

The Village Building Co. Limited

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Professor John McMillan
Commonwealth Ombudsman
Ground Floor, 1 Farrell Place
Canberra City ACT 2600



4 September 2008

Dear Professor McMillan,

Re: Lodgement of a formal complaint regarding AirServices Australia's endorsement of Canberra Airport's draft Practical Ultimate Capacity Australian Noise Exposure Forecast

We are writing to you to formally lodge a complaint against the handling and application of policy and procedures by AirServices Australia in the endorsement of the Canberra Airport's Australian Noise Exposure Forecast (ANEF).

To assist in your investigation of our complaint, we wish to provide some background of previous complaints to the Commonwealth Ombudsman about AirServices Australia's relationship with the Canberra Airport and their administrative process for the assessment and approval of ANEFs.

The Village Building Co initially lodged a complaint with the Commonwealth Ombudsman on February 2004 in regards to the involvement of Department of Transport and Regional Services (DOTARS) and AirServices Australia in their support of Canberra Airport Group's opposition to the Tralee development. Discussions and correspondence over the ensuing 7 months culminated in a letter on 24 August 2004 addressing our complaint and outlining reasons why no further action would be taken.

VBC are also aware of a complaint lodged independently by the Queanbeyan City Council in regards to AirServices Australia's handling of the Canberra International Airport's draft Australian Noise Exposure Forecast (ANEF). A letter dated 21 April 2008 from your office indicated the grounds for concluding the investigations; primarily that AirServices Australia had not yet endorsed the draft ANEF.

We would like to inform you that AirServices Australia have now made a determination in relation to Canberra Airport's draft ANEF and this decision was based upon the new guidelines endorsed by the Minister. The endorsed ANEF is the same as the original draft, the subject of the Queanbeyan City Council complaint to your office. It does not appear to us that the two areas of concern identified in your correspondence were addressed by AirServices Australia.

Furthermore, we also wish to advise that all legal matters between AirServices Australia, the CAG and VBC have been concluded with the exception of a personal defamation action being taken by Bob Winnel against Stephen Byron. Therefore, we believe there should be no

impediments to the Commonwealth Ombudsman conducting investigations into this matter, should it be determined that our compliant warrants it.

Therefore, we respectfully request that the Commonwealth Ombudsman reconsider our previous complaints, the complaint lodged independently by the Queanbeyan City Council and the new information provided below.

Adequacy of solely assessing “technical accuracy”

We have correspondence from AirServices Australia that states that their role in reviewing an ANEF, primarily focuses on the technical accuracy of the information provided. This has been further defined by AirServices Australia as “primarily intended to ensure that the modelling software has been correctly run and that the assumptions used in the modelling are properly attributed.” (See attached letter from AirServices Australia)

Therefore, the AirServices Australia endorsement process does not critically review the assumptions made by an airport operator to ensure that growth rates are realistic or achievable. As a result of privatisation, airports are now operated as commercial enterprises looking to ensure profitability and market advantage. However, it seems that AirServices Australia has not kept pace of this change to modify processes and procedures to reflect operations in this new environment.

Given the significant impact that the endorsement of an ANEF has on the surrounding environs of an airport, particularly through the planning system, we believe that AirServices Australia should apply greater scrutiny and rigour to their review of proposed ANEFs. This is needed to ensure that ANEFs, as far as practicable, reflect the realistic and anticipated development of any particular airport within a well defined planning period. The current process seems to have the potential to allow rogue airport operators to have wildly optimistic ANEFs endorsed, with their only requirement of inputting the assumptions into software and running that software correctly!

Specific Compliant about endorsement of Canberra Airport’s ANEF

In May 2008, AirServices Australia provided us with a copy of the Minister approved endorsement process for ANEFs. This process was used for the endorsement of the Canberra Airport’s ANEF. (It should be noted that the approved endorsement process document is not available on the AirServices Australia website, nor is the endorsed ANEF available on the Canberra Airport website.)

Therefore, we base this compliant to the Commonwealth Ombudsman on AirServices Australia’s application of the criteria within this approved process as follows:

1. In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) AirServices Australia (“the endorser”) must be satisfied with the following elements of the ANEF:

a) That the appropriate selection of aircraft types for the airport have been used as input data;

As outlined in our submission to the ANEF Public Consultation for the Canberra Airport, respected consultants in the aviation industry have questioned the appropriateness of the aircraft types used in the modelling of the Ultimate Capacity ANEF. The basis of their queries relates to the extended timeframe to reach the proposed Ultimate Capacity (43 years to the stated time period 2050, but more likely

Ultimate Capacity not reached until after 2100!), therefore it is not reasonable to consider that aircrafts such as the Boeing 747-400, Boeing 757, Airbus A-330, Airbus A-340, McDonald Douglas MD-11 and BAe146 would still be in operation.

This timeframe is well in excess of the commonly excepted planning period of between 20 and 25 years. A 20 year time frame is defined in Airports Act 1996.

Therefore, our view is that Airservices Australia should not have endorsed the submitted ultimate capacity ANEF because the timeframe to reach this capacity is so far into the future that the aircraft used in the model would no longer be in service.

b) That the runway usage and flight path data used as an input to the model are operationally suitable for the airport;

Our submission to the ANEF Public Consultation for the Canberra Airport contained detailed descriptions and comparisons regarding determining the ultimate capacity for Canberra Airport operating as a single runway airport. This clearly indicated that the ultimate capacity of the runway claimed by the Canberra Airport was unrealistic and only the most efficient single runway airport in the world comes close to achieving such a capacity.

Additionally, the Ultimate Capacity ANEF for the Canberra Airport does not discuss the constraints related to being able to effectively achieve the stated number of aircraft movements. These constraints include the taxiways, aircraft docking facilities, terminal and parking capacity.

It is our view that the entire Airport infrastructure needs to be considered when determined the operational capacity.

Given these comments, it is our view that Airservices Australia should not have endorsed the Canberra Airport Ultimate Capacity ANEF without the provision of satisfactory information to indicate that the inputs to the model are "operationally suitable".

c) That the forecast number of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;

Aircraft Movements

Consultant Greg Marks has indicated that the ultimate capacity has been determined based upon continuous ideal weather conditions through the entire period. This enables the maximum possible number of flight operations to occur. This is unrealistic as adverse weather conditions, such as fog, do occur at Canberra Airport frequently and this will limit the number of flight movements due to having to operate in Instrument Meteorological Conditions (IMC) mode.

The aircraft types and their time of operations that has been modelled by R-AOS in the Canberra Airport Ultimate Capacity ANEF appear to have been based on directions from the Capital Airport Group, and Astral Limited believe that "CAG's assumed day/night split appears even more inconsistent ... the B747-400 ... is assumed to have 80% of its movements at night whereas the A3330 has only 52% at night. No reason

for this disparity appears to be provided in the R-AOS report." (page 13, Astral Limited Report dated 18 July 2007).

Operating Times

The Ultimate Capacity ANEF developed by the Capital Airport Group has assumed the quantity of aircraft movement and the time of operations. The assumption is that 37% of flights occur at night, however as Astral Limited have indicated "there are inconsistencies between R-AOS report table 6 data and the R-AOS ultimate capacity which suggest the proportion of night flights used in the noise modelling is too high. ... As nights is deemed to be between 1900 and 0700hrs, these operating hours equate to approximately 75% day and 25% night." (page 9 – 10 Astral Limited Report dated 18 July 2007)

The result of this overestimation of night time flight activity is a significantly larger ANEF contour, because night time flights attract a 4 times weighting, compared to day flights.

Aircraft Operations

The Canberra Airport Ultimate Capacity ANEF is based on unproven and unapproved flight operation pathways.

The ANEF produced has been based on a 15 degree westward skewed approach to Runway 35, the southern approach runway. WRB Consulting advise that "the matter was raised during a discussion with CASA, which advised that this assumption is very optimistic and whilst technically feasible, is highly unlikely to be approved." (page 3, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007)

Additionally, WRB Consulting indicated that "Both CASA and Airservices Australia have confirmed that apart from an RNP straight-in approach, only one RNP approach for each shall be published." (page 4, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007) However, the Canberra Airport Ultimate Capacity ANEF has incorporated both a 12 degree westward and a 15 degree westward skewed approach to Runway 35.

Therefore, it is our view that the Ultimate Capacity ANEF prepared for the Canberra Airport should not have been endorsed by Airservices Australia because of the above discrepancies in the information provided for this element of the Endorsement Process.

d) That the contours have been modelled correctly;

The Canberra Airport Ultimate Capacity ANEF is "a composite of three ANEC [Australian Noise Exposure Concept] projections, each for 'practical ultimate capacity'. These ANEC projections are:

- Existing operations being runway 35 preferred mode, existing noise abatement procedures. ...
- Runway 17 preferred mode which has 40% takeoffs on runway 17, all executing a 10° turn west after takeoff ...

- *Runway 35 approach with the 15° approach track offset which is assumed to be used by a high proportion of jet arrivals on runway 35.” (page 17, Review of practical ultimate capacity ANEF by Astral Limited dated 18 July 2007)*

Therefore, the resultant Ultimate Capacity ANEF is unrealistic in it allows for the operation of multiple aircraft on the single runway at the same time, one taking off and one is landing in the opposite direction.

Therefore, it is our view that Airservices Australia should not have endorsed this proposal because rather than being one ANEF, it is in fact the combination of three separate ANEFs which logically can not operate simultaneously.

e) That the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and

We are unaware of the details of the submissions by the State and Local Government Authorities because there is no publicly available record of submissions made to the Capital Airport Group and AirServices Australia in relation to the public consultation or endorsement processes of the ANEF.

This seems quite unusual in the current environment of public transparency relating to Government authorities decision making processes, particularly for those involving public consultation.

f) Any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

Timeframe

Section 72 of the Airports Act 1996 specifies that the “planning period” is a period of 20 years. Therefore, the Canberra Airport should be required to produce an ANEF that represents this time horizon, rather than an ultimate capacity ANEF, which will not occur for at least the next 50 years, if ever!

It is our understanding that the ability to produce an “ultimate capacity” ANEF was intended for the purposes of Airports that would meet this level before the expiration of a 20 year planning period. This would be a reasonable interpretation and acceptable application of ultimate capacity ANEF.

For the reasons outline above, the application of an ultimate capacity ANEF that extends so far into the future could not be considered reasonable. There are so many variables that will impact on the future operation of airports, and society in general, that using historical or current data to predict beyond 20 years is absurd.

Therefore, it is our opinion that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the time horizon is well in excess of the “planning period” specified in the legislation and accepted by the industry.

Unrealistic Estimate of Total Aircraft Movements

The ultimate capacity ANEF is based upon a figure of total aircraft movements of 283,000 by the year 2050. The Canberra Airport Master Plan 2005 indicates the total aircraft movements 2025, based upon 2002 figures and growth rates, of around

146,000, up from a total in 2002 of around 86,000. Therefore, Capital Airport Group's own figures indicate an expected growth of 60,000 aircraft movements over a period of 23 years.

Given these figures, to reach the ultimate capacity figure used in the 2050 ANEF, the aircraft movements would need to almost double in the 25 years between 2025 and 2050. This is twice the growth rate used when determining the estimated annual aircraft movements for 2025.

Therefore, it is our opinion that Airservices Australia should not have endorsed the ultimate capacity 2050 ANEF because the total aircraft movements that this ANEF is based upon are overly optimistic estimations from the Capital Airport Group. Furthermore, there are inconsistencies with the growth rates used between the approved Master Plan and those used for the ANEF calculations.

Unrealistic Estimates of International Operations

The Canberra Airport ultimate capacity ANEF is based on a significant percentage of international flights, operating into and out of this airport. However, all these international flights are an assumption by the Capital Airport Group and this would need to be viewed as such.

Currently, Canberra Airport does not operate ANY international flights, therefore there is no data to base the suggested demand on, or to support any claims of international destinations.

Therefore, it is our opinion that any suggestion by the Capital Airport Group of the quantum of international flights occurring in the future is speculative and could not be used as the basis for the development and application of an ANEF.

Objective 8 of the Canberra Airport approved Master Plan indicates that the airport will "meet demand for limited international services" (page 7 Canberra International Airport Master Plan 2005). Therefore, this objective is in direct contrast to the proposed number of flights proposed in the ANEF calculations.

As such, we are of the view that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the inclusion of significant numbers of international flights could only be described as speculative.

Unrealistic Estimates of Freight Operations

The Canberra Airport ultimate capacity ANEF is based on a significant volume of freight traffic coming into the airport, particularly during night time. However, there is no information within the Capital Airport Group information to justify this claim.

Aviation experts, such as WRB Consulting, Astral Limited and Ambidji Group, have raised doubts over the ability of the Canberra Airport to attract the volume of freight transport indicated. These questions related to the proximity of Canberra Airport to Sydney and Melbourne, the Sydney Airport's first right of refusal over the Badger Creek site, and the atmospheric conditions, particularly the likelihood of fog impacting operations during a substantial period of the year.

Additionally, these aviation experts have questioned the assumptions of the time of operation of these freight operations, which are predominately modelled as occurring at night. These queries are based upon the fact that freight operators need to coordinate departures/arrivals with other airports. No evidence was provided by the Capital Airport Group to support their claims.

The Canberra Airport Master Plan 2005 does not commit to the development of any significant freight handling facilities at the airport in the near future. Therefore, it is absurd to approve an ANEF which includes a large number of freight movements when there is no capacity to handle the volume of freight that these movements would generate.

Therefore, it is our opinion that Airservices Australia should not have endorsed an the ultimate capacity ANEF submitted for the Canberra Airport that includes significant volume of unsubstantiated freight aircraft movements.

Attached is our submission on the draft practical ultimate capacity ANEF for Canberra Airport submitted on 25 July 2007, which includes the consultants' reports referred to in our complaint. We also have attached a copy of correspondence from AirServices Australia where at point 3, they detail their review process of draft ANEFs.

Furthermore, to assist in your assessment of our complaint and the background of these issues, we have included a copy of our original 2003 compliant.

If you require any additional information or wish to discuss this matter in person, please contact the undersigned at this office.

Regards,



Ken Ineson
General Manager, Special Projects & Feasibilities

The Village Building Co. Limited

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Greg Russell
Chief Executive Officer
Airservices Australia
Alan Woods Building
25 Constitution Avenue
Canberra ACT 2601



14 November 2008

Dear Mr Russell,

Re: Airservices Australia's Endorsement of Canberra Airport's Practical Ultimate Capacity Australian Noise Exposure Forecast

The Village Building Co has lodged a formal complaint with the Commonwealth Ombudsman regarding the processes of Airservices Australia for endorsing ANEFs. The Ombudsman has declined to investigate this matter until Airservices Australia has had an opportunity to respond to the issues which constituted our complaint.

We are therefore writing to you to request a review of AirServices Australia's endorsement on 12 June 2008 of the Canberra Airport's Practical Ultimate Capacity Australian Noise Exposure Forecast (ANEF). We have previously raised similar issues in correspondence with your office, particularly our letter dated 27 May 2008 and a letter from O'Connor Harris dated 18 April 2007.

Fundamentally, we consider that Airservices Australia endorsed this ANEF was not properly undertaken, for the reasons outlined below. Furthermore, we believe that endorsement process and "technical accuracy" should consist of more than merely a data entry checking exercise.

Adequacy of solely assessing "technical accuracy"

We have previous correspondence from your organisation which states that Airservices Australia considering their role in reviewing an ANEF, primarily focuses on the technical accuracy of the information provided. This has been further defined in correspondence as "primarily intended to ensure that the modelling software has been correctly run and that the assumptions used in the modelling are properly attributed." (See attached letter from AirServices Australia dated 13 September 2002)

Therefore, the endorsement process does not critically review the assumptions made by an airport operator to ensure that growth rates are realistic or achievable. As a result of privatisation, airports are now operated as commercial enterprises looking to maximise profitability and market advantage. However, it seems that AirServices Australia has not kept pace of this change to modify processes and procedures to reflect operations in this new environment.

Given the significant impact that the endorsement of an ANEF has on the surrounding environs of an airport, particularly through the planning system, we believe that AirServices Australia should apply greater scrutiny and rigour to their review of proposed ANEFs. This is needed to ensure that ANEFs, as far as practicable, reflect the realistic and anticipated development of any particular airport within a well defined planning period. The current process seems to have the potential to allow private airport operators to have wildly optimistic ANEFs endorsed, with their only requirement of inputting the assumptions into software and running that software correctly.

Specific Complaint about endorsement of Canberra Airport's ANEF

In May 2008, we received a copy of the Minister approved endorsement process for ANEFs from your organisation. We understand that this was the process used for the endorsement of the Canberra Airport's ANEF. (It should be noted that the approved endorsement process document is not available on the AirServices Australia website, nor is the endorsed ANEF available on the Canberra Airport website.)

Therefore, we base our request for a full review of endorsement of the Canberra Airport's Practical Ultimate Capacity ANEF on the application of the criteria within this approved process as follows:

1. In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) AirServices Australia ("the endorser") must be satisfied with the following elements of the ANEF:
 - a) That the appropriate selection of aircraft types for the airport have been used as input data;

As outlined in our submission to the ANEF Public Consultation for the Canberra Airport, respected consultants in the aviation industry have questioned the appropriateness of the aircraft types used in the modelling of the Ultimate Capacity ANEF. The basis of their queries relates to the extended timeframe to reach the proposed Ultimate Capacity (43 years to the stated time period 2050, but more likely Ultimate Capacity not reached until after 2100!), therefore it is not reasonable to consider that aircrafts such as the Boeing 747-400, Boeing 757, Airbus A-330, Airbus A-340, McDonald Douglas MD-11 and BAe146 would still be in operation.

This timeframe is well in excess of the commonly excepted planning period of between 20 and 25 years. In particular, the 20 year time frame is specifically defined in Airports Act 1996.

Therefore, our view is that Airservices Australia should not have endorsed the submitted ultimate capacity ANEF because the timeframe to reach this capacity is so far into the future that the aircraft used in the model would no longer be in service.

- b) That the runway usage and flight path data used as an input to the model are operationally suitable for the airport;

Our submission to the ANEF Public Consultation for the Canberra Airport contained detailed descriptions and comparisons regarding determining the ultimate capacity for Canberra Airport operating as a single runway airport. This clearly indicated that the ultimate capacity of the runway claimed by the Canberra Airport was unrealistic and only the most efficient single runway airport in the world comes close to achieving such a capacity.

Additionally, the Ultimate Capacity ANEF for the Canberra Airport does not discuss the constraints related to being able to effectively achieve the stated number of aircraft movements. These constraints include the taxiways, aircraft docking facilities, terminal and parking capacity.

It is our view that the entire Airport infrastructure needs to be considered when determined the operational capacity.

Given these comments, it is our view that Airservices Australia should not have endorsed the Canberra Airport Ultimate Capacity ANEF without the provision of satisfactory information to indicate that the inputs to the model are "operationally suitable".

- c) That the forecast number of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;

Aircraft Movements

Consultant Greg Marks has indicated that the ultimate capacity has been determined based upon continuous ideal weather conditions through the entire period. This enables the maximum possible number of flight operations to occur. This is unrealistic as adverse weather conditions, such as fog, do occur at Canberra Airport frequently and this will limit the number of flight movements due to having to operate in Instrument Meteorological Conditions (IMC) mode.

The aircraft types and their time of operations that has been modelled by R-AOS in the Canberra Airport Ultimate Capacity ANEF appear to have been based on directions from the Capital Airport Group, and Astral Limited believe that "CAG's assumed day/night split appears even more inconsistent ... the B747-400 ... is assumed to have 80% of its movements at night whereas the A3330 has only 52% at night. No reason for this disparity appears to be provided in the R-AOS report." (page 13, Astral Limited Report dated 18 July 2007).

Operating Times

The Ultimate Capacity ANEF developed by the Capital Airport Group has assumed the quantity of aircraft movement and the time of operations. The assumption is that 37% of flights occur at night, however as Astral Limited have indicated "there are inconsistencies between R-AOS report table 6 data and the R-AOS ultimate capacity which suggest the proportion of night flights used in the noise modelling is too high. ... As nights is deemed to be between 1900 and 0700hrs, these operating hours equate to approximately 75% day and 25% night." (page 9 – 10 Astral Limited Report dated 18 July 2007)

The result of this overestimation of night time flight activity is a significantly larger ANEF contour, because night time flights attract a 4 times weighting, compared to day flights.

Aircraft Operations

The Canberra Airport Ultimate Capacity ANEF is based on unproven and unapproved flight operation pathways.

The ANEF produced has been based on a 15 degree westward skewed approach to Runway 35, the southern approach runway. WRB Consulting advise that "the matter was raised during a discussion with CASA, which advised that this assumption is very optimistic and whilst technically feasible, is highly unlikely to be approved." (page 3, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007)

Additionally, WRB Consulting indicated that "Both CASA and Airservices Australia have confirmed that apart from an RNP straight-in approach, only one RNP approach for each shall be published." (page 4, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007) However, the Canberra Airport Ultimate Capacity ANEF has incorporated both a 12 degree westward and a 15 degree westward skewed approach to Runway 35.

Therefore, it is our view that the Ultimate Capacity ANEF prepared for the Canberra Airport should not have been endorsed by Airservices Australia because of the above discrepancies in the information provided for this element of the Endorsement Process.

d) That the contours have been modelled correctly;

The Canberra Airport Ultimate Capacity ANEF is "a composite of three ANEC [Australian Noise Exposure Concept] projections, each for "practical ultimate capacity". These ANEC projections are:

- *Existing operations being runway 35 preferred mode, existing noise abatement procedures. ...*
- *Runway 17 preferred mode which has 40% takeoffs on runway 17, all executing a 10° turn west after takeoff ...*
- *Runway 35 approach with the 15° approach track offset which is assumed to be used by a high proportion of jet arrivals on runway 35." (page 17, Review of practical ultimate capacity ANEF by Astral Limited dated 18 July 2007)*

Therefore, the resultant Ultimate Capacity ANEF is unrealistic in it allows for the operation of multiple aircraft on the single runway at the same time, one taking off and one is landing in the opposite direction.

Therefore, it is our view that Airservices Australia should not have endorsed this proposal because rather than being one ANEF, it is in fact the combination of three separate ANEFs which logically can not operate simultaneously.

e) That the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and

We are unaware of the details of the submissions by the State and Local Government Authorities because there is no publicly available record of submissions made to the Capital Airport Group and AirServices Australia in relation to the public consultation or endorsement processes of the ANEF.

This seems quite unusual in the current environment of public transparency relating to Government authorities decision making processes, particularly for those involving public consultation.

f) Any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

Timeframe

Section 72 of the Airports Act 1996 specifies that the “planning period” is a period of 20 years. Therefore, the Canberra Airport should be required to produce an ANEF that represents this time horizon, rather than an ultimate capacity ANEF, which will not occur for at least the next 50 years, if ever!

It is our understanding that the ability to produce an “ultimate capacity” ANEF was intended for the purposes of Airports that would meet this level before the expiration of a 20 year planning period. This would be a reasonable interpretation and acceptable application of ultimate capacity ANEF.

For the reasons outline above, the application of an ultimate capacity ANEF that extends so far into the future could not be considered reasonable. There are so many variables that will impact on the future operation of airports, and society in general, that using historical or current data to predict beyond 20 years is absurd.

Therefore, it is our opinion that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the time horizon is well in excess of the “planning period” specified in the legislation and accepted by the industry.

Unrealistic Estimate of Total Aircraft Movements

The ultimate capacity ANEF is based upon a figure of total aircraft movements of 283,000 by the year 2050. The Canberra Airport Master Plan 2005 indicates the total aircraft movements 2025, based upon 2002 figures and growth rates, of around 146,000, up from a total in 2002 of around 86,000. Therefore, Capital Airport Group’s own figures indicate an expected growth of 60,000 aircraft movements over a period of 23 years.

Given these figures, to reach the ultimate capacity figure used in the 2050 ANEF, the aircraft movements would need to almost double in the 25 years between 2025 and 2050. This is twice the growth rate used when determining the estimated annual aircraft movements for 2025.

Therefore, it is our opinion that Airservices Australia should not have endorsed the ultimate capacity 2050 ANEF because the total aircraft movements that this ANEF is based upon are overly optimistic estimations from the Capital Airport Group. Furthermore, there are inconsistencies with the growth rates used between the approved Master Plan and those used for the ANEF calculations.

Unrealistic Estimates of International Operations

The Canberra Airport ultimate capacity ANEF is based on a significant percentage of international flights, operating into and out of this airport. However, all these international flights are an assumption by the Capital Airport Group and this would need to be viewed as such.

Currently, Canberra Airport does not operate ANY international flights, therefore there is no data to base the suggested demand on, or to support any claims of international destinations.

Therefore, it is our opinion that any suggestion by the Capital Airport Group of the quantum of international flights occurring in the future is speculative and could not be used as the basis for the development and application of an ANEF.

Objective 8 of the Canberra Airport approved Master Plan indicates that the airport will "meet demand for limited international services" (page 7 Canberra International Airport Master Plan 2005). Therefore, this objective is in direct contrast to the proposed number of flights proposed in the ANEF calculations.

As such, we are of the view that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the inclusion of significant numbers of international flights could only be described as speculative.

Unrealistic Estimates of Freight Operations

The Canberra Airport ultimate capacity ANEF is based on a significant volume of freight traffic coming into the airport, particularly during night time. However, there is no information within the Capital Airport Group information to justify this claim.

Aviation experts, such as WRB Consulting, Astral Limited and Ambidji Group, have raised doubts over the ability of the Canberra Airport to attract the volume of freight transport indicated. These questions related to the proximity of Canberra Airport to Sydney and Melbourne, the Sydney Airport's first right of refusal over the Badger Creek site, and the atmospheric conditions, particularly the likelihood of fog impacting operations during a substantial period of the year.

Additionally, these aviation experts have questioned the assumptions of the time of operation of these freight operations, which are predominately modelled as occurring at night. These queries are based upon the fact that freight operators need to coordinate departures/arrivals with other airports. No evidence was provided by the Capital Airport Group to support their claims.

The Canberra Airport Master Plan 2005 does not commit to the development of any significant freight handling facilities at the airport in the near future. Therefore, it is absurd to approve an ANEF which includes a large number of freight movements when there is no capacity to handle the volume of freight that these movements would generate.

Therefore, it is our opinion that Airservices Australia should not have endorsed an the ultimate capacity ANEF submitted for the Canberra Airport that includes significant volume of unsubstantiated freight aircraft movements.

Attached is our submission made during the public consultation period for the draft practical ultimate capacity ANEF for Canberra Airport submitted on 25 July 2007. This submission includes the consultants' reports referred to in our complaint. We also have attached a copy of correspondence from AirServices Australia where at point 3, which details the review process for draft ANEFs.

We request that Airservices Australia provide us with a written respond in regards to this matter, outlining whether or not a review will be undertaken, at your earliest convenience.

If you require any additional information or wish to discuss this matter in person, please contact the undersigned at this office.

Regards,



Ken Ineson
General Manager, Special Projects & Feasibilities

cc: Commonwealth Ombudsman
Minister for Infrastructure, Transport, Regional Development and Local Government
General Manager, Queanbeyan City Council



Mr Ken Ineson
General Manager, Special Projects and Feasibilities
Village Building Company Limited
PO BOX 178
MITCHELL ACT 2911

Dear Mr Ineson

Airservices Australia's endorsement of the Canberra International Airport Ultimate Practical Capacity Australian Noise Exposure Forecast (ANEF)

Thank you for your letter dated 14 November 2008, regarding the endorsement of the Ultimate Practical Capacity ANEF for Canberra International Airport (**Canberra Airport ANEF**).

The Full Federal Court of Australia handed down a decision on 10 April 2008, from an appeal brought at first instance before Justice Rares, which dealt with many of the issues you have raised in your letter.

On 3 April 2008, the Minister for Infrastructure approved the 'manner of endorsement' for Airservices Australia to use when considering ANEFs provided by airports under the Airports Act 1996 (**Approval**). A copy of the Approval is **attached**.

If the Village Building Company is now alleging that Airservices Australia has not endorsed the Canberra Airport ANEF in accordance with the Approval, we ask that you clarify your specific concerns. We also ask that you consider these issues in the light of the Full Federal Court decision dated 10 April 2008 and the decision of Justice Rares made on 18 June 2007. We will then be in a position to consider your request.

Yours sincerely



Greg Russell
Chief Executive Officer

18 December 2008

IN CONFIDENCE



Australian Government
 Department of Infrastructure, Transport,
 Regional Development and Local Government

This is a Ministerial
 Submission for
 Decision

FOR: The Hon Anthony Albanese MP DIVISION: Aviation & Airports	eWorks Number: 03027-2008	Ministerial action required by: 31 March 2008 Reason: To comply with requirements of the Airports Act 1996
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SUBJECT: Ministerial approval of 'manner of endorsement' for ANEFs

Recommendation: That you:

1. agree the attached 'manner of endorsement' for ANEFs as required under the Airports Act 1996.

Key Issues

The purpose of this brief is to seek your agreement to the 'manner of endorsement' for Airservices Australia to use when considering future Australian Noise Exposure Forecasts (ANEFs) provided by airports under the Airports Act 1996.

1. Changes to the Airports Act 1996, which took effect on 13 May 2007, now require that the endorsement of ANEFs be undertaken in a 'manner' approved by the Minister.
2. Ministerial Direction M37/99 of 3 May 1999 issued under the Airservices Act 1995 prescribes that Airservices Australia is responsible for the endorsement of ANEFs for all Australian airports.
3. The manner proposed, see Attachment A, has been developed in consultation with the Department's Legal area and Airservices Australia.
4. Your approval of the 'manner' in which ANEFs are endorsed by Airservices is required to ensure any draft Airport Master Plan submitted for approval after 13 May 2007 (for example that currently being prepared by Canberra International Airport) is not put in doubt.
5. ~~Airservices Australia has delayed a decision on the endorsement of the ANEF provided by Canberra Airport for their revised Master Plan until a decision is handed down by the Federal Court on the appeal by the Village Building Company. A court decision is anticipated in the next few weeks. A revised ANEF for the Sydney Airport Master Plan will be submitted to Airservices for consideration and endorsement in May 2008.~~
6. Given the Department's examination of Canberra Airport's ANEF and the outcome of recent discussions with the NSW Minister for Planning, the Hon Frank Sartor and his departmental officials, we see no need to further delay your agreement to the manner in which ANEFs are to be endorsed.

This minute approved by (Deputy Secretary)		(A) AGREED	
 19/3/2008		ANTHONY ALBANESE 3/4/2008 Comments.....	
		Executive Director	Mike Mrdak
Action Officer	Ellis Maureen	Work: 6274 8087	Mobile: 04107 010 492

Attachment A

ENDORSEMENT OF AUSTRALIAN NOISE EXPOSURE FORECASTS

1. In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) Airservices Australia ("the endorser") must be satisfied with the following elements of the ANEF:
 - a) That the appropriate selection of aircraft types for the airport have been used as input data;
 - b) That the runway usage and flight path data used as an input to the model are operationally suitable for the airport;
 - c) That the forecast numbers of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;
 - d) That the contours have been modelled correctly;
 - e) That the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and
 - f) Any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

2. The endorser of the Australian Noise Exposure Forecast (ANEF) must ensure that the following information is provided to it by the proponent of the ANEF in order to complete the assessment under (1) above:
 - a) Three copies (3) of the proposed ANEF map suitable for endorsement (two to be retained by the endorser);
 - b) A copy in digital form of the Integrated Noise Model (INM) study, including all files complete and unzipped;
 - c) A plot of the flight tracks used with tracks labelled on A3 or larger paper;
 - d) A table of aircraft movements by aircraft type, time of day and runway (usually reproduced on the ANEF map);
 - e) A bound report detailing the following:
 - I. The INM version used and the refinement and tolerance used in calculation;
 - II. The coordinate system used for the base map, runways and contours;
 - III. All assumptions made in preparation of the ANEFs;
 - IV. The person or persons and the organisation or company who have taken responsibility for all input assumptions used in preparation of the contours including the forecasts of aircraft numbers and types, the day/night splits, the runway locations and usage, and the flight track locations and the assignments of aircraft using those tracks; and
 - V. In the case of aircraft noise contours modelled incorporating the effects of topography, advice of same noted in the title block of the map.

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- f) Evidence that the relevant State and Local Government authorities have sighted the proposed ANEF contour chart and have had the opportunity to comment; and
 - g) Any other material the endorser considers necessary to make a proper assessment under (1) above.
3. If the endorser is satisfied that the criteria for endorsement have been met the endorser should stamp the ANEF as being endorsed as the official ANEF for the airport for the purposes of the Master Plan. The endorsement must specify if the ANEF is a "standard ANEF" (ie a forecast of noise exposure levels up to a maximum of 20 years); a "long range ANEF" (ie a forecast of noise exposure levels beyond 20 years) and specify the number of years; or an "ultimate practical capacity ANEF" (ie a forecast of noise exposure levels likely if an airport was operating at its ultimate practical capacity).

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The Village Building Co. Limited

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Phone (02) 6241 6844 Fax (02) 6241 6677 Web www.villagebuilding.com.au

Professor John McMillan
Commonwealth Ombudsman
Ground Floor, 1 Farrell Place
Canberra City ACT 2600

Attention Mr Geoff Ario-Farulla



6 March 2009
The Village
Building Co.

Dear Sir,

Re: Complaint regarding AirServices Australia's endorsement of Canberra Airport's draft Practical Ultimate Capacity Australian Noise Exposure Forecast

We refer to our letter of complaint to the Ombudsman dated 4th September 2008.

In a telephone conversation on 13th November 2008 between Mr Geoff Ario-Farulla of the Ombudsman's office and myself, Mr Ario-Farulla requested that we write to AirServices Australia in similar terms to our letter to the Ombudsman. Attached is a copy of our letter to AirServices dated 14 November 2008 in response to this request. The attachments to this letter were the same as the attachments to our letter to the Ombudsman dated 4th September 2008.

Also attached is copy of a letter received from AirServices Australia in response to our letter dated 14th November. AirServices Australia requests that we provide specific details of where we believe the endorsement is not in accordance with the "manner of endorsement" approved by the Minister on 3 April 2008. The second paragraph of page two of our letter to AirServices Australia dated 14th November, however makes specific reference to this endorsement process. Our letter clearly expresses concerns about AirServices Australia's response to the requirements under item 1 of Attachment A to the method of endorsement approved by the Minister.

We do not believe that AirServices Australia has properly considered the concerns raised in our letter of 14th November 2008. We have written to AirServices Australia many times over the past six years on most of these matters but have never received a proper response.

We therefore request that the Commonwealth Ombudsman instigate a formal investigation into the manner of endorsement based on our complaint lodged on the 4th September 2008.

Of recent relevance is the rejection on 21st November 2008, by the Minister of Canberra Airport's Draft Master Plan. In the attached media release the Minister questions the airport's long term projections for freight operations. The ANEF endorsed by AirServices Australia is based on the same projections that have been questioned by the Minister.

If you require any additional information or wish to discuss this matter, please contact the undersigned.

Yours Sincerely,

Ken Ineson

General Manager, Special Projects & Feasibilities



AIRSERVICES AUSTRALIA

Office of the Chief Executive Officer

GPO Box 367, Canberra ACT 2601
25 Constitution Avenue, Canberra ACT 2600

t 02 6268 4182
f 02 6268 5685

ABN 59 698 720 886



Mr Ken Ineson
General Manager, Special Projects and Feasibilities
Village Building Company Limited
PO BOX 178
MITCHELL ACT 2911

Dear Mr Ineson

Airservices Australia's endorsement of the Canberra International Airport Ultimate Practical Capacity Australian Noise Exposure Forecast (ANEF)

Thank you for your letter dated 14 November 2008, regarding the endorsement of the Ultimate Practical Capacity ANEF for Canberra International Airport (**Canberra Airport ANEF**).

The Full Federal Court of Australia handed down a decision on 10 April 2008, from an appeal brought at first instance before Justice Rares, which dealt with many of the issues you have raised in your letter.

On 3 April 2008, the Minister for Infrastructure approved the 'manner of endorsement' for Airservices Australia to use when considering ANEFs provided by airports under the Airports Act 1996 (**Approval**). A copy of the Approval is **attached**.

If the Village Building Company is now alleging that Airservices Australia has not endorsed the Canberra Airport ANEF in accordance with the Approval, we ask that you clarify your specific concerns. We also ask that you consider these issues in the light of the Full Federal Court decision dated 10 April 2008 and the decision of Justice Rares made on 18 June 2007. We will then be in a position to consider your request.

Yours sincerely

Greg Russell
Chief Executive Officer
18 December 2008

IN CONFIDENCE



Australian Government
 Department of Infrastructure, Transport,
 Regional Development and Local Government

This is a Ministerial
 Submission for
 Decision

FOR: The Hon Anthony Albanese MP	eWorks Number: 03027-2008	Ministerial action required by: 31 March 2008
DIVISION: Aviation & Airports		Reason: To comply with requirements of the Airports Act 1996

SUBJECT: Ministerial approval of 'manner of endorsement' for ANEFs

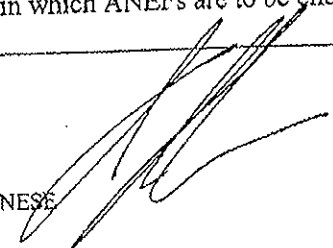
Recommendation: That you:

1. agree the attached 'manner of endorsement' for ANEFs as required under the Airports Act 1996.

Key Issues

The purpose of this brief is to seek your agreement to the 'manner of endorsement' for Airservices Australia to use when considering future Australian Noise Exposure Forecasts (ANEFs) provided by airports under the Airports Act 1996.

1. Changes to the Airports Act 1996, which took effect on 13 May 2007, now require that the endorsement of ANEFs be undertaken in a 'manner' approved by the Minister.
2. Ministerial Direction M37/99 of 3 May 1999 issued under the Airservices Act 1995 prescribes that Airservices Australia is responsible for the endorsement of ANEFs for all Australian airports.
3. The manner proposed, see Attachment A, has been developed in consultation with the Department's Legal area and Airservices Australia.
4. Your approval of the 'manner' in which ANEFs are endorsed by Airservices is required to ensure any draft Airport Master Plan submitted for approval after 13 May 2007 (for example that currently being prepared by Canberra International Airport) is not put in doubt.
5. ~~Airservices Australia has delayed a decision on the endorsement of the ANEF provided by Canberra Airport for their revised Master Plan until a decision is handed down by the Federal Court on the appeal by the Village Building Company. A court decision is anticipated in the next few weeks. A revised ANEF for the Sydney Airport Master Plan will be submitted to Airservices for consideration and endorsement in May 2008.~~
6. Given the Department's examination of Canberra Airport's ANEF and the outcome of recent discussions with the NSW Minister for Planning, the Hon Frank Sartor and his departmental officials, we see no need to further delay your agreement to the manner in which ANEFs are to be endorsed.

This minute approved by (Deputy Secretary)		<input checked="" type="checkbox"/> AGREED  ANTHONY ALBANESE 3 / 4 / 2008 Comments.....	
17 / 3 / 2008			
Executive Director	Mike Mrdak	Work: 6274 7086	Mobile: 0417 021 029
Action Officer	Ellis Maureen	Work: 6274 8087	Mobile: 04107 010 492

Attachment A

ENDORSEMENT OF AUSTRALIAN NOISE EXPOSURE FORECASTS

1. In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) Airservices Australia ("the endorser") must be satisfied with the following elements of the ANEF:
 - a) That the appropriate selection of aircraft types for the airport have been used as input data;
 - b) That the runway usage and flight path data used as an input to the model are operationally suitable for the airport;
 - c) That the forecast numbers of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;
 - d) That the contours have been modelled correctly;
 - e) That the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and
 - f) Any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

2. The endorser of the Australian Noise Exposure Forecast (ANEF) must ensure that the following information is provided to it by the proponent of the ANEF in order to complete the assessment under (1) above:
 - a) Three copies (3) of the proposed ANEF map suitable for endorsement (two to be retained by the endorser);
 - b) A copy in digital form of the Integrated Noise Model (INM) study, including all files complete and unzipped;
 - c) A plot of the flight tracks used with tracks labelled on A3 or larger paper;
 - d) A table of aircraft movements by aircraft type, time of day and runway (usually reproduced on the ANEF map);
 - e) A bound report detailing the following:
 - I. The INM version used and the refinement and tolerance used in calculation;
 - II. The coordinate system used for the base map, runways and contours;
 - III. All assumptions made in preparation of the ANEFs;
 - IV. The person or persons and the organisation or company who have taken responsibility for all input assumptions used in preparation of the contours including the forecasts of aircraft numbers and types, the day/night splits, the runway locations and usage, and the flight track locations and the assignments of aircraft using those tracks; and
 - V. In the case of aircraft noise contours modelled incorporating the effects of topography, advice of same noted in the title block of the map.

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- f) Evidence that the relevant State and Local Government authorities have sighted the proposed ANEF contour chart and have had the opportunity to comment; and
 - g) Any other material the endorser considers necessary to make a proper assessment under (1) above.
3. If the endorser is satisfied that the criteria for endorsement have been met the endorser should stamp the ANEF as being endorsed as the official ANEF for the airport for the purposes of the Master Plan. The endorsement must specify if the ANEF is a "standard ANEF" (ie a forecast of noise exposure levels up to a maximum of 20 years); a "long range ANEF" (ie a forecast of noise exposure levels beyond 20 years) and specify the number of years; or an "ultimate practical capacity ANEF" (ie a forecast of noise exposure levels likely if an airport was operating at its ultimate practical capacity).
-

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Greg Russell
Chief Executive Officer
Airservices Australia
Alan Woods Building
25 Constitution Avenue
Canberra ACT 2601



14 November 2008

Dear Mr Russell,

Re: Airservices Australia's Endorsement of Canberra Airport's Practical Ultimate Capacity Australian Noise Exposure Forecast

The Village Building Co has lodged a formal complaint with the Commonwealth Ombudsman regarding the processes of Airservices Australia for endorsing ANEFs. The Ombudsman has declined to investigate this matter until Airservices Australia has had an opportunity to respond to the issues which constituted our complaint.

We are therefore writing to you to request a review of AirServices Australia's endorsement on 12 June 2008 of the Canberra Airport's Practical Ultimate Capacity Australian Noise Exposure Forecast (ANEF). We have previously raised similar issues in correspondence with your office, particularly our letter dated 27 May 2008 and a letter from O'Connor Harris dated 18 April 2007.

Fundamentally, we consider that Airservices Australia endorsed this ANEF was not properly undertaken, for the reasons outlined below. Furthermore, we believe that endorsement process and "technical accuracy" should consist of more than merely a data entry checking exercise.

Adequacy of solely assessing "technical accuracy"

We have previous correspondence from your organisation which states that Airservices Australia considering their role in reviewing an ANEF, primarily focuses on the technical accuracy of the information provided. This has been further defined in correspondence as "primarily intended to ensure that the modelling software has been correctly run and that the assumptions used in the modelling are properly attributed." (See attached letter from AirServices Australia dated 13 September 2002)

Therefore, the endorsement process does not critically review the assumptions made by an airport operator to ensure that growth rates are realistic or achievable. As a result of privatisation, airports are now operated as commercial enterprises looking to maximise profitability and market advantage. However, it seems that AirServices Australia has not kept pace of this change to modify processes and procedures to reflect operations in this new environment.

Given the significant impact that the endorsement of an ANEF has on the surrounding environs of an airport, particularly through the planning system, we believe that AirServices Australia should apply greater scrutiny and rigour to their review of proposed ANEFs. This is needed to ensure that ANEFs, as far as practicable, reflect the realistic and anticipated development of any particular airport within a well defined planning period. The current process seems to have the potential to allow private airport operators to have wildly optimistic ANEFs endorsed, with their only requirement of inputting the assumptions into software and running that software correctly.

Specific Compliant about endorsement of Canberra Airport's ANEF

In May 2008, we received a copy of the Minister approved endorsement process for ANEFs from your organisation. We understand that this was the process used for the endorsement of the Canberra Airport's ANEF. (It should be noted that the approved endorsement process document is not available on the AirServices Australia website, nor is the endorsed ANEF available on the Canberra Airport website.)

Therefore, we base our request for a full review of endorsement of the Canberra Airport's Practical Ultimate Capacity ANEF on the application of the criteria within this approved process as follows:

1. In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) AirServices Australia ("the endorser") must be satisfied with the following elements of the ANEF:
 - a) That the appropriate selection of aircraft types for the airport have been used as input data;

As outlined in our submission to the ANEF Public Consultation for the Canberra Airport, respected consultants in the aviation industry have questioned the appropriateness of the aircraft types used in the modelling of the Ultimate Capacity ANEF. The basis of their queries relates to the extended timeframe to reach the proposed Ultimate Capacity (43 years to the stated time period 2050, but more likely Ultimate Capacity not reached until after 2100!), therefore it is not reasonable to consider that aircrafts such as the Boeing 747-400, Boeing 757, Airbus A-330, Airbus A-340, McDonald Douglas MD-11 and BAe146 would still be in operation.

This timeframe is well in excess of the commonly expected planning period of between 20 and 25 years. In particular, the 20 year time frame is specifically defined in Airports Act 1996.

Therefore, our view is that Airservices Australia should not have endorsed the submitted ultimate capacity ANEF because the timeframe to reach this capacity is so far into the future that the aircraft used in the model would no longer be in service.

- b) That the runway usage and flight path data used as an input to the model are operationally suitable for the airport;

Our submission to the ANEF Public Consultation for the Canberra Airport contained detailed descriptions and comparisons regarding determining the ultimate capacity for Canberra Airport operating as a single runway airport. This clearly indicated that the ultimate capacity of the runway claimed by the Canberra Airport was unrealistic and only the most efficient single runway airport in the world comes close to achieving such a capacity.

Additionally, the Ultimate Capacity ANEF for the Canberra Airport does not discuss the constraints related to being able to effectively achieve the stated number of aircraft movements. These constraints include the taxiways, aircraft docking facilities, terminal and parking capacity.

It is our view that the entire Airport infrastructure needs to be considered when determining the operational capacity.

Given these comments, it is our view that Airservices Australia should not have endorsed the Canberra Airport Ultimate Capacity ANEF without the provision of satisfactory information to indicate that the inputs to the model are "operationally suitable".

c) That the forecast number of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;

Aircraft Movements

Consultant Greg Marks has indicated that the ultimate capacity has been determined based upon continuous ideal weather conditions through the entire period. This enables the maximum possible number of flight operations to occur. This is unrealistic as adverse weather conditions, such as fog, do occur at Canberra Airport frequently and this will limit the number of flight movements due to having to operate in Instrument Meteorological Conditions (IMC) mode.

The aircraft types and their time of operations that has been modelled by R-AOS in the Canberra Airport Ultimate Capacity ANEF appear to have been based on directions from the Capital Airport Group, and Astral Limited believe that "CAG's assumed day/night split appears even more inconsistent ... the B747-400 ... is assumed to have 80% of its movements at night whereas the A3330 has only 52% at night. No reason for this disparity appears to be provided in the R-AOS report." (page 13, Astral Limited Report dated 18 July 2007).

Operating Times

The Ultimate Capacity ANEF developed by the Capital Airport Group has assumed the quantity of aircraft movement and the time of operations. The assumption is that 37% of flights occur at night, however as Astral Limited have indicated "there are inconsistencies between R-AOS report table 6 data and the R-AOS ultimate capacity which suggest the proportion of night flights used in the noise modelling is too high. ... As nights is deemed to be between 1900 and 0700hrs, these operating hours equate to approximately 75% day and 25% night." (page 9 – 10 Astral Limited Report dated 18 July 2007)

The result of this overestimation of night time flight activity is a significantly larger ANEF contour, because night time flights attract a 4 times weighting, compared to day flights.

Aircraft Operations

The Canberra Airport Ultimate Capacity ANEF is based on unproven and unapproved flight operation pathways.

The ANEF produced has been based on a 15 degree westward skewed approach to Runway 35, the southern approach runway. WRB Consulting advise that "the matter was raised during a discussion with CASA, which advised that this assumption is very optimistic and whilst technically feasible, is highly unlikely to be approved." (page 3, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007)

Additionally, WRB Consulting indicated that "Both CASA and Airservices Australia have confirmed that apart from an RNP straight-in approach, only one RNP approach for each shall be published." (page 4, Comments on Draft Canberra International Airport ANEF by WRB Consulting dated 4 July 2007) However, the Canberra Airport Ultimate Capacity ANEF has incorporated both a 12 degree westward and a 15 degree westward skewed approach to Runway 35.

Therefore, it is our view that the Ultimate Capacity ANEF prepared for the Canberra Airport should not have been endorsed by Airservices Australia because of the above discrepancies in the information provided for this element of the Endorsement Process.

d) That the contours have been modelled correctly;

The Canberra Airport Ultimate Capacity ANEF is "a composite of three ANEC [Australian Noise Exposure Concept] projections, each for "practical ultimate capacity". These ANEC projections are:

- Existing operations being runway 35 preferred mode, existing noise abatement procedures. ...*
- Runway 17 preferred mode which has 40% takeoffs on runway 17, all executing a 10° turn west after takeoff ...*
- Runway 35 approach with the 15° approach track offset which is assumed to be used by a high proportion of jet arrivals on runway 35." (page 17, Review of practical ultimate capacity ANEF by Astral Limited dated 18 July 2007)*

Therefore, the resultant Ultimate Capacity ANEF is unrealistic in it allows for the operation of multiple aircraft on the single runway at the same time, one taking off and one is landing in the opposite direction.

Therefore, it is our view that Airservices Australia should not have endorsed this proposal because rather than being one ANEF, it is in fact the combination of three separate ANEFs which logically can not operate simultaneously.

e) That the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and

We are unaware of the details of the submissions by the State and Local Government Authorities because there is no publicly available record of submissions made to the Capital Airport Group and AirServices Australia in relation to the public consultation or endorsement processes of the ANEF.

This seems quite unusual in the current environment of public transparency relating to Government authorities decision making processes, particularly for those involving public consultation.

f) Any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

Timeframe

Section 72 of the Airports Act 1996 specifies that the "planning period" is a period of 20 years. Therefore, the Canberra Airport should be required to produce an ANEF that represents this time horizon, rather than an ultimate capacity ANEF, which will not occur for at least the next 50 years, if ever!

It is our understanding that the ability to produce an "ultimate capacity" ANEF was intended for the purposes of Airports that would meet this level before the expiration of a 20 year planning period. This would be a reasonable interpretation and acceptable application of ultimate capacity ANEF.

For the reasons outline above, the application of an ultimate capacity ANEF that extends so far into the future could not be considered reasonable. There are so many variables that will impact on the future operation of airports, and society in general, that using historical or current data to predict beyond 20 years is absurd.

Therefore, it is our opinion that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the time horizon is well in excess of the "planning period" specified in the legislation and accepted by the industry.

Unrealistic Estimate of Total Aircraft Movements

The ultimate capacity ANEF is based upon a figure of total aircraft movements of 283,000 by the year 2050. The Canberra Airport Master Plan 2005 indicates the total aircraft movements 2025, based upon 2002 figures and growth rates, of around 146,000, up from a total in 2002 of around 86,000. Therefore, Capital Airport Group's own figures indicate an expected growth of 60,000 aircraft movements over a period of 23 years.

Given these figures, to reach the ultimate capacity figure used in the 2050 ANEF, the aircraft movements would need to almost double in the 25 years between 2025 and 2050. This is twice the growth rate used when determining the estimated annual aircraft movements for 2025.

Therefore, it is our opinion that Airservices Australia should not have endorsed the ultimate capacity 2050 ANEF because the total aircraft movements that this ANEF is based upon are overly optimistic estimations from the Capital Airport Group. Furthermore, there are inconsistencies with the growth rates used between the approved Master Plan and those used for the ANEF calculations.

Unrealistic Estimates of International Operations

The Canberra Airport ultimate capacity ANEF is based on a significant percentage of international flights, operating into and out of this airport. However, all these international flights are an assumption by the Capital Airport Group and this would need to be viewed as such.

Currently, Canberra Airport does not operate ANY international flights, therefore there is no data to base the suggested demand on, or to support any claims of international destinations.

Therefore, it is our opinion that any suggestion by the Capital Airport Group of the quantum of international flights occurring in the future is speculative and could not be used as the basis for the development and application of an ANEF.

Objective 8 of the Canberra Airport approved Master Plan indicates that the airport will "meet demand for limited international services" (page 7 Canberra International Airport Master Plan 2005). Therefore, this objective is in direct contrast to the proposed number of flights proposed in the ANEF calculations.

As such, we are of the view that Airservices Australia should not have endorsed an ultimate capacity ANEF for the Canberra Airport because the inclusion of significant numbers of international flights could only be described as speculative.

Unrealistic Estimates of Freight Operations

The Canberra Airport ultimate capacity ANEF is based on a significant volume of freight traffic coming into the airport, particularly during night time. However, there is no information within the Capital Airport Group information to justify this claim.

Aviation experts, such as WRB Consulting, Astral Limited and Ambidji Group, have raised doubts over the ability of the Canberra Airport to attract the volume of freight transport indicated. These questions related to the proximity of Canberra Airport to Sydney and Melbourne, the Sydney Airport's first right of refusal over the Badger Creek site, and the atmospheric conditions, particularly the likelihood of fog impacting operations during a substantial period of the year.

Additionally, these aviation experts have questioned the assumptions of the time of operation of these freight operations, which are predominately modelled as occurring at night. These queries are based upon the fact that freight operators need to coordinate departures/arrivals with other airports. No evidence was provided by the Capital Airport Group to support their claims.

The Canberra Airport Master Plan 2005 does not commit to the development of any significant freight handling facilities at the airport in the near future. Therefore, it is absurd to approve an ANEF which includes a large number of freight movements when there is no capacity to handle the volume of freight that these movements would generate.

Therefore, it is our opinion that Airservices Australia should not have endorsed an the ultimate capacity ANEF submitted for the Canberra Airport that includes significant volume of unsubstantiated freight aircraft movements.

Attached is our submission made during the public consultation period for the draft practical ultimate capacity ANEF for Canberra Airport submitted on 25 July 2017. This submission includes the consultants' reports referred to in our complaint. We also have attached a copy of correspondence from AirServices Australia where at point 3, which details the review process for draft ANEFs.

We request that Airservices Australia provide us with a written response in regards to this matter, outlining whether or not a review will be undertaken, at your earliest convenience.

If you require any additional information or wish to discuss this matter in person, please contact the undersigned at this office.

Regards,



Ken Ineson
General Manager, Special Projects & Feasibilities

cc: Commonwealth Ombudsman
Minister for Infrastructure, Transport, Regional Development and Local Government
General Manager, Queanbeyan City Council

Minister refuses to approve Canberra Airport Master Plan

MEDIA RELEASE

The Hon Anthony Albanese MP
The Minister for Infrastructure, Transport,
Regional Development and Local Government
Leader of the House
Member for Grayndler

November 21 2008

Today I am announcing my decision to not approve Canberra Airport's 2008 draft master plan.

Canberra Airport's 2008 draft master plan does not provide the necessary detail to meet the statutory purposes of a master plan and enable well informed public consideration of the proposed 20 year plan for the Airport.

Canberra Airport has been on notice since February 2005 when the previous government identified similar deficiencies in detail that should be addressed in subsequent master plans.

Canberra Airport's 2008 draft master plan did not provide an adequate level of detail in relation to land use planning and does not clearly establish the strategic direction for the economic and efficient use of the airport

The 2008 draft master plan does not have enough detail to allow the public or myself to reasonably determine to what extent there are potential conflicts relating to the land use on the airport or the surrounding areas.

Examples of insufficient information in the 2008 draft master plan include:

- The draft master plan proposes a freight hub and states "significant night freight operations will commence in the short term", but the draft master plan does not indicate the potential location of the freight hub, the type of freight envisaged, the buildings and other infrastructure required to operate it, possible traffic management arrangements or the volume of freight that may be processed;
- There are minimal maps and diagrams to outline the use of the airport land, to show the delineation of aeronautical and other development areas, environmentally significant areas or details of the connections with the surrounding roads; and
- There is minimal information about how airport and surrounding infrastructure and services will support the airport's projected growth, with very limited information about terminal redevelopment or other aeronautical developments needed to support that projected growth.
- The key land use map for the airport in the 2008 draft master plan is an undated aerial photograph that does not show the airport's intentions for future development including detail such as the approved terminal expansion.
- There is not sufficient information relating to specific precincts such as land use zones, commercial development land uses and no detail about current and future road works to support airport growth, including works already underway.

Matters raised during public consultation have not been adequately addressed by Canberra Airport.

Many members of the community raised concerns about the proposal for a freight hub, for example, and the airport's response has not adequately addressed the substance of their concerns. The public should be advised of the potential truck, plane and machinery noise they might face if the freight hub proposal develops as significantly and rapidly as suggested in the 2008 draft master plan.

The public have a right to know how this development could impact on their homes, and the airport's response to these concerns has been inadequate.

I strongly support well-planned investment at leased federal airports which is underpinned by comprehensive and informed community input. Both investors and the community require certainty. Master plans are critical in this process by providing key information about the airports and how they will develop in for the future.

I have written to Canberra Airport informing them of the reasons for my decision and have given them 180 days to prepare a new draft master plan and submit it to me for consideration. The existing 2005 master plan remains in force until I approve a new master plan.

I am confident these matters can be worked through with Canberra Airport to ensure the draft master plan is revised appropriately and the public is provided a further opportunity to comment on the future directions of this critical facility that serves the Canberra region well.

Like other Federal leased airports, Canberra Airport is required to submit a master plan in accordance with the Airports Act 1996. The master plan is a key document that gives the aviation industry and other businesses certainty to plan and invest for the long term and gives clarity to travellers, airport users and the community affected by aviation activity.

Our ref: 2009-105271

13 May 2009

Mr Christian Knight
Village Building Co
PO Box 178
MITCHELL ACT 2911

Dear Mr Knight

Further to your telephone conversation with Ms Christine Giles today, please find enclosed the three binders of information the Village Building Company (VBC) provided to our office in support of its complaint about Airservices Australia (ASA).

As Ms Giles indicated, at this stage our office has decided to limit its investigation to the adequacy of the ASA's response to VBC's letter of 14 November 2008. This matter has been personally considered by the Ombudsman, Professor John McMillan, who will write to the Chief Executive Officer of the ASA raising our concerns.

We will let you know once the letter has been sent to the ASA. I have noted your request that you be provided with a copy of this letter. As Ms Giles advised, our office does not normally provide to complainants copies of our correspondence with agencies, but I will draw your request to the attention of the Ombudsman.

I also note your indication that you will update Mr Gary Chapman from the Queanbeyan City Council on the action we are taking in response to your most recent complaint.

Should you have any questions in the meantime, you are welcome to contact me by telephone on 1300 326 072 or by email at: Complaints.Brisbane@ombudsman.gov.au

Yours sincerely



Geoff Airo-Farulla
State Director – Qld and NT



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Mr Ken Ineson
General Manager
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Village Building Co Limited
Argyle Corner
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MITCHELL ACT 2911

Dear Mr Ineson

Village Building Company – Complaint to the Ombudsman

Thank you for your letter of 14 November 2008 in which you notified Airservices (**Airservices**) that the Village Building Company (**VBC**) has lodged a formal complaint with the Commonwealth Ombudsman in respect of the endorsement of Practical Ultimate Capacity Australian Noise Exposure Forecast (**ANEF**) for Canberra International Airport (**CIA**). In that letter, you invited Airservices to respond to the following issues:

- (a) the statutory role and function of Airservices in endorsing ANEFs; and
- (b) Airservices' endorsement of the Practical Ultimate Capacity ANEF for Canberra International Airport on 12 June 2008 (**the CIA ANEF**).

We address each of VBC's concerns separately below.

- 1. Airservices' role and function in relation to endorsement of ANEFs – preliminary comments**
 - 1.1 We note your concern in relation to Airservices' role in the endorsement of ANEFs, notably, that Airservices has a limited function in solely assessing the technical accuracy of ANEFs. In particular, we note your concern that *'the endorsement process does not critically review the assumptions made by an airport operator to ensure that growth rates are realistic or achievable.'*
 - 1.2 For the sake of clarity and to avoid any misunderstanding as to Airservices responsibilities regarding ANEFs, we have outlined the scope of and the procedure used to fulfil this function below. However we provide the following preliminary comments.
 - 1.3 As you are aware, we have previously stated that Airservice's role in assessing the technical accuracy of ANEFs is to ensure that the modelling software has been correctly run and that the assumptions used in the modelling are properly attributed.

- 1.4 In response to your concern, we note that Airservices assesses the data provided by an airport operator to ensure that aircraft movements are *practically and technically* realistic or achievable. Airservices emphasises that to the extent that assumptions underlying ANEF modelling are based on the business case and strategy of the lessee airport, it is beyond the scope of Airservices statutory functions to enquire as to the economic feasibility of that business case, other than to enquire into the practical feasibility of forecast aircraft movement.

2. Role of Airservices in relation to the endorsement of ANEFs

- 2.1 Airservices undertakes the endorsement of all ANEFs for civilian airports. The endorsement of ANEFs is an activity to be performed by Airservices in accordance with the Ministerial Direction of 3 April 2008.
- 2.2 To ensure ANEFs are produced in a systematic way, a manner of endorsement was approved by the Minister for Infrastructure, Transport, Regional Development and Local Government in April 2008 to ensure compliance with the Airports Act 1996 that ANEFs for airports covered under the Act are endorsed "in a manner approved by the Minister".
- 2.3 The procedure for endorsement of ANEFs for technical accuracy in the manner approved by the Minister is outlined in detail below.

3. The procedure for endorsement of ANEFs for technical accuracy

The procedure for endorsement of ANEFs for technical accuracy is as follows:

- 3.1 Typically ANEFs are prepared by specialist aviation consultants engaged by airport operators. Those consultants use the FAA-INM as the basis for the preparation of the ANEF.
- 3.2 Once a draft ANEF is prepared by an aviation consultant, it is forwarded to Airservices for endorsement for technical accuracy in the manner approved by the Minister.

4. Endorsement of Australian Noise Exposure Forecasts

- 4.1 In deciding whether to endorse an Australian Noise Exposure Forecast (ANEF) Airservices Australia ("the endorser") must be satisfied with the following elements of the ANEF:
- (a) that the appropriate selection of aircraft types for the airport has been used as input data;
 - (b) that the runway usage and flight path data used as an input to the model are operationally suitable for the airport;
 - (c) that the forecast numbers of aircraft movements, operating times and the aircraft types carrying out operations are not greater than the physical ultimate capacity of the existing or proposed runway/s using accepted and published methodologies;
 - (d) that the contours have been modelled correctly;
 - (e) that the proponent has demonstrated it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF; and

- (f) any other matter the endorser considers relevant in deciding whether to endorse the ANEF.

4.2 The endorser of the Australian Noise Exposure Forecast (ANEF) must ensure that the following information is provided to it by the proponent of the ANEF in order to complete the assessment outlined above:

- (a) Three copies (3) of the proposed ANEF map suitable for endorsement (two to be retained by the endorser);
- (b) A copy in digital form of the Integrated Noise Model (INM) study, including all files complete and unzipped;
- (c) A plot of the flight tracks used with tracks labelled on A3 or larger paper;
- (d) A table of aircraft movements by aircraft type, time of day and runway (usually reproduced on the ANEF map);
- (e) A bound report detailing the following:
 - (i) The INM version used and the refinement and tolerance used in calculation;
 - (ii) The coordinate system used for the base map, runways and contours;
 - (iii) All assumptions made in preparation of the ANEFs;
 - (iv) The person or persons and the organisation or company who have taken responsibility for all input assumptions used in preparation of the contours including the forecasts of aircraft numbers and types, the day/night splits, the runway locations and usage, and the flight track locations and the assignments of aircraft using those tracks; and
 - (v) In the case of aircraft noise contours modelled incorporating the effects of topography, advice of same noted in the title block of the map.
- (f) Evidence that the relevant State and Local Government authorities have sighted the proposed ANEF contour chart and have had the opportunity to comment; and
- (g) Any other material the endorser considers necessary to make a proper assessment .

4.3 If the endorser is satisfied that the criteria for endorsement have been met the endorser should stamp the ANEF as being endorsed as the official ANEF for the airport for the purposes of the Master Plan. The endorsement must specify if the ANEF is a "standard ANEF"(ie a forecast of noise exposure levels up to a maximum of 20 years); a "long range ANEF" (ie a forecast of noise exposure levels beyond 20 years)and specify the number of years; or an "ultimate practical capacity ANEF"(ie a forecast of noise exposure levels likely if an airport was operating at its ultimate practical capacity).

4.4 In undertaking the technical endorsement review against each of the 'data source' headings, Airservices checks that the submitted report of assumptions attributes the source of the data relied upon by the applicant for the ANEF. In doing so, Airservices is not assessing any of the data in a qualitative way or seeking to determine the likelihood of the assumption behind the relevant data occurring.

4.5 Once Airservices is satisfied that the information provided is in accordance with the requirements of the approved manner of endorsement and that the FAA-INM has been run correctly, Airservices then informs the airport operator that the ANEF has been assessed as ready for endorsement for technical accuracy.

- 4.6 The airport operator must then make the proposed ANEF contour chart available to the relevant authorities in State and Local Government for sighting and comment. In accordance with Item (e) of the approved manner of endorsement the proponent must then demonstrate that it has paid due regard to all issues raised by State and Local Government authorities in relation to the ANEF following which Airservices is in a position to finally consider endorsement of the ANEF for technical accuracy.
- 4.7 Once the consultation process is completed, Airservices performs a final check for technical accuracy of the draft ANEF. Once it is satisfied that the ANEF is suitable for endorsement for technical accuracy in the approved manner, Airservices endorses the ANEF.

5. **Airservices' endorsement of Practical Ultimate Capacity ANEF for CIA**

- 5.1 Your specific complaint about Airservices' endorsement of the CIA ANEF outlined complaints against the 6 criteria used by Airservices in the endorsement process. Each complaint will be responded to in turn ((a) ~ (f)).
- 5.2 Each of the complaints you expressed in your letter have been previously addressed in the judgment by the Full Court of the Federal Court of Australia in *Village Building Company Limited v Airservices [2008] FCAFC 57*. In that judgment, the Full Court dismissed the appeal of VBC and upheld the decision of the Federal Court of Australia at first instance, which found that the endorsement of the ANEF by Airservices was correct at law. Accordingly, where relevant, we refer below to the reasons of the Full Federal Court's decision.

6. **Airservices' responses**

- (a) That appropriate selection of aircraft type be used as input data

VBC complaint **The aircraft type used as input data may have ceased to be in operation when the ultimate capacity of CIA is forecast to be reached in 2050.**

Airservices' response We have responded even though the CIA ANEF is a practical ultimate capacity ANEF. Airservices is cognisant of the inevitable difficulties of forecasting noise contours in the face of technological innovations in the aviation industry. However, ANEFs are endorsed by Airservices on the basis that they reflect available information as to type of aircraft currently in use. That is the way the ANEF model operates, that is it is based upon the actual type of aircraft put forward by the airport operator.

The practical limitations of ANEFs in this regard is overcome by the ability to review and replace ANEFs in light of the most up to date information. We note that it is customary for ANEFs to be reviewed by Airports on a 5 yearly basis. This issue was considered by Graham J, who commented as follows:

*'Of necessity, circumstances will change over time such that an appropriately endorsed ultimate capacity ANEF for an airport will itself be superseded. As AS 2021-2000 indicates 'A more recently endorsed chart supersedes an earlier chart' and AA Guidelines published on 1 July 2005 make it clear that ANEFs 'are regarded as being valid for a period of five years at which time they should be replaced'. Apart from other considerations, it is self evident that aircraft types will change, newer engines may generate less noise, the mix of aircraft types using an airport will change and so on.'*¹ ...

Graham J continued:

'As was explained in AS 2021-2000 an Australian Noise Exposure Forecast is based on a firm forecast of aircraft movement numbers and operating times, aircraft types, destinations, flight paths and a given use of runways.

*It may well transpire that, by the time that 'ultimate capacity' is achieved at Canberra International Airport, all the current aircraft types on which the draft ANEF is based will have ceased to operate. The next generation of commercial aircraft could, for all one knows, be vertical takeoff and landing aircraft, perhaps even with different methods of propulsion.'*²

- (b) That operationally suitable runway usage and flight path data be used as input data.

VBC complaint **The CIA ANEF ignored practical constraints that reduce the efficiency of single runway airports, including taxiways, aircraft docking facilities and parking capacity, and accordingly overestimates operational capacity in the CIA ANEF.**

Airservices' response Airservices considers that the future practical constraints upon the ultimate practical capacity of the runway system at CIA were properly taken into account as required by the approved manner of endorsement.

This view is supported by the judgment of the Full Federal Court, of which the reasons of Graham J are apposite. His honour addressed the Rehbein AOS Airport Consulting reports (28 May 2007 and 30 March 2005) (**the AOS Reports**) which estimated the Annual Ultimate Capacity of the runway system at CIA and accepted that:

*'[t]he estimate proceeded on the basis that aircraft parking aprons for regular public transport and for general aviation would be expanded as and when required, as would passenger terminal capacity.'*³

Graham J continued:

'Given that Mr Owen [Airservices' expert witness] was not cross-examined to suggest that the expansion of the aircraft parking aprons

¹ At para 215.

² At para 224.

³ At para 124.

and/or the passenger terminal could not be achieved to meet the needs of Canberra International Airport with the runways operating at 'ultimate capacity', I reject the appellant's submission that the draft ANEF was nothing more than a forecast for the runways rather than for the airport itself.⁴

- (c) Aircraft movements, operating times and aircraft type do not exceed the physical ultimate capacity of existing or proposed runway/s using accepted and published methods.

**VBC
complaint**

Aircraft movements:

A) Forecast aircraft movements are based upon the incorrect assumption of continuous ideal weather conditions and overestimated night time flights. This is unrealistic and distorts the ANEF.

B) There is a disparity in the data provided to Airservices between the proportion of day versus night flights across various aircraft types

**Airservices'
response**

A) The AOS Report of 28 May 2007, a source of data from which the ANEF was produced, accounted for variable meteorological conditions. See, for example, heading 1.0 'Introduction' which states:

The theoretical runway utilisation has been established for each runway direction by an analysis of meteorological data which considered wind speed and direction coupled with visibility/cloudbase criteria applicable to both non-precision and precision approaches. This report, Canberra International Airport: Meteorological Analysis, is included as Annex 2.

Observed differences in theoretical and practical usability of runway 35 suggest that ATC is not always able to adopt the runway direction most favoured by meteorological considerations. This has been taken into account by applying a lower percentage than indicated in the meteorological analysis in modelling the runway 17 operations. The practical, as opposed to theoretical runway utilisation, is derived in a further analysis of the meteorological report which is included as Annex 3.

In the Full Federal Court decision, Graham J acknowledged that the effect of weather on aircraft movement had been considered by Airservices in endorsing the ANEF:

Plainly, meteorological conditions will not permit the use of the 17/35 runway exclusively in the northerly (350°) direction at all times. This was recognised in the report.

On this basis, Airservices is of the view that the CIA ANEF accurately reflects realistic weather patterns.

⁴ At para 225.

B) Airservices emphasises that the proportion of day versus night flights of different aircraft type is based on the business case and strategy of the CIA and it is beyond the scope of Airservices statutory functions to enquire as to the economic feasibility of that business case, other than to enquire into the practical feasibility of forecast aircraft movements.

**VBC
complaint**

Operating times: Forecast aircraft movements are based upon overestimated numbers of night time flights. This distortion made the ANEF contour significantly larger due to the higher weighting that night time flights attract.

**Airservices'
response**

Airservices considers that the data that formed the basis of its decision to endorse the CIA ANEF accurately accounted for average hourly movements of aircraft by aircraft types, approach speed, take-off weight and period of the day.

The Federal Court also formed this view upon reviewing the AOS Report of 23 May 2007. For example, Graham J recognised that:

*'The 30 March 2005 report addressed seven different time periods in a day... The Annual Ultimate Capacity was calculated using a weighted average for the seven different time periods, which were themselves based on different operations and aircraft types.'*⁵

On this basis, Airservices does not consider the complaint of VBC to be accurately founded.

**VBC
complaint**

Aircraft operations: The forecast is based on unproven and unapproved flight operation pathways.

**Airservices'
response**

Airservices endorsement of the CIA ANEF was based on consideration of information that it believes to be technically accurate.

In addressing the issue of Airservice's obligations to assess the appropriateness of the data used to prepare the ANEF, in particular the data relating to the forecast numbers and timing of future aircraft movements for CIA, Branson J reviewed the evidence provided by Airservices and concluded that:

*...[I]n undertaking the technical endorsement review procedure for the proposed ANEF, AA, amongst other things, checked that the sources of data relied upon for the purposes of the ANEF were attributed to an appropriate and relevant source. It considered whether the runway usage used as input to the model was operationally suitable and that the forecast numbers of aircraft operations were no greater than the capacity of the airport. ...'*⁶

⁵ At para 124.

⁶ At para 73.

(d) That flight contours have been modelled correctly.

VBC complaint **The CIA ANEF incorporates three ANEC projections and allows for the operation of multiple aircraft on the single runway at the same time, taking off and landing in the opposite direction. The ANEF is in fact the combination of three ANEFs and should not have been endorsed.**

Airservices' response Airservices responds to this complaint by referring you to the decision of the Full Federal Court. This complaint was put in the form of a submission that was unanimously rejected by the Full Court (see paragraphs 123 and 218 of the Full Court's decision). In respect of that submission, Graham J stated:

*'I cannot accept the appellant's submission, in respect of the generation of the draft ANEF contour chart by the superimposition of the three ANEC contour maps produced during the consideration of options for the airport... that the superimposition required additional aircraft movements to be taken into account above and beyond the total runway capacity of the airport.'*⁷

In addition Graham J provided further that there was no suggestion put to Airservices' expert witness Mr Owen at the first instance hearing at which was the proper forum for addressing this issue.⁸

(e) That the proponent has demonstrated that it has paid due regard to issues raised by State and Local Government authorities.

VBC complaint **There is no publicly available record of submissions by the State and Local Government Authorities to Airservices or Capital Airport Group.**

Airservices' response In response to this concern, Airservices is now considering the feasibility of providing online public access to submissions received from State and Local Government Authorities in relation to the public consultation aspects of the ANEF endorsement process.

(f) Any other matter the endorser considers relevant in endorsing the ANEF

VBC complaint **Timeframe: The CIA ANEF should reflect the 20 year timeframe of the 'planning period' specified in s 72 of the Airports Act 1996, rather than an ultimate capacity ANEF which may not occur until 2050.**

Airservices' response Branson J, summarised the statutory scheme that sets out the timeframes that an ANEF may relate to as follows:

Section 71(2)(d) thus requires a draft or final master plan for the Canberra Airport to specify "an Australian Noise Exposure Forecast (in accordance with the regulations, if any, made for the purpose of [par 71(2)(d)]) for the areas surrounding the airport". It appears that no regulations have been made for the purpose of s 71(2)(d). No party contended that s 71(2)(d) discloses a legislative intention to use the expression Australian Noise Exposure Forecast other than in accordance with its defined meaning. Consequently, s 71(2)(d) requires

⁷ At para 218.

⁸ At para 223.

a draft or final master plan for the Canberra Airport to specify an ANEF endorsed in the manner approved by the Minister.

Section 71(4) authorises the making of regulations that, amongst other things, provide that a forecast or other matter specified by s 71(2) may relate to one or more of the following:

- (a) the whole of the planning period of the plan;
- (b) one or more specified 5 year periods that are included in the planning period of the plan;
- (c) subject to any specified conditions, a specified period that is longer than the planning period of the plan.

The Explanatory Memorandum for the Bill that, when enacted, became the Amendment Act, reveals that para 71(4)(c) was enacted primarily to allow for a draft or final master plan to include Australian Noise Exposure Forecast information that extends beyond the 20 year planning period, enabling State and Territory land use planning agencies to implement long-term planning goals that are compatible with an airport's proposed long term aeronautical operation (Airports Amendment Bill 2006, Explanatory Memorandum, note 37 of the notes on clauses). It appears that no regulation relevant to the issue presently under consideration has been made in reliance on s 71(4). ...

The question of whether an implication should be identified in the Act that, absent any regulation made in reliance on s 71(4), an ANEF endorsed in a manner approved by the Minister must relate to the whole of the planning period of the plan, and additionally may not relate to any longer period, is in the above circumstances moot. It should, in my view, be left to be answered in the context of factual circumstances that call for its determination.⁹

Subsequent to the judgment of the Full Court, a Ministerial Direction was issued on 3 April 2008 by which the Ministerial approval of the manner of endorsement for ANEFs was given. Item 3 of the approved manner of endorsement provides relevantly that:

The endorsement must specify if the ANEF is a "standard ANEF" (ie a forecast of levels to a maximum of 20 years); a "long range ANEF" (ie a forecast of noise exposure levels beyond 20 years) and specify the number of years; or an "ultimate practical capacity ANEF" (ie a forecast of noise exposure levels likely if an airport was operating at its ultimate practical capacity).

**VBC
complaint**

Unrealistic estimate of total aircraft movements: The growth rates used in the ANEF calculations are higher than and inconsistent with the growth rates used in the Approved Master Plan.

⁹ At paras 77 – 83.

Airservices' response In response to this complaint, Airservices refers you to the responses expressed in relation to each of criteria a ~ e above. Airservices emphasises that the estimate of total aircraft movements is based on the business case and strategy of the CIA and it is beyond the scope of Airservices statutory functions to enquire as to the economic feasibility of that business case, other than to enquire into the practical feasibility of forecast aircraft movements.

VBC complaint **Unrealistic estimates of international operations and freight operations.**

Airservices' response Please see Airservices response to the above complaint relating to 'Unrealistic estimate of total aircraft movements'.

6.1 We hope this assists your understanding of Airservices' role in endorsing ANEFs.

Yours sincerely



for John Dicer
General Counsel
Office of Legal Counsel
Airservices Australia

2 October 2009