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Air Services Amendment Bill 2018

Dear Senator O'Sullivan,

I am writing to you in relation to your recent invitation to the Australian Airports Association (AAA) to provide a submission to the *Air Services Amendment Bill 2018* (the Bill), which was referred to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry.

By way of background, the AAA is the national industry voice for airports in Australia. The AAA represents the interests of more than 320 airports and aerodromes Australia wide – from local country community landing strips to major international gateway airports. The AAA's members include Adelaide, Brisbane, Cairns, Canberra, Darwin, Gold Coast, Hobart, Perth, Melbourne and Sydney airports. There are a further 140 corporate members who provide goods and services to airports. The Charter of the AAA is to facilitate co-operation among all member airports and their many and varied partners in Australian aviation, whilst maintaining an air transport system that is safe, secure, environmentally responsible and efficient for the benefit of all Australians.

1. Airports and aircraft noise

The AAA and its members understand how sensitive and complex aircraft noise issues can be for communities in the immediate vicinity of airports or those directly impacted by noise from operations departing and arriving at airports. It is for this reason that airports across the country work very closely with Airservices Australia (Airservices), airlines, aircraft operators, relevant government agencies, as well as state and local governments to ensure that where possible the impacts of aircraft noise are minimised.

There are 21 federally leased airports across Australia, which include all of Australia's capital city and major airports, as well as the secondary airports in each capital city which are home to the majority of Australia's flight training operations. The leased federal airports were granted on long-term leases to private entities between 1997 and 2003. Prior to this, the airports were owned and managed by the Commonwealth Government through the Federal Airports Corporation (FAC).

The vast majority of aircraft movements in Australia take place at these 21 federally leased airports, and therefore they are generally the focus point for the majority of community concerns regarding aircraft noise. The important point to note is that each of these airports is subject to the *Airports Act 1996* and as part of their obligations under this Commonwealth legislation, there are extensive public consultation requirements, including the need to establish Community Aviation Consultation Groups (CACGs).

The intended role of CACGs for leased federal airports is:

- to enable airport operators, residents affected by airport operations, local authorities, airport users, and other interested parties to exchange information on issues relating to airport operations and their impacts;
- to allow matters to be raised and taken into account by the airport operator, with a genuine desire to resolve issues that may emerge;
- to complement and support the consultative requirements already established for Master Plans and Major Development Plans (MDPs); and
- to discuss and share information between the airport and the communities affected by its operations and plans.

While airports themselves are not directly responsible for airspace design or developing flight paths, the development of aeronautical infrastructure (such as new runways) impacts on these issues. Airports therefore understand how critical effective community consultation is in ensuring any community concerns are addressed as early as possible, particularly in relation to aircraft noise.

2. The Bill

The AAA has reviewed the proposed *Air Services Amendment Bill 2018* in consultation with members and it appears the Bill does not recognise the effective existing framework in place for managing aircraft noise, nor does it demonstrate an understanding of the significant impacts arising from some of the proposed changes.

The following comments provide the AAA's view on the key proposals within the Bill.

2.1 Role of Airservices Australia

The Bill proposes to amend Airservices role regarding a general environmental protection obligation to "protect the human and natural environment, community amenity and residential areas" from the effects of the operation and use of aircraft, and associated effects.

It is important to recognise that Airservices primary consideration when managing and designing airspace is safety. This obligation is enshrined in legislation and will continue to be, as it should, the most important factor of consideration.

It is not clear how the proposed amendment will result in any discernible benefit for impacted communities, noting that these considerations are already taken into account by Airservices in its consultation processes in line with the existing legislation. It is the view of the AAA that this amendment will only further complicate an already complex issue, with the potential to unduly burden already limited Airservices resources and distract from its primary objective of safety.

2.2 Community consultation

The Bill proposes a range of amendments to the way in which Airservices conducts in community consultation, which appear to disregard the existing well-established processes and forums.

Airservices is already required to undertake community consultation in regards to the development of flight paths through the development of an Environmental Impact Statement (EIS) as required by the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). This provides the community with an opportunity to provide input and raise any concerns they may have regarding proposed flight paths.

As previously mentioned, the federally leased airports already have effective community consultation forums (CACGs), which Airservices actively participate in. These forums discuss a range of issues regarding operations at the airport that may be of interest to the local community, including aircraft noise. Airservices attends these forums and provides the community with updates on relevant activity and addresses issues of aircraft noise that may arise from changes to flight paths.

It is also important to note that in 2015 the then Department of Infrastructure and Regional Development undertook a review of the efficacy of the consultation arrangements established by the federally leased airports. This review found that 'overall CACGs meet the objectives of facilitating open discussion and supporting strategic dialogue between airports, communities and governments'.

As with most reviews, opportunities for improvement were also identified and the AAA in particular supported the recommendation that 'the Department revise its guidance to airports to reflect the new reporting requirements and describe the range of community and government consultation options that may be implemented'. This recognised that a one-size-fits-all approach to community consultation is not necessarily appropriate, with some airports modifying their consultation approach to meet the needs of the community. Some airports have seen success in improving community engagement with open expo-style forums, rather than traditional meeting formats. Through established CACGs and other forums, airports and Airservices are committed to ensuring local communities remain informed and empowered through existing consultation mechanisms.

Beyond these ongoing consultation processes, there is also extensive community consultation undertaken in the development of airport Master Plans, as well as Major Development Plans. These public consultation mechanisms, legislated in the *Airports Act 1996*, provide the community with the ability to provide input into proposed projects (such as new runways) that may result in changes to airspace and flight paths. Airports devote significant time and resources to these public consultation arrangements to address any concerns that may be raised by the community.

The AAA is concerned that the Bill proposes to essentially duplicate much of these existing consultation arrangements by requiring Airservices to establish its own community consultation groups, specifically to address aircraft noise issues. The AAA does not see any added value to the community from this proposal, particularly as it could confuse local communities if multiple forums are established to deal with similar issues, not to mention it being a waste of limited resources.

2.3 Flight path review

One of the most concerning proposals within the Bill is in relation to the ability of any person to request Airservices undertake a review of any new or changed flight paths made on or after 1 January 2012 if they are impacted by aircraft noise.

The potential resource implications for Airservices to be able to comply with such a proposal are enormous and in the AAA's view completely unjustified. There is no guarantee that such a process would result in any discernible benefits for the impacted person/community, however of more concern is the fact that such a proposal would divert resources away from Airservices' primary function of ensuring the safe and efficient management of air traffic.

The AAA also notes that there appears to be no justification given to explain the premise of this proposed amendment to apply to all flight paths from 1 January 2012. In addition to this date appearing to be quite arbitrary, the Bill fails to recognise the value of the community, industry and stakeholder input that has informed previous airspace design decisions. In most instances, a significant flight path change will have already been the subject of a number of layers of community consultation by both the airport involved, as part of an EIS, through the CACG and by Airservices as part of their current practices.

It is also important to recognise that many flight path changes are the direct result of substantial new aeronautical infrastructure projects at airports, which have been subject to extensive planning and community consultation. Initiating reviews of flight paths linked to such projects could have substantial economic implications and effectively 'undo' the extensive efforts undertaken by the airport and Airservices.

2.4 Aircraft Noise Ombudsman an independent Community Aviation Advocate

The Bill proposes to establish an Aircraft Noise Ombudsman, as well as an independent Community Aviation Advocate, yet does not appear to acknowledge that there already is an established Aircraft Noise Ombudsman that carries out many of the key functions proposed by the Bill.

The current Aircraft Noise Ombudsman (ANO) was established in September 2010 following a proposal outlined in the Australian Government Aviation White Paper. In January 2015, the ANO, Airservices and Defence signed a Memorandum of Understanding and amended the ANO Charter to extend the ANO role to provide an independent complaints and review mechanism for Defence.

The role of the ANO is to conduct independent administrative reviews of Airservices' and Defence's management of aircraft noise. This includes handling of complaints, community consultation processes relating to aircraft noise, and presentation and distribution of aircraft noise-related information. The ANO operates independently of Airservices and Defence executive management structures and reports directly to the Airservices' Board or Chief of Air Force as appropriate.

While the responsibility for the management of aircraft noise complaints and enquiries rests with the Noise Complaints and Information Service division of Airservices, the role of the ANO complements this function by providing an independent review process. The ANO's independent reviews of both Airservices and Defence's aircraft noise operations, procedures and management provide recommendations on how process can be improved to ensure better outcomes for impacted communities.

The ANO's reports are publicly available through their website and Airservices also has an extensive library of noise information reports and facts sheets available to the public via their website. The reporting requirements proposed in the Bill would appear to duplicate much of the reporting processes already in place.

The AAA is a strong supporter of the ANO in its current form and our members have found it to be a very valuable initiative to continually improve noise management processes, as well as educate stakeholders on best practices initiatives regarding community engagement. While the AAA does not see any particular added benefit from the proposals in the Bill, there may be merit in reviewing the governance arrangements associated with the appointment and Charter of the ANO, noting this is currently the responsibility of the Airservices Board, in consultation with Defence. The AAA would welcome consideration of more independent governance arrangements for the ANO, that decouples funding and direction from Airservices and Defence to ensure a truly independent process, notwithstanding that the current arrangements have worked well.

The AAA believes that the proposed establishment of an independent Community Aviation Advocate holds little value; similar functions in other sectors have had limited success. With many of the proposed functions of the advocate already addressed through the ANO's process and legislated community consultation arrangements, the AAA believes this proposal is of limited benefit to the community.

2.5 Melbourne airspace and flight paths

The Bill makes a concerning proposal regarding limiting helicopters and fixed wing aircraft from flying less than 2000m above sea level over residential areas, specifically in the Melbourne area.

If such a restriction were to be imposed it would have significant impacts on all aviation operations in the Melbourne basin, particularly general aviation (GA) operations and helicopters. These proposed restrictions demonstrate a complete lack of understanding of current aviation operations and disregard the significant disruptions that would result to operations at both Melbourne Airport and Essendon Airport, particularly if airspace design and flight paths are required to be amended. There are also serious implications for aviation safety as the proposed changes would prevent instrument approaches being used for inbound aircraft into Melbourne. While the Bill is intended to apply only to small fixed-wing aircraft, it will impact all fixed-wing aircraft as currently drafted.

The Bill also fails to recognise the obvious planning issues associated with restricting aviation operations over residential areas. There is no consideration given to how a residential area is to be defined, noting that most CBDs and other areas of cities have mixed use zones, allowing residential to mix with retail and commercial activity. It also fails to consider how potential land use re-zoning applications will be dealt with and whether this proposed amendment would negate such proposals.

The AAA believes this proposed amendment is ill-conceived and would only serve to severely disrupt aviation operations in the Melbourne area, as well as setting a dangerous precedent for managing aircraft noise issues in other jurisdictions.

3. National Airport Safeguarding Framework

The AAA considers the proposed Bill to achieve very little by way of improving residential amenity from aircraft noise, rather it seeks to impose a framework of restrictions and regulatory controls that are counter productive to the National Airports Safeguarding Framework (NASF).

The NASF was agreed to by Commonwealth, State and Territory Ministers at the Standing Council on Transport and Infrastructure meeting on 18 May 2012. The NASF is a national land use planning framework that aims to improve community amenity by minimising aircraft noise-sensitive developments near airports; and improve safety outcomes by ensuring aviation safety requirements are recognised in land use planning decisions through guidelines being adopted by jurisdictions on various safety-related issues.

This framework recognises that aviation operations at airports need to be protected from poor land use planning decisions which can impact on the safe and efficient operation of aviation services. Historic poor land use planning decisions are also the reason that aircraft noise remains an issue for some residential areas across the country.

Rather than focus on ensuring State Governments stand by their 2012 commitment to improve state planning frameworks to incorporate the NASF Guidelines, this Bill seeks to instead impose restrictions and regulatory burden on the aviation industry to continue to protect poor land use planning decisions.

The AAA and its members do not see the proposed Bill delivering any improvements to the management of aircraft noise issues, rather it stands to duplicate current processes and jeopardise the significant progress the industry and Airservices has made to date. The Bill would also impose significant regulatory burden on Airservices and the industry, as well as significantly impact aviation operations in Melbourne. The AAA and its members welcome opportunities to contribute to improving aircraft noise management, however this Bill does not achieve that outcome.

Yours sincerely,

Caroline Wilkie
Chief Executive Officer