time and delay to their patients care.

3.1.11 GOODMAN LETTER

604-610 Bay Street and 130 Elizabeth Street

Proponent: 610 Bay LP and 130 Elizabeth LP

Comment: Goodmans Letter dated May 9, 2025

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A site-specific exemption for approximately six (6) month permission for a temporary encroachment into the Flight Path for construction equipment, provided that the appropriate coordination and risk mitigation measures are in place.

Avia NG Response:

The intrusions into the protected flight paths should not be allowed at any time for any reason. Doing so sets a precedent for others that seek the same exemption. These myriad requests for exemption, intrusion, or modification undermine the necessity of the flight path protections. The compounding requests would ultimately close one or more flight paths. No leniency on flight path intrusions should be entertained.

3.1.12 CHARLES CORMIER LETTER

604-610 Bay Street and 130 Elizabeth Street

Proponent: 610 Bay LP and 130 Elizabeth LP

Comment: Charles Cormier Letter dated May 7, 2025

The new 2024 MZO specifications with multiple sections, with variable slopes or flat, seem to have no apparent regulatory reference.

Avia NG Response:

Refer to 3.1.4 – Avia NG response.

**3.2 ERO 025-1327 - 636 BAY STREET AND 70-100 EDWARD STREET
EXEMPTION REQUEST**

In addition to the supplementary documentation described in **Table 1**, SickKids is in receipt of materials related to a new request for exemption from the MZO by proponents of development at 636 Bay Street and 70-100 Edward Street (Edward Street Site), received from the MMAH on September 18, 2025, and published generally as ERO 025-1327.

The request for an amendment to the MZO was filed by counsel Davies Howe LLP on behalf of Bay-Elizabeth Construction Ltd. and Smye Homes Ltd. The request includes materials not previously seen by SickKids, including a report by aeronautical consultant Charles Cormier, and a planning rationale by Goldberg Group. These documents have been summarized in Table 2 below.

Table 2- 636 Bay Street & 70-100 Edward Street

Address	Materials and Date	Avia NG Response
70 & 100 Edward, and 636 Bay Street	Chas Cormier Report dated April 26, 2025	Response has been provided in Sections 3.2.1, 3.2.3
	Goldberg Group Planning Rationale dated September 5, 2025	3.2.3
	Davies Howe LLP Cover Letter dated September 10, 2025	3.2.3

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3.2.1 CHARLES CORMIER LETTER

70 & 100 Edward, and 636 Bay Street

Proponent: Bay-Elizabeth Construction Ltd. and Smye Homes Ltd.

Comment: Charles Cormier Letter

There was no consultation with stakeholders regarding this new MZO Zoning issued January 26, 2024. Apparently, there have been concerns expressed by ORNGE pilots with proximity of new cranes, but no data is available on such complaints.

The new 2024 MZO specifications with multiple sections, with variable slopes or flat, seem to have no apparent regulatory reference.

Avia NG Response:

Refer to 3.1.3 and 3.1.4 – Avia NG response, above.

3.2.2 CHARLES CORMIER LETTER

70 & 100 Edward, and 636 Bay Street

Proponent: Bay-Elizabeth Construction Ltd. and Smye Homes Ltd.

Comment: Charles Cormier Letter

“There is no justification to have the Sick Kids 2024 Eastern flight path already compromised by the tower at 20 Edward Street when a helicopter respecting 20 Edward would also safely mitigate the towers at 636 Bay Street.”

Avia NG Response:

Ornge presently continues flight operations to the east along the MZO flight path protections. Their pilots observe paths through the obstacle environment, though Ornge has expressed concerns about additional obstacles adding to the cumulative risks involved in operating in the urban obstacle environment.

If there was to be an exemption granted for the Edward Street site, the eastern flight path would have departures impacted, and the flight path would be permanently closed to departures by Ornge. Arrivals from the east may be restricted as well, depending on proposed heights and construction equipment to be used. As such, this exemption request should not be permitted, as utility would be significantly diminished, potentially to the point of rendering the heliport unusable.

3.2.3 GOLDBERG GROUP PLANNING RATIONALE & DAVIES HOWE LLP COVER LETTER

70 & 100 Edward, and 636 Bay Street

Proponent: Bay-Elizabeth Construction Ltd. and Smye Homes Ltd.

Comment: Goldberg Group Planning Rationale & Davies Howe LLP Cover Letter

Goldberg Group - Accordingly, the Owner seeks a site-specific amendment to MZO 10/24 to reinstate the height permissions under By-law 1432-2017, allowing the Approved Development to proceed as envisioned.

The Owner is seeking an exemption from MZO 10/24 to continue using the height restrictions under By-law 1432-2017, permitting the Approved Development. The MZO 10/24 restrictions effectively reduce the height of Building A from 19-storeys to 14-storeys and Building B from 22-storeys to 14-storeys and by reducing the overall gross floor area (“GFA”) of the approval by approximately 80,000 ft² (7,432 m²). We are advised that these reductions significantly impact the viability of the project and in any event, reduces much needed housing in the Downtown area.

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Davies Howe LLP - f) An amendment to MZO 10/24 is required to reinstate the height permissions authorized by the OLT under By-law 1432-2017, thereby allowing the Approved Development to proceed as designed;

Avia NG Response:

A reversion to By-law 1432-2017 flight path protections would significantly limit the utility of the heliports and certainly put medevac flights at risk of cancellation or diversion into these heliports. The enhanced protection afforded by MZO O. Reg. 10/24 ensures that no further development encroaches on the required airspace that is vital to operation of the heliports at SickKids and St. Michael's hospitals.

Given this proposed development's direct proximity to the heliport (approximately 150 metres to the inner edge of the OLS), a site-specific amendment to the MZO would permanently close departures to the East and may impact arrivals during construction. The height of the proposed development would not allow for a departure under Category A performance (one engine inoperative [OEI] operations) and respecting the use requirements of an H1 classified heliport as there would be inadequate preservation of airspace for OEI recovery. **The eastern flight path would be permanently closed to departures** if this development is granted an exemption to O. Reg. 10/24.

It is noted that in the Goldberg Group report on policy compliance, the lengthy analysis of the Downtown Plan (OPA 406) does not mention Policy 9.31, which states:

"New buildings and structures will be sited and massed to protect the flight paths to hospital heliports."

3.2.4 GOLDBERG GROUP PLANNING RATIONALE & DAVIES HOWE LLP COVER LETTER

70 & 100 Edward, and 636 Bay Street

Proponent: Bay-Elizabeth Construction Ltd. and Smye Homes Ltd.

Comment: Goldberg Group Planning Rationale & Davies Howe LLP Cover Letter

Goldberg Group - MZO 10/24 imposes a rigid horizontal ceiling, without site-specific safety analysis.

Avia NG Response:

The flight paths protected in MZO O. Reg. 10/24 preserve airspace that is required to continue flight operations during an OEI recovery. OEI operations are a rare occurrence but nevertheless are required to be considered during flight operations, and during development of airspace protections for take-off and approach from heliports. The O. Reg. 10/24 flight path protections are representative of a wholistic review of airspace protection requirements. Individual developments extending into the flight path increase the cumulative risks experienced by a helicopter pilot and should not be further entertained.

The analysis conducted to date indicates that there are compromised areas of the airspace that should not be undermined further with additional obstacles. This specific proposed development is in an area that is most critical to the initial departure, and where the airspace protections are required to be maintained to ensure an airspace for a continued recovery of an aircraft operating with OEI. Further erosion of this airspace, especially at this distance from the inner edge of the protected flight path, is untenable in a situation that is already not ideal.

In the absence of a prescriptive standard for the obstacle environment, Transport Canada defers to the air operator to make decisions on operating conditions and acceptable level of risk for flight operations based on helicopter performance characteristics. CARs 305 and Standard 325 for heliports require that a survey is periodically conducted of all obstacles within a take-off approach surface flight path, and that data be

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provided to pilots/aircraft operators (Ornge) intending to use the heliport to evaluate the obstacle environment in performance calculations. These flight paths were necessitated following years of operations with By-law 1432-2017 protections. As Ornge started to implement operating restrictions on departures at both Hospitals, and given the understanding of Cat A operations and the requirements of heliport use with a classification of H1, it was evident that the City By-law protections were inadequate to ensure operational continuity. The airspace available should not continue to be eroded to a point that leaves a pilot with the bare minimum to conduct their duties. Cumulative risks of adding to the hostile obstacle environment should not be permitted.

The International Civil Aviation Organization (ICAO) describes a hostile environment as one where there are no emergency landing areas in the case of an engine failure, which necessitates continued flight operations ensuring that a recovery from an engine failure can occur. The challenge that is not described by ICAO or Transport Canada, is the effect that the myriad obstacles within a hostile urban operating environment can have on pilot workload. The cumulative impact of, for example, air turbulence challenges and a tunneling effect that can be created from dozens of obstacles along a flight path, can factor into a pilot's decision making and have bearing on the utility of a heliport.

The Hospitals have been operating in a role of maintaining the existing operations, without allowing further degradation of airspace utility. **Without permanent aeronautical zoning regulations to protect the continued use of the hospital heliports and their flight paths, as currently provided by O. Reg. 10/24, the Hospitals face threats from developments that, if approved and constructed, will result in a closure of the heliports. A reversion to the less restrictive protections afforded by By-law 1432-2017, as suggested by some developers in requests to amend the MZO, would ultimately result in the closure of each heliport if developments were to occur with only the height limits imposed by By-law 1432-2017 to restrict them.**

Despite O. Reg 10/24 being an improvement over the protection provided by By-law 1432-2017, it is not an ideal set of protections for the operation of the hospital heliports. In other words, O. Reg 10/24 already represents a compromise based on what would otherwise be recommended by Avia NG and supported by Ornge and Transport Canada, and one that should not be further compromised.

Given the nature of the obstacle environment and the already developed areas, the current flight path protections, as provided for in O. Reg. 10/24, aim to preserve use of the heliports through limitation of the incremental encroachment on airspace in their vicinity. Exemptions for the developers that have sought amendments to the flight paths are untenable as they would increase risk of harm or damage occurring and force a situation whereby regulation would require Ornge to cease operations in order to respect the rules that govern aircraft operation. Reversion to By-law 1432-2017 flight path protections would result in further lost flight path utility for the hospital heliports, as intrusion into airspace protected by O. Reg. 10/24 will increase risk and place additional restrictions on Ornge flights.

Avia NG, on behalf of the Hospitals, has provided flight path protection maps to be considered for permanent implementation by the appropriate regulatory authorities. These maps, as set out in O. Reg. 10/24, reflect the outcome of consultations and inputs received from the Hospitals (as the heliport operators), Ornge and Transport Canada. The enhanced flight paths protections were discussed with Ornge in 2023 following their communication to the Hospitals that utilization of the hospital heliports had diminished under the By-law 143-2017 protections. Following discussions with the medevac air operator, Ornge, a rationale was provided to the City of Toronto and Transport Canada in separate consultations to describe the lost utilization of the heliports and the necessity for enhanced flight path zoning protections to be enacted. Transport Canada was

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provided opportunities to challenge the characteristics of the flight path protections and instead conveyed support for the methodology and rationale used and the characteristics of the flight path protections that are reflected in the maps of O. Reg. 10/24.

The City of Toronto was also provided opportunities to review the flight path protections. The City urged the Province of Ontario's former Minister of Municipal Affairs and Housing to enact O. Reg. 10/24, with Mayor Chow citing the urgency of the situation. The need for these protections has not diminished since their enactment, and initial extension. Permitting further vertical developments, encroaching upon the limits imposed by O. Reg. 10/24, would result in an increased cumulative risk to the operations of the hospital heliports.

4. AVIA NG RESPONSE TO SUBMITTED MATERIALS

Many comments were provided by developers and their consultants to the Province in an attempt to secure exemptions from the airspace protections, as provided to the hospital heliports in O. Reg 10/24, and instead allow for more development opportunity. Reducing the amount of airspace available for medevac air ambulance use is not appropriate as the utility of these heliports has already been reduced, as was previously documented.

All substantive comments provided by the proponents of the ERO 025-0348, ERO 025-0804 and 636 Bay Street and 70 & 100 Edward Street developments have been addressed individually in the series of tables within this report. The responses to the proponents' consultants' comments/recommendations have been prepared by Avia NG on behalf of St. Michael's Hospital and the Hospital for Sick Children. Developer comments quoted have been identified in *italics* or otherwise paraphrased through Sections 3.1 and 3.2.

5. CONCLUSION: O. REG. 10/24 AND ITS CONTINUED NECESSITY WITHOUT SITE-SPECIFIC AMENDMENTS FOR LANDOWNERS

There is on-going dialogue between the City of Toronto, Transport Canada, Ornge, the Province of Ontario, the Hospital for Sick Children and St. Michael's Hospital (as operators of the heliports) in regard to the need for safe and navigable airspace to be protected for these hospital heliports. These rooftop heliports serving St. Michael's and SickKids Hospitals are essential to the preservation of healthcare in Toronto and by extension southern Ontario, and no stakeholder appears to question this. Without the protections afforded by O. Reg. 10/24, continued use of the hospital heliports is almost assuredly compromised as vertical development pressures continue.

It is our recommendation that steps be taken now to implement **permanent** flight path protections for these hospital heliports, safeguarding the viability of the hospital heliports from conflicting development pressures apparent now, and for the long term. Should the MZO expire, or be amended to exclude specific developments as requested, there is very real risk that a diminishment of the utility of these heliports will be experienced (i.e. flights will be closed) and directly affect the level of care that the Hospitals are able to provide to Ontarians.

Several developers in their requests for amendments have advanced suggestions that:

1. Carve-outs should be allowed for their sites on the basis that By-law 1432-2017 was adequate;

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2. Narrowing of the flight path protections should be permissible based on their consultant's reading of standards; and
3. The flight path protections can be steepened based on their consultant's reading of standards.

Avia NG in response to these positions, has identified that:

1. By-law 1432-2017 has been and continues to be inadequate for the reasons previously stated in response to ERO 025-0347 in the Technical Summary Report (i.e. as evident by Ornge restricting operations, compliance with H1 standards, respecting Category 'A' helicopter performance requirements, and with consideration to the cumulative risk exposure of the obstacle environment, etc.).
2. Narrowing of the protected flight paths is not acceptable. The reading of the standards by consultants retained by the developers is incorrect or misapplied in context of an H1 heliport. Transport Canada has published an Advisory Circular 305-001 to address H1 heliport matters, knowing that historically certain stakeholders within the industry were at times misinterpreting the standards.
3. Not only are the protections put in place by O. Reg. 10/24 necessary, but the protections are also not ideal nor an overreach for what is required for H1, Category A helicopter performance, the operating conditions and the cumulative risk introduced by the obstacle environment in downtown Toronto. O. Reg. 10/24 serves to protect for continued medevac air ambulance service within airspace that is already significantly challenged by the obstacle environment.
4. The flight path protections cannot be steepened. The developer's consultants' misinterpretation of the standards applicable to these heliports has led them to conclude incorrectly that steeper slopes, such as those applied within By-law 1432-2017 and for H2 and H3 classifications, can be applied without impact. This interpretation fails to recognize that the critical phase of flight at an H1 heliport is the recovery from an engine-out scenario and typically on departure just after reaching a point above the heliport where a safe return to the helipad cannot occur.
5. In summary, the technical justifications given in support of requests to amend the MZO and grant exemptions for specific developments are in fact based on a lack of technical understanding or misinterpretation of regulation. These requests for exemption, and any other request for relaxation or modification of the flight paths, made on a similar basis with insufficient technical grounds should not be granted.

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Sincerely,

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- St. Michael's Hospital: Armiss Kerman, Melanie De Wit;
- BLG: Pitman Patterson, Isaac Tang;
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