

Chapter 1

Introduction and background

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 (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. In referring the bill, the Selection of Bills Committee suggested that consideration be given to 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 in relation to changes to major development consent processes; and
- the significant community interest in airport planning issues.¹

1.3 On 28 March 2017, the committee tabled an interim report. On the same day, the Senate approved an extension of time for the tabling of a final report, to the first sitting day of March 2018.²

Conduct of the inquiry

1.4 Details of the inquiry, including links to the bill and associated documents, were made available on the committee's website. The committee also wrote to organisations and individuals likely to have an interest in the bill, seeking submissions by 6 March 2017.

1.5 The committee received 23 submissions which are listed at Appendix 1. Submissions were published on the committee's inquiry webpage.

1.6 The committee did not hold a public hearing and prepared its report on the basis of information published about the bill, and on issues raised by submissions to the inquiry.

Consideration of the bill by other committees

1.7 In its first report of 2017, the Senate Standing Committee for the Scrutiny of Bills made no comment on the bill.³ The Parliamentary Joint Committee on Human Rights considered the bill and determined it does not raise human rights concerns.⁴

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

2 *Journals of the Senate*, No. 36, 28 March 2017, p. 1211.

Purpose of the bill⁵

Background

1.8 The Australian Government owns a number of federal airports which have been privatised via long-term leases. The Commonwealth maintains regulatory oversight in relation to certain activities on airport sites, such as building approvals and land use planning, via the *Airports Act 1996* (Act).⁶

1.9 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.⁷

1.10 Under the Act, a Commonwealth-owned airport can only be leased to a company, known as an 'airport-lessee company' (airport lessee). Only one airport lessee is allowed at each airport, and the company cannot lease another airport.⁸ Federally-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
- Major Development Plans (MDP) for specific major on-airport developments, once a monetary trigger is reached (currently \$20 million).⁹

1.11 The Act provides that the Minister for Infrastructure and Transport (Minister) is responsible for ensuring the 'orderly development and operation of federal leased airports', including through MP and MDP approvals.¹⁰

Overview of provisions

1.12 According to the Explanatory Memorandum (EM), the bill aims to amend a number of administrative arrangements relating to MPs and MDPs, to offer 'more flexible, proportionate' and efficient regulatory responses.¹¹

3 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 1 of 2017*, 8 February 2017, p. 4.

4 Parliamentary Joint Committee on Human Rights, *Report 1 of 2017*, 16 February 2017, p. 32.

5 The majority of the information in this section has been reproduced from the committee's interim report.

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

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

8 *Airports Act 1996*, s. 4.

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

10 Department of Infrastructure and Regional Development, *Submission 22*, p. 3.

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

1.14 The bill retains the current five-year cycle for five major airports: Brisbane, Melbourne, Perth, Sydney (Kingsford-Smith), and Sydney West.¹²

Table 1.1: Airports under proposed eight-year Master Plan cycle

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

1.15 In addition, the bill requires a renewed Australian Noise Exposure Forecast (ANEF) to be included in each new MP. This is in contrast to the current provision which requires an ANEF in each MP, but does not require that the ANEF must be renewed for each plan.¹³

1.16 Other key measures of the bill include:

- increasing the current \$20 million monetary trigger for MDPs to \$35 million;
- allowing the Minister to issue legislative instruments for two purposes:
 - to increase the threshold amount (monetary trigger) for MDPs every three years, taking into account price indexations which indicate 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 lessees for reduced consultation periods for MDPs, with such applications deemed approved if there is no Ministerial decision within this timeframe;

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

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

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

- enabling the Minister to extend, more than once, the period that approved MDPs are required to be substantially completed; and
- enabling airport lessees to notify the Minister if an approved MDP is not able to proceed on the basis of exceptional circumstances.¹⁴

1.17 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.¹⁵

1.18 The then Minister for Infrastructure and Transport, the Hon Darren Chester MP, explained that the amendments would 'fine-tune existing regulation and streamline policy intentions'. He also indicated that the bill would not significantly change existing policies or regulatory oversight, but would offer several efficiencies and reduce administrative burdens.¹⁶

Interim report

1.19 On 21 February 2017, an aircraft crashed into a retail centre alongside Essendon Airport. The Australian pilot and four American passengers on board tragically died in the crash. The crash also resulted in a major fire at the DFO shopping complex next to the airport. The incident occurred soon after the initiation of this inquiry.

1.20 As noted by the interim report, this terrible accident brought to the fore the importance of appropriate airport planning regulations and processes.

1.21 On 2 March 2017, the committee received a letter from Minister Chester, requesting that the committee consider extending the inquiry in light of the tragic accident and the resulting investigations.¹⁷

1.22 The committee subsequently made a recommendation in its interim report to extend the final reporting date to the first sitting day in March 2018, which was agreed to by the Senate. It was anticipated that the extended reporting date would allow the committee to consider the findings and recommendations of the investigations into this incident, which may have implications for this bill.¹⁸

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

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

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

17 See Rural and Regional Affairs and Transport Legislation Committee, Interim Report, 28 March 2017, Appendix 1, p. 7, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/AirportsAmendmentBill/Interim_Report

18 Rural and Regional Affairs and Transport Legislation Committee, Interim Report, 28 March 2017, pp. 3-5. The Essendon Airport accident is discussed further in Chapter 4.

Structure of the report

1.23 This chapter details the overall purpose of the bill. Chapter 2 of the report provides detailed information on the significant provisions of the bill. Chapter 3 considers the issues raised by submitters about the bill's provisions.

1.24 Chapter 4 considers the bill in light of the terrible accident at Essendon Airport on 21 February 2017, and the work of the National Airports Safeguarding Advisory Group (NASAG) regarding public safety zones around airports.

1.25 Chapter 4 also presents the committee's views and recommendation.

Acknowledgments

1.26 The committee thanks those organisations and individuals that made submissions to the inquiry.

