

Subject: Re: MECP complaint – follow-up on our call re Pearson ground-based impacts and outdated NEF data

From: Fabio Ovettoni [REDACTED]  
To: info@ombudsman.on.ca; [REDACTED]@ombudsman.on.ca  
Cc: councillor\_perruzza@toronto.ca; trakocevic-co@ndp.on.ca; info@matiasdedovitiis.ca; matias.dedovitiis@tdsb.on.ca  
Bcc: [REDACTED]

Date: Saturday, November 22, 2025 at 01:53 p.m. EST

Dear Ms. Bowden,

Thank you for taking the time to speak with me yesterday afternoon (November 21, 2025) regarding my complaint about the Ontario Ministry of the Environment, Conservation and Parks (MECP) and its handling of environmental harms associated with Toronto Pearson International Airport.

I am writing to (1) record my understanding of our conversation, and (2) clarify the substance of my complaint, with supporting federal and provincial documents, so that your review with your colleagues can consider it accurately.

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#### **A. What we discussed on the call**

During our call, you explained that the Ombudsman's Office considers MECP to have already answered my concerns by stating that matters relating to Toronto Pearson "fall under federal jurisdiction" and by suggesting that I contact Transport Canada. You referred in particular to the ministry's most recent email, which states:

"The ministry will not be coordinating any actions or compelling federal, provincial, or municipal agencies to perform work or studies as the concerns raised and actions requested of the ministry have already been addressed and answered by Officer Cioffi. Activities associated with Toronto Pearson International Airport under the Greater Toronto Airport Authority fall under federal jurisdiction."

My difficulty is that this does **not** address the core question I raised.

Officer Cioffi's earlier response was limited to the following point:

Ontario Regulation 419/05 (Air Pollution – Local Air Quality) and NPC-300 (Environmental Noise Guideline) do not apply to **aircraft operations**.

I do **not** dispute that aircraft in flight and air navigation fall under federal jurisdiction. My concern is about **ground-based sources** at Pearson that are physically located in Ontario and, on their face, would fall under provincial environmental and noise jurisdiction, including for example:

- Fuel lines and fuel storage facilities
- Boilers, generators, and other stationary combustion sources
- Equipment and processes used for rubber removal from runways
- Ground handling equipment, vehicle fleets, and related stationary/area noise sources
- Spills and contaminants released on the ground

To date, MECP has not clearly stated whether it accepts or denies jurisdiction and responsibility for these **ground-based sources**, separate from aircraft operations in flight. Instead, the ministry has replied as though all issues at Pearson are exclusively “federal,” without distinguishing between:

- **aircraft operations (federal); and**
- **ground-based infrastructure, emissions, and land-use/health impacts located in Ontario (traditionally provincial).**

MECP has also **never identified any legal, regulatory, or democratic process** that would exempt Toronto Pearson's **ground-based operations** from the application of Ontario Regulation 419/05 and NPC-300. I have repeatedly asked for the legal basis for such an exemption, if it exists, and have not received it.

On our call, you also indicated that you would **not** consider the Pearson **Ground Lease** provisions or relevant **Canadian jurisprudence** I referred to as part of your assessment, but there was no explanation of why these materials would be excluded—even though both the lease and the case law are directly relied upon by Transport Canada itself to describe jurisdiction at aerodromes.

Finally, you mentioned that you had **not contacted MECP** directly about the specific jurisdictional questions I raised. Given that my complaint is precisely about whether MECP has properly understood and discharged its responsibilities, this leaves the Ombudsman's assessment resting on a very narrow and incomplete record.

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## B. Transport Canada confirms provincial laws apply at aerodromes

Transport Canada's Advisory Circular **AC 300-009 – Land Use and Jurisdictional Issues at Aerodromes** explicitly acknowledges overlapping jurisdiction between federal and provincial/municipal laws:

- AC 300-009 (Transport Canada):  
<https://tc.canada.ca/en/aviation/reference-centre/advisory-circulars/advisory-circular-ac-no-300-009>

In AC 300-009, Transport Canada explains that:

- The purpose is to improve awareness of “**possible valid provincial, territorial, and municipal legislation related to activities and land use at aerodromes.**”
- Issues around the **location, development, and use of aerodromes** may involve **federal, provincial, territorial and municipal legislation.**
- The *Aeronautics Act* “may not grant immunity from compliance with other applicable federal, provincial, territorial or municipal legislation,” and where jurisdiction overlaps, “**compliance with provincial, territorial and municipal non-aeronautics legislation might be enforced by those jurisdictions.**”

AC 300-009 relies on Supreme Court of Canada case law about overlapping jurisdiction, including:

- *Quebec (Attorney General) v. Lacombe*, [2010] 2 SCR 453
- *Quebec (Attorney General) v. Canadian Owners and Pilots Association*, [2010] 2 SCR 536

These decisions confirm that **provincial laws of general application can still operate around aerodromes so long as they do not impair the core of the federal aeronautics power.**

In plain terms, this is **Transport Canada itself** telling aerodrome operators that:

1. **Valid provincial and municipal laws do apply at airports, and**
2. **Non-aeronautics legislation can in fact be enforced by those jurisdictions.**

Ground-based environmental sources at Pearson – for example de-icing and glycol releases, contaminated stormwater, stationary industrial equipment, auxiliary power units, and other on-site facilities – are classic examples of “non-aeronautics” environmental issues squarely within MECP’s mandate. AC 300-009 directly contradicts the idea that MECP can wash its hands of responsibility by invoking “federal jurisdiction” in a blanket way.

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### **C. Transport Canada’s noise and NEF framework depends on provincial and municipal planning**

Transport Canada’s “**Operating airports and aerodromes**” portal groups aircraft noise, the Noise Exposure Forecast (NEF), and land-use recommendations together:

- Operating airports and aerodromes:  
<https://tc.canada.ca/en/aviation/operating-airports-aerodromes>

From there, TC links to **Managing noise from aircraft**:

- <https://tc.canada.ca/en/aviation/operating-airports-aerodromes/managing-noise-aircraft>

On that page, Transport Canada states:

“We administer aircraft noise standards, working with third parties such as Health Canada, NAV CANADA and the International Civil Aviation Organization (ICAO).”

This confirms that **aircraft noise standards** themselves are federally administered. MECP is correct that it cannot re-write those standards. But that is only half the story.

Transport Canada also publishes **Noise Exposure Forecast and Related Programs**:

- <https://tc.canada.ca/en/aviation/operating-airports-aerodromes/managing-noise-aircraft/noise-exposure-forecast-related-programs>

That page explains that TC developed the **Noise Exposure Forecast (NEF)** system to manage aircraft noise in communities and to support planning near airports. It states that **Transport Canada helps aviation planners and those responsible for development of lands adjacent to airports** – in other words, provincial and municipal land-use planners who are expected to incorporate NEF into their decisions.

Transport Canada's technical publication **TP1247 – “Aviation: Land Use in the Vicinity of Aerodromes”** sets out the same framework:

- TP1247 (Transport Canada):  
<https://tc.canada.ca/en/aviation/publications/aviation-land-use-vicinity-aerodromes-tp-1247>

TP1247 explains that:

- The **Noise Exposure Forecast (NEF)** is produced to encourage compatible land use planning in the vicinity of airports; and
- NEF/NEP contours approved by Transport Canada Aviation are to be used with the TP1247 guidelines to **encourage compatible land use**, and should be distributed by airport operators to the authorities responsible for land-use and zoning of the affected land.

In other words, the **NEF system is designed as a federal–provincial–municipal interface**:

- Federal authorities (Transport Canada and the airport authority) must produce accurate, up-to-date NEF contours;
- Provincial and local authorities must then use that data in land-use, health, and infrastructure planning.

In **Ontario**, NEF/NEP is already embedded in municipal planning policy. For example, Mississauga's and Ottawa's planning policies (through their Official Plans and Environmental Registry of Ontario material) use NEF/NEP composite noise contours (e.g., 25 NEF/NEP and above) to control where noise-sensitive uses may be permitted, and what mitigation and warning clauses are required. This shows that Ontario municipalities are already using NEF/NEP as a **regulatory tool** in planning and development decisions.

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### **C.1. Ontario MOE land-use noise guideline (LU-131) – bridge between NEF/NEP and health**

Ontario's land-use noise guideline **LU-131 – Noise Assessment Criteria in Land Use Planning** is a key link between NEF/NEP and health. LU-131:

- Directs municipalities to use aircraft noise contours (including NEF/NEP) when assessing **residential and other noise-sensitive land uses** in planning and development approvals; and



- Adopts the “**adverse effect**” definition from the Environmental Protection Act, which includes “*an adverse effect on the health of any person.*”

In other words, when municipalities apply NEF/NEP in land-use planning under LU-131, they are doing so within an explicit **health-protection framework**, not as a purely abstract zoning exercise.

Key links:

- Official publication page (Ontario):  
<https://www.publications.gov.on.ca/noise-assessment-criteria-in-land-use-planning-annex-to-publication-lu-131-october-1997>
- Readable PDF copy of the same MOE document (hosted by an acoustical firm):  
<https://acoustical-consultants.com/wp-content/uploads/2019/03/Ontario-Ministry-of-the-Environment-LU-131.pdf>

Complementing LU-131, Ontario’s **Environmental Noise Guideline NPC-300 – Stationary and Transportation Sources – Approval and Planning** provides sound level limits for stationary and transportation noise (including transportation corridors) and is used in both environmental approvals and land-use planning decisions:

- NPC-300 (Ontario):  
<https://www.ontario.ca/page/environmental-noise-guideline-stationary-and-transportation-sources-approval-and-planning>

Together, LU-131 and NPC-300 show that Ontario itself understands environmental noise and land-use controls as tools to prevent **adverse health effects**, not merely as aesthetic or technical zoning concerns.

Toronto Public Health’s 2017 report “**How Loud is Too Loud? Health Impacts of Environmental Noise in Toronto**” reinforces this by concluding that the levels of environmental noise commonly experienced in Toronto occur at levels that “*could be detrimental to health*” and by tying transportation noise (including aircraft) to sleep disturbance, cardiovascular impacts and other health outcomes:

- Toronto Public Health – Board of Health report and attached technical document:  
<https://www.toronto.ca/legdocs/mmis/2017/hl/bgrd/backgroundfile-104525.pdf>

All of this confirms that when NEF/NEP and noise guidelines are used in land-use planning in Ontario, they are being used **as part of a health-protection regime**.

At Toronto Pearson specifically, the Greater Toronto Airports Authority (GTAA) acknowledges all of this on its **Noise Management Program – Land Use Planning** page:

- <https://www.torontopearson.com/en/community/noise-management/noise-management-program/land-use-planning>

GTAA states that:

- Transport Canada developed the NEF model “to support land use planning in the vicinity of airports”;
- NEF is used to assess long-term aircraft noise exposure and annoyance; and
- NEF is used by planners to determine where residential development should or should not be permitted.

Where NEF is left **obsolete for 25 years**, that failure does not just harm “federal aviation policy” in the abstract – it directly undermines the ability of Ontario ministries (environment, health, municipal affairs) and local governments to fulfill their planning and health mandates.

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#### **D. Federal documents confirm this is not “just my opinion”**

The **Library of Parliament** background paper “**Aircraft Noise Management in Canada**” summarizes the federal framework:

- [https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/201308E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201308E)

It notes that:

- **Transport Canada and airport managers are responsible for managing aircraft noise in Canada**, supported by NAV CANADA;
- **TC makes and enforces regulations under the Aeronautics Act** that control which aircraft may be certified and **how they may be operated to minimize noise near airports**; and
- NEF and related programs form the technical basis for managing noise and land-use compatibility around airports.

Separately, **Health Canada’s** page on **Noise management in Canada** explains:

- <https://www.canada.ca/en/health-canada/services/noise-your-health/management-canada.html>

Health Canada states that:

- **Transport Canada governs noise and vibration requirements for inter-provincial and international commercial transportation vehicles such as aircraft.**

Even the **Canadian Transportation Agency**, when describing air travel complaints, redirects aircraft noise issues back to Transport Canada:

- <https://otc-cta.gc.ca/eng/air-travel-complaints-overview>

Together, these documents show:

- **Federal authorities control aircraft operations and noise standards**, but
  - Provinces and municipalities still have responsibilities for **land-use, environmental contamination, and population health** around airports—exactly where Reg. 419/05, NPC-300, LU-131 and MECP's mandate sit.
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## **E. What my complaint actually asks your Office to examine**

Given the above, my complaint is **not** asking MECP to:

- Redesign airspace,
- Control flight paths, or
- Override the federal *Aeronautics Act*.

Instead, I have asked:

1. **Why MECP is refusing to exercise its environmental and health-protection powers over ground-based activities at Pearson**, when Transport Canada explicitly states that valid provincial non-aeronautics legislation applies and can be enforced at aerodromes (AC 300-009).
2. **Why Ontario is not actively responding to the use of a 25-year-old NEF for land-use and health planning**, when federal documents (TP1247, NEF programs) openly state that:
  - NEF must be based on accurate, current input data and is normally forecast 5–10 years into the future; and
  - NEF is provided to **provincial and local governments** for their planning decisions.



3. **Why MECP's position to me has been reduced to a single sentence – “aircraft operations are federal”** – with no attempt to distinguish between:

- federally regulated aircraft operations and noise standards; and
  - provincially regulated environmental contamination, stationary sources, land-use impacts, and health outcomes around Pearson.
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**F. Questions I respectfully request your Office put to MECP**

During our call you mentioned that you had not contacted MECP directly about these jurisdictional issues. Given that my complaint is precisely about whether MECP has properly understood and discharged its responsibilities, I respectfully ask that, as part of your review, your Office seek clarification from MECP on the following points, so that your assessment is based on their clear, up-to-date position rather than assumptions:

**1. Jurisdiction over ground-based sources**

Does MECP take the position that it has **no jurisdiction and no responsibility** over ground-based sources of air pollution, noise, and contamination at Toronto Pearson (such as fuel systems, boilers, stationary combustion sources, rubber-removal processes, ground handling equipment, and spills), solely because they are located at a federally regulated airport?

**2. Scope of any jurisdiction retained**

If MECP accepts that it does retain jurisdiction over any ground-based sources at Pearson, how does the ministry define the scope of that jurisdiction, and which statutes and regulations does it consider applicable?

**3. Application of Reg. 419/05 and NPC-300 to ground-based operations**

What is MECP's specific position on the application of Ontario Regulation 419/05 (Air Pollution – Local Air Quality) and NPC-300 (Environmental Noise Guideline) to **ground-based** operations and infrastructure at Pearson (as opposed to aircraft in flight)? If the ministry believes these instruments do **not** apply to Pearson's ground-based operations, what is the precise legal or regulatory basis for that conclusion?

**4. Any exemption or special treatment**

Has MECP ever issued or relied on an internal legal opinion, policy, or directive stating that Toronto Pearson, or federal airports generally, are exempt in whole or in part from Ontario environmental or noise legislation for their ground-based activities? If so, on what legal foundation (case law, statute, regulation) is that exemption based?

## 5. **Consistency with AC 300-009**

How does MECP's position on its jurisdiction at Pearson align with Transport Canada's Advisory Circular AC 300-009, which acknowledges that valid provincial and municipal laws of general application can apply at aerodromes, provided they do not impair the core of the federal aeronautics power?

## 6. **Enforcement and compliance history**

In the past 10–20 years, has MECP conducted any inspections, issued any orders, or taken any enforcement or compliance actions related to ground-based environmental or noise impacts at Toronto Pearson (e.g., spills, air emissions, stationary noise sources)? If not, is this due to a legal interpretation (that MECP has no jurisdiction), a policy decision, or some other reason?

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## **G. What I am asking the Ombudsman's Office to do**

In light of Transport Canada's own documents, Ontario's noise and land-use guidelines, and our conversation, I respectfully ask that the Ombudsman's Office:

### **1. Reconsider the early-resolution view that MECP has fully addressed my concerns.**

MECP has not engaged with AC 300-009, TP1247, NEF guidance, LU-131 or the broader health framework around environmental noise. It has simply invoked "federal jurisdiction" to avoid examining its own role in supervising ground-based sources and responding to the planning and health harms created by obsolete NEF data.

### **2. Assess whether MECP's refusal to act is consistent with its environmental and health mandate, given that:**

- Transport Canada confirms provincial non-aeronautics legislation can be enforced at aerodromes;
- NEF is specifically intended to support land-use planning by provincial/local governments; and
- Ontario's own guidelines (LU-131, NPC-300) and Toronto Public Health explicitly frame environmental noise control as a matter of preventing adverse health effects.

### **3. Consider whether it is reasonable for MECP to refuse to coordinate any studies, monitoring, or legal tools in response to harms that arise precisely because NEF has not been updated or enforced for decades—even though the province's own planning and health responsibilities depend on that data.**

For transparency, I intend to share this correspondence, and any substantive response from your Office, with affected community members and with our legal advisors, as part of the record we are assembling regarding jurisdiction and responsibility at Toronto Pearson.

I would welcome an opportunity to provide any additional documentation you require, including the federal lease provisions, jurisprudence, local noise data, and correspondence with Transport Canada, GTAA and other agencies.

Thank you for taking the time to reconsider this matter in light of Transport Canada's and Ontario's own documents and guidance.

Sincerely,

Fabio Ovettoni

On behalf of affected residents and community members surrounding Toronto Pearson Airport