CANBERRA AIRPORT

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Committee Secretary
Senate Standing Committee on
Rural and Regional Affairs and Transport
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Dear Committee Members

Inquiry into Airports Act Amendments 2010

Canberra Airport believes that on the whole the National Aviation Policy White Paper was a document that attempted to strike a balance between development, aeronautical investment, the rights of surrounding communities, and the commercial interests of airlines and airport operators.

While the implementation of this policy will take some time, the Airports Amendment Bill 2010 does attempt to fairly implement a number of the policy decisions made in the National Aviation Policy White Paper. However, notwithstanding this, there are still a number of issues arising out of the proposed amendments that need clarification, change or even deletion. In particular, Canberra Airport makes the following comments:

General Comment

- As a general comment, many of the proposed amendments appear to make development, both in relation to aeronautical and non-aeronautical services, significantly more difficult than they were previously. The placing of such hindrances on infrastructure investment appears contrary to the general policy settings adopted by Commonwealth and State Governments over the past couple years (including through the Commonwealths own Development Assessment Forum) – particularly during the worst of the GFC when there was an emphasis on undertaking infrastructure investment as soon as possible.

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- This is not to say that we disagree that there has to be community consultation or that major developments should be subject to scrutiny - rather our primary concern with the proposed amendments is that they result in greater uncertainty than there was before, and with uncertainty comes disincentives to investment. If nothing else we would ask that there are clear guidelines, criteria, and timeframes around the relevant triggers and decisions to be made under these amendments.

- During the White Paper there was much discussion about the introduction of a national land use planning regime for developments around airports – this regime was to both protect airports from inappropriate developments and to provide certainty to local governments and developers. Canberra Airport believes that this is an absolutely essential requirement that needs to be implemented by the Government as a matter of urgency. As the White Paper noted, airports are scarce economic resources and there needs to be a national land use planning regime around airports urgently before these economic assets are hindered by incompatible developments around them.

- For completeness, Canberra Airport notes that it agrees with the submission made by the Australian Airports Association.

Clause 1 - Master Plan Process

- Canberra Airport believes that it is important that the incorporation of the Airport Environment Strategy into Master Plan does not result in the Commonwealth Environment Minister being able to place conditions on the Master Plan by imposing conditions on the Airport Environment Strategy.

  While we understand that this is not the intent of the Commonwealth, it would be preferable if this point was dealt with expressly given the already lengthy Master Plan development process.

Clause 27 - Childcare facilities

- Consistent with the stated intention of the Commonwealth, it needs to be stated expressly that child care facilities are not "incompatible developments".

  As the proposed definition of "incompatible development" could be read to cover child care (either as a "pre school" or as a "community care facilitiy") – contrary to the stated intention of the Commonwealth – drafting needs to be included to make it clear that child care facilities are not "incompatible developments" for the purposes of the Act.

Clause 27 and 46 - Terminology of "incompatible developments"

- We agree entirely with the comments in Australian Airports Association about the pejorative terminology used in relation to the concept of "incompatible developments".

  As you can appreciate, it would be very easy for third parties to attack a Master Plan (which is now required to specify these type of developments) or a Major Development Plan simply on the basis that the relevant plan contains developments which are "incompatible" according to the terminology of the Act.

This is a significant issue for airport operators when in reality, the proposed amendments do not make any development incompatible at all – rather, all the amendments do is:

1. confirm that some developments are prima facie consistent with airport development and operations; and

2. implement a more rigorous regime for other developments.

- In these circumstances, in our opinion these developments should be referred to as "Hurdle Developments" or "Review Developments" – titles that don't indicate incompatibility, but rather indicate that these developments will be subject to a higher level of scrutiny.

Clause 27 - Scope of "incompatible developments"

- We note that the scope of developments covered by the definition of "incompatible developments" is potentially very wide.

  To ensure that the scope of "incompatible developments" does not result in absurd results (such as the exclusion of training related to security or defence) the proposed section 71A needs to amended to make it clear that "incompatible developments" (or a relevant sub-set of them) can occur as ordinary Airports Act developments where they relate primarily to security, policing or defence matters.

  In this regard, it needs to be remembered that the proposed carve out for "aviation educational facility" is not wide enough to cover many of the activities undertaken in relation to security, policing or defence. These types of uses and activities must surely be compatible with, and permitted on, airport sites.

- In common with other airports and the Australian Airports Association, we have real concerns about the introduction of the phrase "or other types of educational institution" in the definition in "incompatible developments". It is unclear to us what this phrase is intended to capture, and the phrase could potentially capture a large range of activities that were never intended to be excluded from airports such as apprenticeships, corporate training, guard training, child care facilities and internships.

  In our opinion this phrase needs to be deleted – there is no need on a policy level to unnecessarily expand the scope of the "incompatible development" definition as it relates to schools when there is no doubt that schools, preschools, high schools and tertiary schools are already covered without the need of an uncertain and unclear phrase acting as a "catch all" to the definition.

- We also had concerns about the inclusion of "community care facility" in the definition of "incompatible development" – the current definition is potentially very wide, and while it includes some specific facilities related to aged care and health, it could just as well cover anything from an aero club, to a dentist, or a doctor's surgery to a first aid room. In our opinion there needs to be clear guidance as to the scope of this category of "incompatible development".

Clause 40

- As noted by the Australian Airports Association, clause 40 needs to be altered so it is clear that simple routine maintenance activities or minor upgrades to runways and taxiways do not automatically lead to MDPs.

Clause 42 - The "Significant Impact" trigger for the MDP Process

- While the Commonwealth has committed to providing guidelines on how the "significant impact" MDP trigger will be used – our concern is to try to ensure that there is real certainty as to when this trigger will be brought into play. In particular:

  1. To avoid unnecessary referrals by the Airport Building Controller to the Department, it is critical to know when it will not apply; and

  2. We believe that the Minister should have a discretion <u>to not apply</u> this MDP trigger when the relevant development relates to aeronautical services only. This is consistent with the policy intent of the National Aviation Policy White Paper to try to encourage the continued investment in aeronautical infrastructure in Australia.

Clause 45 - Waiving of the MDP Process

- We agree with the Australian Airports Association that the waiving of the MDP process for aeronautical investment does not appear to work – in particular, we have difficulty identifying any aeronautical development that, when undertaken, would not increase the operating capacity at the Airport. Indeed, why would anyone undertake any aeronautical investment if it was not intended to increase operating capacity at the Airport?

- However, we also query why the waiving of the MDP process only applies in relation to construction or extending a terminal or taxiway – surely it should apply to aeronautical services in general so as to encourage investment in these services consistent with the policy intent of the White Paper. This seems little reason to exclude other aeronautical services from this waiving of the MDP process.

Clause 53

- Clause 53 needs to be amended so that it is clear that the proposed streamline consultation process for MDPs is available provided where there are no new issues raised with the relevant development that have not already been raised during the Master Plan process. As drafted, for the streamline consultation process to apply, the relevant development must have no significant impacts, regardless of whether those impacts were raised during the Master Plan process. This is contrary to our understanding which was that provided significant consultation was undertaken on a development at the Master Plan stage, there would be a limited requirement to go through that same consultation at the MDP stage.

We would welcome the opportunity to provide the Committee with any further information that they require in relation to these amendments.

Yours sincerely

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