

Council Ref : 14/009
Customer Ref :
Enquiries : Juliette Gillan

29 July 2010

Ms Jeanette Radcliffe
Committee Secretary
Senate Standing Committee on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Ms Radcliffe

AIRPORTS AMENDMENT BILL 2010

The City of Belmont covers an area of 40 square metres and is located approximately 5.8 kilometres south east of the Perth Central Business District. To the northeast of the City is the Perth International Airport, the majority of which is located within the City limits.

Given that the Airport takes up one third of the City's total area, the development of the site for aeronautical and non-aeronautical uses is a key interest of the Council and its ratepayers – both existing and future. This importance is reflected in Council's Strategic Plan 2010 which incorporates two Strategies with specific reference to Perth Airport.

STRATEGY	PURPOSE	OUTCOME	TIMEFRAME
Attract and support high quality business development and the sustainable use of land in Belmont, including Perth Airport, by providing information and assistance to businesses seeking to establish operations in the City.	The purpose of this strategy is to promote the best use of commercial and industrial land by guiding new or developing businesses to the most appropriate locations or land uses	There will be increased congruence between desired land uses, as outlined in the Local Planning Scheme and actual land use by business and/or industry.	Ongoing.
In partnership with Westralia Airports Corporation support the business development of the airport.	The growth of the business sector on airport land is a benefit to the City of Belmont as a whole. Where possible and appropriate, the airport's Commercial Services section should be assisted in maximising the growth potential of the airport resulting in the optimal development of an extensive range of commercial and industrial land at the airport, including the large industrial lots, in a consistent manner	The commercial and industrial areas of the airport land will be developed to achieve the maximum potential for the district.	Ongoing.

	which integrates with the wider City.		
--	---------------------------------------	--	--

It is the City's view that the provision of appropriate planning controls and infrastructure is a vital catalyst for development both within the City and at the Airport. The choice of location for large developments can directly affect several thousand families and indirectly thousands more. The variety of businesses that can be attracted to the location and the standards that apply will also affect future local employment opportunities. The attractiveness and functionality of the City of Belmont is of key importance to the Airport and vice versa, as both will impact on the success or otherwise of each other. As such the City is pleased to be given the opportunity to comment on the Airports Amendment Bill 2010.

In regard to the various options and clauses outlined in the Explanatory Memorandum and Amendment Bill, the City's comments are detailed in italics following specific extracts from the Explanatory Memorandum below.

Option B: Tighter regulation of planning and development on leased federal airports to facilitate better integration of on-airport and off-airport planning

Option B would consist of all of the elements of the current regime, augmented by additional requirements to fulfil planning integration objectives.

A formal mechanism, through a Planning Coordination Forum, requiring airports to facilitate consultation and coordination with relevant State, Territory and local government authorities on planning matters would be applied. A requirement for airports to convene a regular Community Aviation Consultation Groups would also be implemented.

Comment – Option B is more administratively onerous than Option C but should be considered as a long term alternative should the non-legislative establishment of effective Planning Coordination Forums and the Community Aviation Consultation Groups fail.

Option C: A balanced approach involving regulatory change to facilitate investment in aeronautical infrastructure and better integration of on-airport and off-airport planning

Option C would encompass the measures for improved regulatory oversight in Option B, but would provide for the Planning Coordination Forums and the Community Aviation Consultation Groups to be established non-legislatively.

Comment – No details have been provided of how and when the forums are to be established and what measurements/ reporting will be put in place to ensure the forums are effective.

The specific details of the changes to the legislation would be as follows.

Airport-lessee companies will be required to provide detailed information in relation to the first five years of the master plan including:

- a ground transport plan on the landside of the airport;
- the likely effect of the proposed developments set out in the master plans on employment at the airport and on the local and regional economy and community.
- including an analysis of how the proposed developments fit within the planning schemes for commercial and retail development in the area adjacent to the airport; and

- detailed information on the proposed use of precincts at the airport that are to be used for purposes not related to airport services.

Comment – While the areas highlighted in the dot points are strongly supported it is unclear why the detailed information is only required to be provided in relation to the first five years of the Master Plan. It is strongly recommended that these matters should be reviewed or addressed anew each time the master plan is reviewed in the same way that environmental matters are to be revisited.

As airport environment strategies are better articulated in a strategic planning sense with airport master plans, the airport environment strategy will be incorporated into the master plan. This will allow airports to undertake only one approval process, thereby lowering compliance costs. The cycle for updating and renewing the environment strategy will be aligned with the master planning process.

Comment – Strongly supported. This will reduce the double ups currently occurring.

The current major development plan triggers will be improved to more effectively address developments that will have significant impact on the local or regional community. Proposed developments with significant community impact, regardless of size or cost, will be subject to the optimal level of public comment to enable members of the community and other stakeholders to have input into the proposed developments that may be contentious or may cause concern within the local area.

Comment – There needs to be clear guidelines produced as to what a significant community impact is and how it is triggered. The questions raised in the discussion paper are a little non-specific (refer comments on clauses regarding the Item 42 examples).

There will be mechanisms for the airport-lessee company to seek exemption from the major development plan process for aeronautical-related developments.

Comment – No objection.

Further, the airport-lessee companies may be able to seek a reduction in the public consultation period to not less than 15 business days, if the draft major development plan aligns with the details of the proposed development set out in the final master plan and the proposed development does not raise additional issues that would have a significant impact on the local or regional community.

Comment – There is no objection to the possibility of a reduced consultation period but 15 working days is far too short. It is suggested a minimum of 20 working days should be applied (that would be consistent with the Western Australian Planning Commission's reduced advertising period of 28 days for some Planning Scheme amendments). There should also be a provision that where an issue arises during the reduced advertising period that indicates there are additional issues that would have a significant impact, that the Minister can extend the advertising period to the full 60 days.

Under Option C a range of development types regarded as incompatible with airport operations, such as long-term residential development, residential aged or community care facilities, nursing homes, hospitals and schools would be prohibited. However, airports would have the opportunity to demonstrate the existence of exceptional circumstances to the Minister to seek the Minister's approval to proceed with the development.

Comment – It is questionable whether all the ‘incompatible’ uses are incompatible under all circumstances as applied to Perth Airport. However, given that they can be approved under exceptional circumstances they are not prohibited outright. Notwithstanding that, it may be worthwhile removing the blanket prohibition as it only has the effect of increasing administrative burdens and a belief in the wider community that airports and communities are basically incompatible with each other. A better approach would be to require a major development plan for those landuses rather than a blanket prohibition.

Option D: Accredited State/Territory Government planning laws to apply to airports but allow the Commonwealth Minister to exercise decision making power

Option D would involve the Commonwealth Government negotiating and signing bilateral agreements with the eight State and Territory governments to accredit relevant State and Territory planning assessments under the Airports Act. Under this option, planning issues that would require the Commonwealth Minister to make a decision would be assessed under the relevant State or Territory planning process and the relevant agencies would provide a recommendation to the Commonwealth Minister. State and Territory agencies would make their recommendations on the basis of the relevant State or Territory legislation. The Commonwealth Minister would retain the option of accepting or rejecting any recommendation.

Comment – Not supported.

Recommendations

Option C represents the greatest net benefit.

Both options B and C would provide for better integration of airport planning into the planning frameworks that apply to surrounding communities and regions. This would not only improve suburban amenity, but would further embed airports in strategic planning of urban centres as economic hubs. Better planning of ground transport links in particular will have major flow-on benefits across all sectors of Australia’s economy, which rely directly or indirectly on efficient linkages along transport and supply chains.

Option C alone, however, will also promote additional investment in airport infrastructure by streamlining regulatory requirements in relation to high priority aeronautical infrastructure developments at airport sites.

Option C also satisfies the ‘one in, one out’ principle, in that it involves a relaxation of certain regulatory requirements in relation to major development plans in the current legislative framework. This offsets new proposed regulatory requirements in respect of master plans and some non-aeronautical developments.

Option D would represent a significant departure from existing practice and was not advanced by any of the stakeholders during the consultation process.

Comment – Agreed that Options B and C provide for better integration. Options A and D should be discarded from consideration. The City is supportive of the preferred Option C (less regulatory than B) proceeding however some of the details need to be clarified. The effectiveness of C should also be reviewed after a 10 year period and if it is shown to be ineffective (particularly in terms of community engagement) Option B should then be considered as a fallback plan – this will give the added incentives to airport operators to make the new system work.

Amendment Bill Clause Comments

Part 1 – Master Plan Amendments

Item 1 Paragraph 71(2)(h)

5. Subsection 71(2) sets out what a draft or final master plan must contain for airports other than joint-user airports. Existing paragraph 71(2)(h) is repealed. New paragraphs (ga), (gb), (gc) and a revised paragraph (h) are inserted.

6. In addition to the items listed in existing subsection 71(2), a master plan is required to contain, in relation to the first five years of the master plan, the following:

- a ground transport plan on the landside of the airport;
- detailed information on proposed developments (set out in the master plan) that are to be used for commercial, community, office or retail purposes or for any other purpose not related to airport services. The developments contemplated in this paragraph include construction of retail outlets, supermarkets and the like, buildings and other facilities for recreation or sporting events, theatre halls for cultural performances, construction of business parks and other types of offices not related to carrying out aviation business. These examples are non-exhaustive. A draft or final master plan is required to provide detailed information on these types of proposed developments;
- the likely effect of the proposed developments set out in the master plan on employment levels at the airport and on the local and regional economy and community including an analysis of how the proposed developments fit within the planning schemes for commercial and retail development in the area adjacent to the airport.

Comment – The City is very supportive of the additions under amended subsection 71(2). However reference to only the first five years of the master plan should be deleted as the requirement should stay with any version of a master plan. Also, clarification is required as to how the amended clause is applied to existing adopted/endorsed master plans.

7. Paragraph (ga) provides that a ground transport plan on the landside of the airport should provide details on the following:

- road network plan; and
- facilities for moving people (including passengers, employees and other airport users) and freight at the airport (these facilities include the airport's road infrastructure, road connections and car parking facilities in addition to transport vehicles); and
- linkages between those facilities [mentioned in paragraph (ii)], the road network and public transport system at the airport and the road network and public transport system outside the airport; and
- the arrangements for working with State or local authorities or other bodies responsible for the road network and ground transport system ('Other bodies' may include private companies operating public transport services connecting the airport to off-airport transport system); and
- the capacity of the ground transport system to support airport operations and other
- airport activities; and
- the likely effect of the proposed developments set out in the master plan on the ground transport system and traffic flows at and surrounding the airport.

Comment – Strongly supported.

9. Paragraph (h) provides for the inclusion of the airport environment strategy in a draft or final master plan. The airport environment strategy should detail the items enumerated in (i) to (ix) of paragraph (h). These items are taken from the existing section 116 (contents of draft or final

environment strategy) which is now being repealed in view of the annexure of an environment strategy in the master plan.

Comment – Strongly supported.

Item 5 – Subsection 71(6)

15. Existing subsection 71(6) provides that, in specifying an objective or proposal covered by specified paragraphs in subsections 71(2) and 71(3), a draft or final master plan must address the extent (if any) of consistency with the planning schemes in force under a law of the State or Territory in which the airport is located. Existing subsection 71(6) is amended to include another paragraph which provides that if the draft or final master plan is not consistent with those planning schemes, the draft or final master plan must contain justification for the inconsistencies.

Comment – Strongly supported. However the subsection could be expanded further to require that landuse classifications and definitions are consistent with planning schemes

36. New section 71A dealing with incompatible developments is inserted into the Act. Under subsection 71A(1), an airport-lessee company intending to develop an incompatible development on the airport must identify any proposed incompatible development in the master plan.

37. An ‘incompatible development’ is defined to be a development of any of the following facilities

- a residential dwelling (except accommodation for students studying at an aviation education facility at the airport);
- a community care facility;
- a pre-school;
- a primary, secondary, tertiary or other educational institution (except an aviation educational facility);
- a hospital (except a facility with the primary purpose of providing emergency medical treatment to persons at the airport and which does not have in-patient facilities).

38. A redevelopment of any of the facilities listed above, if the redevelopment increases the capacity of the facility, is also an incompatible development. A redevelopment of a facility existing prior to the commencement of this Act, if the redevelopment increases the capacity of the facility, is also an incompatible development (see item 75, application provision on incompatible developments in Part 3 on transitional provisions).

Comment – As previously detailed, it is questionable whether all the ‘incompatible’ uses are incompatible under all circumstances as applied to Perth Airport. However, given that they can be approved under exceptional circumstances they are not prohibited outright. Notwithstanding that, it may be worthwhile removing the blanket prohibition as it only has the effect of increasing administrative burdens and a belief in the wider community that airports and communities are basically incompatible with each other. A better approach would be to require a major development plan for those landuses rather than a blanket prohibition.

Items 28 and 29 – Section 72

40. These are consequential amendments resulting from the annexure of an environment strategy into a master plan.

Comment – Section 72 ‘Planning period’ of the Act specifies that “A draft or final master plan

must relate to a period of 20 years. This period is called the planning period.” The consequential amendment referred to adds a second clause which states “However, the environmental strategy in a draft or final master plan must relate to a period of 5 years.”

The planning period and the environmental strategy should relate to the same period of time. It is strongly recommended that the planning period and the review period for environmental strategies be amended to a consistent timeframe of 10 years.

Item 34 – At the end of section 81

49. A new subsection 81(10) is inserted to provide that the Minister’s approval of a draft master plan that contains an incompatible development does not stop the Minister from refusing to approve, under Division 4, a major development plan for the incompatible development.

50. A master plan may foreshadow an incompatible development with a clear statement of the prohibition and that a subsequent approval process will be undertaken. Information about a incompatible development could also be included in a minor variation to a master plan.

Comment – As previously commented, it seems a pointless exercise to identify a blanket prohibition for ‘incompatible development’ and then allow them to be dealt with as a minor variation. If they really are incompatible they should be major variations or, where the use need not be considered incompatible, it should be identified in a master plan as being appropriate it should not be treated as ‘incompatible’ but should be dealt with the same as any other development type.

Item 42 – After paragraph 89(1)(n)

65. New paragraph 89(1)(na) is inserted which provides that a development of a kind that is likely to have a significant impact on the local or regional community is a major airport development. As is currently the case with the existing major development plan trigger on significant environmental or ecological impact, proposed developments with significant community impact, regardless of size or cost, will be subject to the optimal level of public comment to enable members of the community and other stakeholders to have input into the proposed developments that may be contentious within the local area. In determining whether the proposed development is likely to have a significant impact on the local or regional community, the following are examples of issues that may be considered:

- Will the proposed development impact on the amenity of the local or regional community?
- Will the proposed development increase traffic in the immediate surrounds of the airport?
- Will the proposed development likely create increased noise in the area?
- Will the proposed development create areas of risk for individuals within, or adjacent to, the airport?
- Will the proposed development likely cause significant concern by the local or regional community?

66. Administrative guidelines on what may constitute ‘significant impact on the local or regional community’ will be provided to relevant industry stakeholders.

67. A new paragraph 89(1)(nb) is inserted. If the Minister has given approval to the airportlessee company to undertake a major development plan in relation to an incompatible development (in accordance with new section 89A), that proposed development becomes a major airport development that will require a major development plan.

Comment – The intent of the clause is highly applauded. However, the questions raised above as the example questions by which to ascertain if there is a significant impact on a local or regional community are too vague and open for interpretation. While the administrative guidelines referred to may clarify this point there is concern that unless the criteria are clear substantial problems will be encountered by both airport operators and the general public in trying to apply/interpret this requirement.

Item 47 – After paragraph 91(1)(g)

85. Section 91 provides for the contents of a major development plan. New paragraph (ga) is inserted to require that a major development plan must set out the likely effect of the proposed development on:

- (i) traffic flows at the airport and surrounding the airport; and
- (ii) employment levels at the airport; and
- (iii) the local and regional economy and community, including an analysis of how the proposed developments fit within the local planning schemes for commercial and retail development in the area adjacent to the airport.

Comment – Excellent amendment. Very supportive of clause.

Item 49 – Subsection 91(4)

87. Existing subsection 91(4) provides that a major development plan, or a draft major development plan, must address the extent (if any) of consistency with the planning schemes in force under a law of the State or Territory in which the airport is located. Existing subsection 91(4) is amended to include another paragraph which provides that if the major development plan, or a draft of the plan, is not consistent with those planning schemes, the major development plan or its draft must contain justification for the inconsistencies.

Comment – Excellent amendment. Very supportive of clause.

Item 53 – After subsection 92(1)

91. New subsections 92(2A) and (2B) are inserted into the Act. These provisions allow the Minister to shorten the 60-business-day consultation period to a shorter period of not less than 15 business days.

Comment – The 15 business day shortened timeframe is too short. Suggest a minimum of 20 working days (that would be consistent with the Western Australian Planning Commission's reduced advertising period of 28 days for some scheme amendments). There should also be a provision that where an issue arises during the reduced advertising period that indicates there are additional issues that would have a significant impact, that the Minister can extend the advertising period to the full 60 days.

92. An airport-lessee company or another person with the written consent of the airportlessee company may request the Minister to shorten the public consultation period. The Minister may, by written notice, approve the request if the Minister is satisfied that:

- the draft major development plan aligns with the details of the proposed development set out in the final master plan; and
- the development proposal does not raise additional issues that have a significant impact on the local or regional community.

Comment - Where the Minister agrees to shorten the public consultation period the Minister should be required to publicly release information on why the draft major development plan aligns with the details of the proposed development set out in the final master plan; and why

the development proposal does not raise additional issues that have a significant impact on the local or regional community.

Item 54 – At the end of subsection 94(3)

94. Subsection 94(3) provides for the matters that the Minister must have regard to in deciding whether to approve a draft major development plan. New paragraph (f) is added so that in relation to an incompatible development, the Minister must have regard to paragraphs (f)(i) to (iv) in addition to the matters listed in (aa) to (e).

95. In making a decision whether to approve a draft major development (which relates to an incompatible development), the Minister will have regard to these additional matters:

- Whether the exceptional circumstances which the airport-lessee company claims will justify the development of the incompatible development – The Minister will make a judgment on the existence of ‘exceptional circumstances’ on a case by case basis. Every proposal for the development of an incompatible development will be considered on its merit based on the exceptional circumstance of every airport.
- The likely effect of the incompatible development on the future use of the airport site for aviation-related purposes – Consistent with the primary object of the Airports Act which is to promote the sound development of civil aviation in Australia, regard will be given as to whether the development (of the incompatible development) will limit the future flexibility in the use of the airport site for aeronautical-related purposes.
- The likely effect of the incompatible development on the ground transport system at, and adjacent to the airport – One of the concerns of the Government in relation to incompatible development is the creation of additional congestion in roads at or near the airport.

Comment -

The amendment proposes to add at the end of subsection 94(3) “(f) if the plan relates to an incompatible development:

(i) whether the exceptional circumstances that the airport-lessee company claims will justify the development of the incompatible development at the airport; and

(ii) the likely effect of the incompatible development on the future use of the airport site for aviation related purposes; and

(iii) the likely effect of the incompatible development on the ground transport system at, and adjacent to, the airport.”

It is recommended that another clause (iv) be added that relates to amenity issues (such as that attempted by proposed Section 89(b)).

I trust the above comments are of assistance. Should you have any queries or require any clarification on the points made please contact the City’s Manager Planning Services Juliette Gillan.

Yours faithfully

STUART COLE
CHIEF EXECUTIVE OFFICER

City of
OPPORTUNITY
Belmont