

# Interim Report

## Referral of inquiry

1.1 On 9 February 2017, the Airports Amendment Bill 2016 (the bill) was referred to the Senate Rural and Regional Affairs and Transport Legislation Committee (the committee) for inquiry and report by 28 March 2017.

1.2 In its first report of 2017, the Senate Standing Committee for the Selection of Bills recommended the bill be referred to the committee, for consideration of several issues including:

- concerns with changes to complex airport planning frameworks;
- that airport planning is normally lead by state authorities, rather than federal;
- possible concerns with changes to major development consent processes; and
- the significant community interest in airport planning issues.<sup>1</sup>

## Purpose of the bill

1.3 The Australian Government owns a number of airports which have been privatised via long-term leases. The Commonwealth maintains regulatory oversight in relation to certain activities on these sites, such as building approvals and land use planning, via the *Airports Act 1996* (the Act).<sup>2</sup>

1.4 The Act regulates federally-leased airports in Australia (except Tennant Creek and Mount Isa), and provides for the 'efficient and economic development and operation of airports'. The Act stipulates that all federally-leased airports will have master plans and an environment strategy, and that major development plans are required for 'significant developments' at airports.<sup>3</sup>

1.5 Under the Act, a Commonwealth-owned airport can only be leased to a company, known as an 'airport-lessee company' (airport lessee). Federal leased airports, with the exception of Mount Isa and Tennant Creek, are required to prepare:

- Master Plans (MP) every five years to establish a strategic direction for efficient and economic development at the airport; and

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1 Senate Standing Committee for the Selection of Bills, *Report No. 1 of 2017*, 9 February 2017, p. 2 and Appendix 1.

2 Discussion Paper, *Review of the Airports Building Control and Environment Protection Regulations*, Department of Infrastructure and Transport, 1 May 2013, p. 4.

3 *Airports Act 1996*, ss. 3 and 4.

- Major Development Plans (MDP) for specific major on-airport developments, once a monetary trigger is reached (currently \$20 million).<sup>4</sup>

1.6 According to the Explanatory Memorandum, the bill aims to amend a number of administrative arrangements relating to MPs and MDPs, to offer 'more flexible, proportionate' and efficient regulatory responses.<sup>5</sup>

**Overview of provisions**

1.7 The bill inserts new provisions in the Act and makes necessary consequential amendments to differ the five year MP submission cycle for secondary and general federal leased airports, to instead facilitate an eight year MP submission cycle for 15 airports (Table 1.1).

1.8 The bill retains the current five-year cycle for five major airports: Brisbane, Melbourne, Perth, Sydney (Kingsford-Smith), and Sydney West.<sup>6</sup>

**Table 1.1: Airports under proposed 8 year Master Plan cycle**

Adelaide	Gold Coast
Alice Springs	Hobart
Archerfield	Jandakot
Bankstown	Launceston
Camden	Moorabbin
Canberra	Parafield
Darwin	Townsville
Essendon	

1.9 In addition, the bill requires a renewed Australian Noise Exposure Forecast (ANEF) in each new MP. While an ANEF is required in each MP, the current legislation does not require that the ANEF must be renewed in each plan.<sup>7</sup> Other key measures of the bill include:

- an increase in the current \$20 million monetary trigger for MDPs to \$35 million;

4 Explanatory Memorandum, Airports Amendment Bill 2016, p. 1.

5 Explanatory Memorandum, Airports Amendment Bill 2016, p. 1.

6 Explanatory Memorandum, Airports Amendment Bill 2016, p. 1.

7 The Hon Darren Chester MP, Minister for Infrastructure and Transport, *House of Representatives Hansard*, 1 December 2016, p. 5135.

- allowing the Minister for Infrastructure and Transport to issue legislative instruments for two purposes:
  - to increase the threshold amount (monetary trigger) for MDPs every three years, taking into account price indexations indicating changes in construction activity costs; and
  - to specify the cost that must be included, and must not be included, when calculating the cost of construction for an MDP.
- specifying a 15 business day statutory decision timeframe within which the Minister must consider applications from airport-lessee companies for reduced consultation periods for MDPs, which such applications deemed approved if there is no Ministerial decision within this timeframe;
- enabling the Minister to extend more than once the period that approved MDPs are required to be substantially competed; and
- enabling airport-lessee companies to notify the Minister if an approved MDP is not able to proceed on the basis of exceptional circumstances.<sup>8</sup>

1.10 The bill also contains a number of application and transitional provisions to accommodate those airport lessees already in the process of developing or implementing MPs and MDPs, and to clarify which provisions only apply on or after commencement.<sup>9</sup>

1.11 The Minister for Infrastructure and Transport, the Hon Darren Chester MP, explained that the amendments will 'fine-tune existing regulation and streamline policy intentions'. He continued that the bill would not significantly change existing policies or regulatory oversight, but would offer several efficiencies and reduce administrative burdens.<sup>10</sup>

### **Recent aviation incidents**

1.12 On 21 February, soon after the initiation of this inquiry, a Beechcraft B200 Super King Air VH-ZCR crashed at Essendon Airport. The aircraft impacted the DFO shopping centre alongside the airport resulting in a major fire. An Australian pilot and four American tourists on board died in the crash.

1.13 These tragic events brought into stark relief the importance of appropriate airport planning regulation and processes.

1.14 Evidence received by the committee at Additional Estimates on 27 February detailed the accident investigations currently underway by the Australian Transport Safety Bureau. In addition, the Department of Infrastructure and Regional Development (the Department) noted that it was examining 'development approval

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8 Explanatory Memorandum, Airports Amendment Bill 2016, p. 1.

9 Explanatory Memorandum, Airports Amendment Bill 2016, pp. 8-9.

10 The Hon Darren Chester MP, Minister for Infrastructure and Transport, *House of Representatives Hansard*, 1 December 2016, p. 5134.

processes involved in the land-use planning at the airport'.<sup>11</sup> Departmental Secretary, Mr Mike Mrdak informed the committee that the Department had provided advice to the Minister on the accident investigation process as well as the development approval process for buildings allocated at the DFO site.<sup>12</sup>

1.15 The committee was also advised that the National Airports Safeguarding Advisory Group (NASAG) was considering the adoption of draft national guidelines, regarding runway public safety zones around airports, and runway end safety zones. Queensland is currently the only Australian jurisdiction to have public safety zone legislation.<sup>13</sup>

1.16 On 2 March, correspondence was received from Minister Chester requesting that the committee consider extending its inquiry in light of the tragic accident and subsequent investigations underway (at Appendix 1).

1.17 The committee recognises that the findings and recommendations of the investigations into this tragedy, and the work of NASAG, may have implications for the bill. It takes the view that sufficient time should be provided to allow the investigations to proceed and for the committee to then properly consider their findings.

1.18 Therefore, the committee recommends that its inquiry on the bill be extended to allow consideration of the investigations and any other relevant aviation regulation developments.

1.19 Submissions already received and published by the committee (at Appendix 2) will be considered as part of the inquiry following the outcome of the investigations.

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11 Mr Mike Mrdak, Department of Infrastructure and Regional Development, *Proof Estimates Hansard*, 27 February 2017, p. 125.

12 Mr Mike Mrdak, Department of Infrastructure and Regional Development, *Proof Estimates Hansard*, 27 February 2017, p. 125.

13 Mr Andrew Tiede, Civil Aviation Safety Authority, *Proof Estimates Hansard*, 27 February 2017, p. 114; Mr Mike Mrdak, Department of Infrastructure and Regional Development, *Proof Estimates Hansard*, 27 February 2017, p. 127.

**Recommendation 1**

**1.20 The committee recommends that the Senate grant an extension of time for the committee to report to the first sitting day of March 2018.**

**Senator Barry O'Sullivan**

**Chair**

