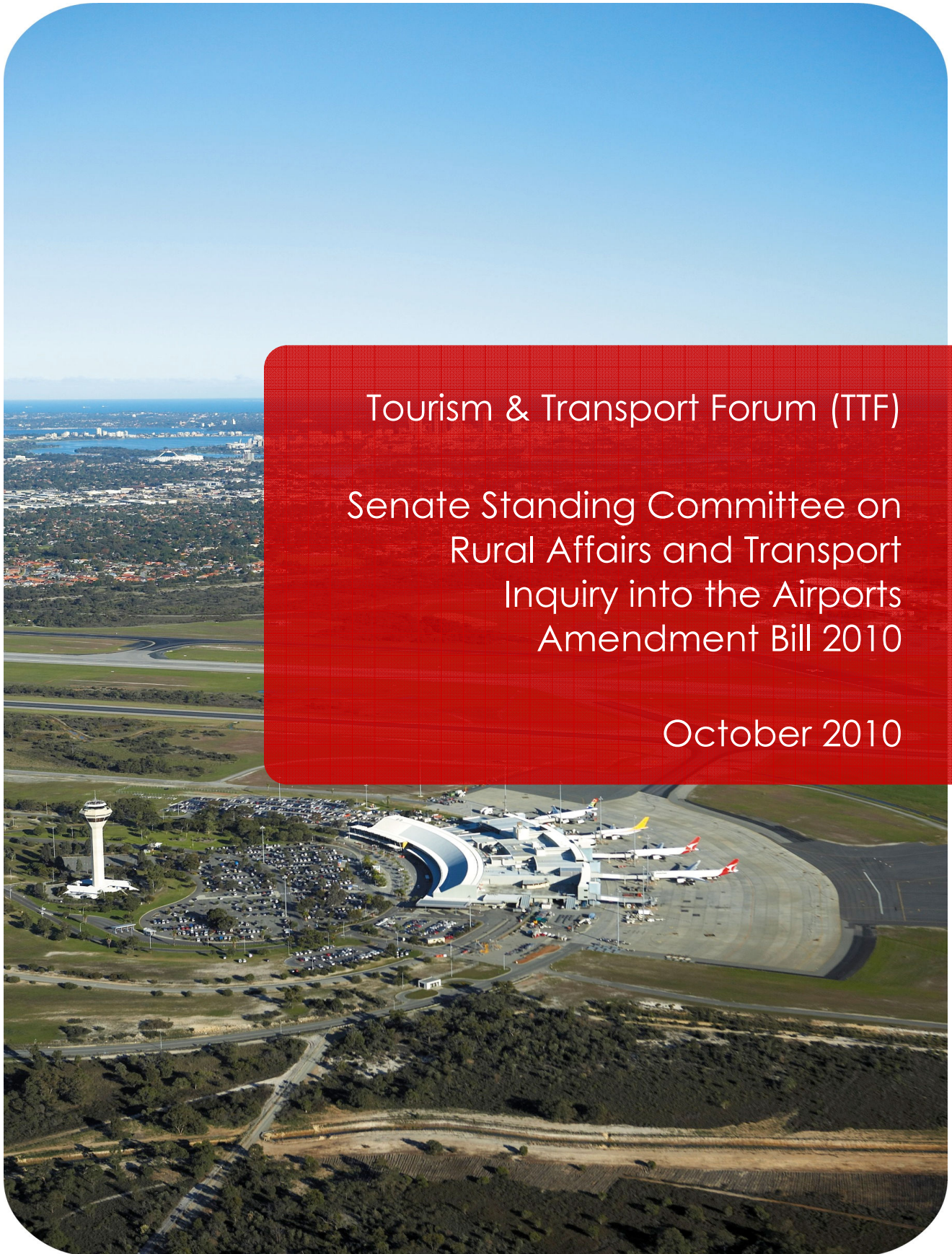




Tourism & Transport Forum (TTF)
Senate Standing Committee on
Rural Affairs and Transport
Inquiry into the Airports
Amendment Bill 2010

October 2010



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INTRODUCTION

The Tourism and Transport Forum (TTF) is a national, member-funded CEO forum, advocating the public policy interests of the top 200 corporations and institutions in the Australian transport, property, tourism & infrastructure sectors.

TTF's represents all Australian capital city airports as well as Alice Springs, Bankstown, Cairns, Gold Coast, Mackay, Mount Isa, Newcastle and Townsville airports. TTF also represents Air New Zealand, Emirates, Etihad Airways, Jetstar Airways, Qantas Airways, Singapore Airlines, United Airlines, Virgin Blue, Boeing, Airservices Australia, Fintrax Payment Services, AWPL Retail Solutions, and key industry players across the land transport, accommodation, attractions, major events and nature-based tourism sectors.

As essential components of Australia's tourism and economic infrastructure, ensuring the growth and expansion of both aeronautical and non-aeronautical developments at airports is critical.

TTF welcomes the opportunity to provide input to the Senate Standing Committee on Rural Affairs and Transport review of the Airports Amendment Bill 2010

This Bill amends the *Airports Act 1996* (the Act) to give effect to the legislative reforms announced in the Australian Government's National Aviation Policy White Paper in December 2009, particularly in relation to the planning regulatory framework and the requirements for master plans and major development plans.

TTF believes this legislation is critically important to the future development of the Australian aviation and tourism industries as a core element of the implementation of the strategies within the Government's Aviation White Paper.

Furthermore, TTF believes that the review will lead to an appropriate strengthening of the legislation to better achieve White Paper objectives while increasing transparency and predictability and reducing compliance costs for all stakeholders.

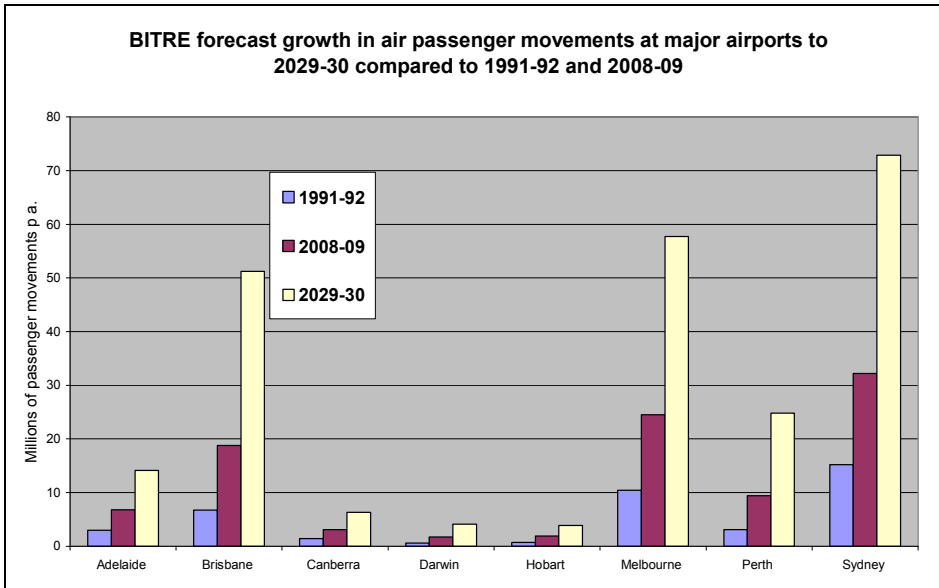
TTF welcomed the release of the Aviation White Paper noting that the strategy puts an appropriate focus on building airport capacity and giving the industry certainty for the future. TTF also noted that the White Paper correctly recognised that airports are nationally significant infrastructure that requires a more integrated approach to investment planning.

In addition, TTF notes and appreciates the extensive consultation undertaken by the Government during the development of the White Paper (which included the release of an Issues Paper and Green Paper) and has also appreciated the willingness of the Department of Infrastructure, Transport, Regional Development and Local Government to brief airports through the TTF Airport Members Panel on the Bill following its tabling in the House of Representatives in June 2010.

OVERVIEW

There are major challenges in translating the White Paper strategy into legislation.

The scale of Australia's challenge in developing airport infrastructure is underlined by forecasts on passenger growth from the BITRE.



Source: BITRE, Research Report 117, "Aircraft movements through capital city airports to 2029-30", page xv.

An additional 40 million passenger movements at Sydney Airport annually or near 130% increase is expected by the BITRE within 20 years. Other airports like Perth show even faster growth. The BITRE forecast that annual passenger movements at Perth Airport in 2029-30 will be eight times what they were as recently as 1991-92. **These growth rates in forecast airport activity are a multiple of expected population or economic growth.**

ISSUES

The Bill aims to make a number of changes to both the Master Plan process and the Major Development Plan process. Set out below are the issues which TTF consider the Committee should pay specific attention to ensure the Bill does not create unnecessary regulatory burdens for airports and is successful in achieving the policy objectives of the White Paper.

In brief, while recognising that the Bill should add clarity to the airport planning process we consider that the Bill should be amended to reduce the potential of the Bill to create uncertainty in key areas including:

- some of the definitions and terminology (eg incompatible developments);
- approval timelines (especially Environmental approval);
- temporary runway alterations related to regular planned and unplanned safety critical maintenance works; and
- whether major development plan approval is required for smaller, more routine developments.

Master Plan amendments

'Incompatible' developments

TTF is concerned with the definition and use of the term 'incompatible development' contained within the Bill. While no objection is made regarding the need for a list of developments that should not exist on land under airport master plan jurisdiction, the definition of the term must be outlined clearly to avoid ambiguity and confusion.

In reality, "incompatible developments" are not barred from airports but merely subject to further specific Ministerial review beyond Ministerial evaluation as part of the master plan. To avoid unnecessarily inflaming stakeholder consultations TTF favours substituting the phrase "further Ministerial assessable development" for "incompatible development".

With relation to educational institutions, the Bill proposes extending the definition to include primary, secondary, tertiary and 'other' educational institutions (with the exception of aviation education facilities). While the intention of the Bill is clear, the definition is not and could create confusion regarding what is considered as an 'other' educational institution. Given the broad range of what may be considered an educational facility or institution, this could impact upon existing operations currently operated at airports and in airport master plans.

Ground transport plan inclusion

A key issue in the Bill is the provision to include, in future master plans, a ground transport plan for the first 5 years of the master plan's 20 year life span.

TTF supports the Bill's requirement for much greater attention to land transport access to airports in airport master plans. TTF has long recognised that State Government transport approvals and funding processes have given insufficient attention to the critical and fast growing economic role of major airports. By including a much greater analysis of land transport access planning to the airport in airport master plans, the Bill will help to identify challenges for State Government agencies and should deliver a better integration of land and air transport development.

The forecasts from the BITRE for growth in passenger numbers at our major airports, as shown above, stress the urgency of State Governments increasing their attention to improving land transport access to major airports.

However, as ground transport services are beyond the control of airport operators and the Australian Government, the preparation of ground transport plans will require airports to rely on information provided by state, territory and local governments detailing their future intentions for changes to connecting landside road networks and/or public transport systems.

As such, TTF is concerned that an unwillingness or inability on the part of state, territory or local government to provide a clear ground transport plan may uncontrollably jeopardise the master plan process for airports.

Furthermore, TTF is also concerned with the impact of cancellation or deferment of major transport projects included in ground transport plans. Should this occur, airport master plans

may require significant alteration, with zoning for on-airport land use requiring changes to reflect the modification to off-airport ground transport infrastructure as identified in the initial plan. This has the potential to act as a severe obstruction to the growth of airport operations and destination economic activity.

In TTF's view it would be ideal if the Bill recognised and provided options for addressing transport issues which are outside the control of the airport (and commonly under the jurisdiction of state governments). Given these concerns, TTF recommend the ground transport plan be included recognising the likelihood of changes in the initial 5 year period of the master plan and viewed as a guide to future intentions rather than fixed requirements.

Note that in response to the need for adequate ground transport planning, TTF in conjunction with Booz & Company are currently analysing existing ground transport options and preparing a report on future land transport needs for Australian airports.

Environmental Strategy incorporation

In principal, the incorporation of the five year airport environmental strategy (AES) into the master plan process has merit and is welcomed by TTF. This incorporation will help reduce consultation costs and assist in aligning long-term airport planning with environmental goals and objectives.

However, the incorporation of the AES into the master plan will still be required to contain the specific actions, policies and targets that the airport proposes to undertake or meet over the first five years of the master plan planning period to address the range of ground-based environmental aspects and impacts associated with the operation of the airport.

As a result, the detailed environmental impacts associated with particular developments included in the master plan will not necessarily be known with precision at the time the master plan is being prepared. Changing the use of the land, even if the new use was still permissible in the relevant zone within an approved master plan, may trigger a need to revise this environmental analysis and, more than likely, amend the master plan itself thanks to its inclusion. This would create regulatory uncertainty and could potentially offset the cost saving of incorporating the AES into the master plan.

Since the AES currently require approval from the Environment Minister, the incorporation into the broader master plan process may lead to delays while the AES portion is examined, and could lead to major delays should the AES be rejected altogether.

TTF would also be concerned should the Environment Department not afford AES approvals the same priority as the Transport Department does with master plan approvals. This could further lengthen an already long process unnecessarily.

In order to facilitate a timely review and approval process, TTF recommend a concurrent deadline be established with similar timeframes for master plan approval with the Minister for Infrastructure and integrated AES approval with the Minister for Environment to ensure delays in final approval are avoided.

Major Development Plan amendments

Public consultation timeframe

TTF welcomes the proposed reduction in the length of public consultation for some of the major development plans (MDP) from 60 business days to a period of not less than 15 business days.

It should be noted that this reduction exists only for those MDPs where the Minister is satisfied that the draft aligns with the details of the development outlined within the relevant master plan and where the development does not raise any issues that have a significant impact on the local or regional community.

While the intent of the exception to the proposed reduction is to allow consultation in the event a development presents a significant impact to the nearby community, the concerns should have already been raised during the master plan process and considered during the Minister's approval.

As the provision in the Bill currently stands, the Minister would be unable to reduce the consultation period regardless of whether the objection was examined in detail and dismissed during the master plan process.

However, TTF are concerned that this may unnecessarily lengthen the MDP process and delay the progress of essential infrastructure at airports. The Bill should reduce the public consultation period for all MDP's where the draft aligns with the detail contained within the master plan, aggrieved community members would still have more than three weeks to raise or reiterate their concerns. Furthermore, the Minister would also be able to exercise the 'stop-the-clock' provision to ensure detailed scrutiny and examination of the proposed MDP and the accompanying community concerns should extra time be required.

Runway alterations

At present, the Bill requires an MDP be undertaken should a runway be altered in a way that changes flight paths, or the patterns of, or levels of aircraft noise.

Whilst TTF agrees that works to affect noise outcomes should be subject to significant public consultation, the proposed language contained within the Bill presents a number of significant issues relating to regular planned and unplanned safety-critical maintenance works that may impact on runway availability for relatively short periods. As these works are undertaken, especially at airports with multiple runways, there may be unavoidable and normally quite temporary changes to flight paths.

The proposal as it stands could lead to runway maintenance being delayed until a lengthy and time consuming MDP process was undertaken, leading to a situation where aviation safety is compromised until Ministerial approval and community consultation was sought. It is suggested that the definition of 'altering' be made to reflect the exclusion of essential maintenance and repairs to ensure relevant safety standards are maintained.

It is noted, however, that should runway works result in lengthy and prolonged (perhaps more than 90 days) changes to flight paths, or the patterns of, or levels of aircraft noise, an MDP could be required to ensure community consultation and Ministerial oversight.

Major development plan waiver

The Bill would empower the Minister to determine, in certain circumstances, that a proposed development does not constitute major airport development, thus removing the need to prepare a major development plan.

These primarily include developments that will not increase the operating capacity of the airport, change flight paths, change the patterns or levels of aircraft noise, or unduly cause a nuisance to the community adjacent to the airport.

While TTF are supportive of the proposal to reduce the circumstances in which an MDP would need to be prepared, in reality many of the triggers of an MDP will continue to exist and force simple, routine developments to be classified as a major development. This has the potential to significantly undermine the policy objective of reducing planning compliance costs that is outlined in the White Paper.

Of particular note is the ambiguous definition of the term 'operating capacity' and what may constitute an increase. At present, an increase in operating capacity is not simply limited to improvements to airside aeronautical infrastructure, but can include optimised security screening services or providing more seating within the food court.

It is suggested that a relaxation of the trigger mechanisms for MDPs be adopted to effectively waive MDP requirements for minor developments and extend the waiver to further aeronautical developments (such as freight and maintenance facilities), rather than simply terminals and taxiways.

Time limits for Ministerial assessment

At present, the Act specifies a 50 business day period where the determination of MDP's and master plans must be approved or rejected by the Minister. Should the Minister fail to provide a determination, it is automatically resolved as being approved.

Furthermore, the time limit is also subject to a 'stop-the-clock' provision where the Minister can interrupt the 50 business day period to conduct additional investigation and/or scrutinise the detail contained within the plan without detracting from the set time frame.

The Bill proposes to create an option of a further 10 business day extension should the Minister require further deliberation time. Given the included 'stop-the-clock' provisions, this alteration is unnecessary.

However, as this optional 10 business day extension provides increased flexibility in the assessment process, it is proposed that the assessment period be reduced from 50 to 40 business days should the optional 10 business day period remain.

TTF MEMBER ISSUES

The following summary of individual airport concerns with the Bill is presented to aid Senators in understanding the range but also the consistency of views expressed by the major airports. Senators are encouraged to consider the full submissions of all the major airports, as they have invested considerable resources in their submissions and in particular suggest ways the Bill can be amended to make it more effective legislation given the objectives of the Government. ¹

Sydney Airport

Sydney Airport highlighted potential confusion over the definition of what constitutes major airport development. This is important as the Bill risks comparatively minor on-airport development becoming 'major airport development' for the purposes of the Act, requiring the preparation and Ministerial approval of a major development plan (MDP).

Sydney Airport also noted that land transport access development is out of the control of the airport and in many cases land transport improvements will not be provided within the five year outlook period within the Bill. Sydney Airport noted policy failures in the timely development of land transport access by the NSW State Government, including the excessive cost of the airport rail link and failure to deliver public bus services to the airport. Looking forward Sydney Airport noted that NSW Government completion of the M5 East duplication and M4 extension that are critically important to airport (and Port Botany) access are currently well beyond the five year planning horizon.

Sydney Airport also noted that the requirement in the Bill for a detailed five year proposed development plan in the Master Plan could constrain the flexibility in land use essential to practical airport management by requiring variations to the Master Plan.

Melbourne Airport

Melbourne Airport is disappointed that the Bill goes only a small way towards improving airport planning arrangements and in particular in removing unnecessary regulatory burdens for aeronautical developments that are fully set out in the Master plan.

Melbourne Airport has called for a more flexible and lower compliance approach within the Airports Act to approving aeronautical developments. The experience of Melbourne Airport is that aeronautical developments have commonly been less contentious than non-aeronautical airport developments.

Under this suggestion, airports would identify a target level of passenger flow through and projects necessary to deliver this within the Master plan, reducing the need for a range of non-contentious MDPs other than for major runway projects.

¹ The airports also commonly noted that the Australian Airports Association response to the Bill highlights a number of their shared concerns.

Melbourne Airport supports the greater focus on land transport access within airport master plans. Melbourne Airport goes further than the Amendment Bill in calling for a detailed Ground Access Strategy within airport master plans.

Melbourne Airport considers that their non-aeronautical development is complementary to aviation development, general urban planning arrangements in the north-west of Melbourne and the Melbourne Metropolitan Strategy. Melbourne Airport considers that the approval processes around master plans provide strong protections against airports engaging in non-aeronautical development that will reduce the potential for aeronautical development.

Melbourne Airport suggest that a requirement that runway developments that significantly affect flight paths or increase aircraft noise only trigger a MDP process when the runway development is ongoing rather than temporary, as commonly occurs with runway maintenance. This point was also raised by Sydney Airport.

Melbourne Airport considers that a MDP process should not be required when altering a runway in a way that changes flight paths or patterns or levels of aircraft noise for a period of less than 90 days. (Therefore the prolonged closure of the East West runway at Sydney Airport while for maintenance and safety upgrading purposes – would still have triggered an MDP process).

Brisbane Airport

Brisbane Airport notes concerns about the possibility of the Commonwealth Minister for the Environment seeking to impose conditions on the broader master plan document when an airport environment strategy is referred to that Minister for comment.

Brisbane Airport highlights the potential for conflict between the Bill's call for detailed information on proposed developments in the master plan with the existing purpose of a master plan in the Airports Act (an overarching planning document including assessment of potential land uses for particular airport precincts). The Bill's requirement for detailed information on proposed developments risks airports being forced to undertake frequent minor variations to their master plans to accommodate revised development proposals.

Brisbane Airport while recognising the inappropriateness of housing schools (primary or secondary) on airport, nevertheless believe that the Bill casts the net too widely so that other forms of education or training institution would require a major development plan to be prepared and approved.

Brisbane Airport objects to the use of the term "incompatible development". Brisbane Airport believes that given the range of sizes, locations, and contexts of major airports around Australia, a "one-size-fits-all" approach is not appropriate. In its own case Brisbane Airport considers that potential buildings in areas may not be required for an aeronautical purpose until after the initial term of the airport lease expires, if at all.

In addition, Brisbane Airport considers that by including a list of land uses intended for a precinct in master plans that includes activities that the Act describes as "incompatible" readers of master plans will be confused and generate unwarranted concerns. Brisbane Airport favours instead use of a term such as "assessable development", which at least conveys that the activity will be subject to a further MDP before it can be carried out.

Queensland Airports

Queensland Airports Limited (QAL) operates Gold Coast, Townsville and Mount Isa Airports.

QAL is critical of the lack of consultation involved in broadening the range of “incompatible developments” since the release of the Aviation White Paper. QAL cites information from the Department that a redevelopment of any incompatible education facilities that increases the capacity of the facility is also deemed “incompatible”. The inclusion of “tertiary education facility” into the list of developments termed “incompatible” causes significant concern to the Gold Coast Airport, as Southern Cross University has already established its operation at the airport. Both the completed building A and the approved building B for the Southern Cross University were approved following extensive community and industry consultation and the submission of MDPs to the Minister.

Adelaide Airport

Adelaide Airport referred the committee to the submission by the Australian Airports Association which details a range of problems and potential revisions to the legislation. Adelaide Airport also emphasised its concerns with the increase in the level of discretion conferred upon the Minister by the Bill. Adelaide Airport believes that in the consultation phase “certainty” in the planning process is the cornerstone of any major development of infrastructure.

Canberra Airport

Canberra Airport while welcoming the overarching White Paper Strategy notes that many of the amendments appear to make development of airports, significantly more difficult than they were previously.

During the White Paper there was much discussion about the introduction of a national land use planning regime for developments around airports – this regime was to both protect airports from inappropriate developments and to provide certainty to local governments and developers. Canberra Airport believes that this is an absolutely essential requirement that needs to be implemented by the Government as a matter of urgency.

Canberra Airport echoed the argument of Brisbane Airport that the terminology “incompatible developments” invites much greater stakeholder opposition to master plans, despite the Bill not making any development incompatible at all – merely requiring a more rigorous review of certain developments. Canberra Airport suggests that “incompatible developments” be relabelled as “hurdle developments” or “review developments”.

Canberra Airport also considers the scope of “incompatible developments” as potentially very wide. Specifically, the carve out for aviation educational facilities is not wide enough to cover many of the activities undertaken in relation to security, policing or defence which must surely be permitted on airport sites. Consistent with the stated intention of the Commonwealth, amendments should be made to ensure that child care facilities are not incompatible with the Act.

Bankstown Airport

Bankstown Airport recognises that the greater requirements in the Bill for community and stakeholder consultation are aimed at the major regular passenger transport airports, but as the Bill applies to all airports (“one-size-fits-all”) general aviation airports are also captured in these provisions despite facing a very different stakeholder environment. The Bill promises increased costs for general aviation airports but no additional revenue capability.

Bankstown Airport proposes that the Bill should be amended to exclude general aviation airports or specifically introduce a range of measures to support general aviation airports.

For example, Bankstown Airport estimates that the cost of the five yearly master plan and environment strategy represents 1.5% of Sydney Airport annual aeronautical revenues but 160% of Camden Airport annual aeronautical revenues.

Bankstown Airport emphasised that as a general aviation rather than regular passenger transport airport, it is far more reliant on non-aeronautical revenues than are the major airports. For Bankstown and Camden Airports, non-aeronautical revenues provide 88% of total revenues, and cross subsidise aeronautical costs which exceed aeronautical revenues.

Like the major airports, Bankstown Airport notes uncertainty over what events trigger the requirement for a MDP, increasing development risk and reducing investment. As general aviation facilities are commonly using old and inefficient airport facilities, the Bill promises increased problems for the already hard pressed general aviation sector.

Bankstown Airport has concerns about the Bill’s call for master plans to align with State and Local Government Ground Plans. Bankstown Airport is concerned that the State or the diverse elements within Local Governments may attempt to quash or unduly disrupt an airport development as it may compete with their existing or proposed commercial developments.

CONCLUSION

Airport investments are critical to the future economic prosperity of Australia and TTF supports the Airports Amendment Bill as it clarifies the planning development approval process for airports. TTF also recognises that each airport faces different development opportunities and challenges, so there is a continuing need for Ministerial discretion within the legislation in approving airport master plans and major developments.

At the same time, TTF calls for detailed attention by the Senate Standing Committee on Rural and Regional Affairs to the significant implementation issues raised by the major Australian airports to the Bill, as well as the often detailed and practical suggestions made by these airports that promise to improve the practical operation of the amended Airports Act in delivering Government White Paper objectives.



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