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To whom it may concern,

Federal Senate Inquiry into the impact and mitigation of aircraft noise in capital cities and regional towns

Recommendations

This Inquiry recommends that:

- Major flight path and airspace design proposals be subject to assessment, review and determination by an expert commission of inquiry established under the *Environment Protection and Biodiversity Conservation Act, 1999* to examine alternative flight path and airspace designs options in order to identify the option that best mitigates adverse impacts;
- Flight path and airspace design proposals by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts be determined by an independent party, being either a commission of independent experts or another Federal Department, such as the Department of Climate Change, Energy, Environment and Water;
- Before any determination of a flight path and airspace design proposal is made, a submissions assessment report is prepared by an independent third party on the submissions made to that proposal, and that the proponent must prepare a response to the issues raised and recommendations made in those submissions;
- The determination of a flight path and airspace design proposal must take account of the submissions and the response to submissions and give reasons for the decisions made;
- The determining authority must write a determination report for the approved flight paths and airspace design that describes the mitigation measures adopted to reduce environmental impacts and gives the reasons for adopting the approved arrangements;
- An airports flight path and airspace design must be subject to review upon the recommendation of the Aircraft Noise Ombudsman or Minister for Environment and Water.

Introduction

Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) is both the proponent and determining authority of airspace and flight path design proposals for airports in Australia. Under these administrative arrangements, proposed changes to an airport's flight path arrangements are made and the environmental impact assessment processes developed that justify the Department's proposals. Such an approach to airspace and flight path design proposals does not effectively mitigate adverse impacts arising from aircraft movements if doing so is against the interests of the proponent.

As Senators would be aware, the number of environmental impact statements (EISs) for any development proposal that do not justify the proposal are vanishingly small.

The Department's development assessment and decision-making processes rely on the Department's EIS reports for "objective" analysis of impacts and proposed mitigation measures it recommends (if any).

While most EIS consultants in Australia have sufficient integrity to provide a determining authority (the Department) with facts, the "name of the game" of writing an EIS is to produce a series of long-winded narrative assessment reports that justify a proposal. This means that many environmental impact assessments contain vast amounts of unnecessary text that often obscure the key facts and issues for decision. These narratives are not for the proponent's benefit, but for public consumption.

For the proponent Department, commercial interests of its client, the aviation industry, determines the primary decisions of flight design, such as a design for no flight curfews at night. Key Departmental design decisions go unchallenged by the environmental assessment process because these are built into the Departmental specifications for its EIS report. The key airspace and flight path design criteria are accepted as the received wisdom by the EIS consultants and justified by environmental assessment. The EIS process offers no trade-off between environmental, social and economic factors, no accommodation of the concerns of perhaps hundreds of thousands of citizens impacted by an airport's flight paths and airspace design proposal.

When the Department is the proponent and determining authority there is no adequate separation of proposal assessment, review and decision-making processes, so outcome recommendations of such a process are going to be sub-optimal for the impacted community.

There needs to be separation of these steps in decision making regarding flight path and airspace design.

Decision makers need to be separate from the Departmental proponent and sufficiently expert that a determination of a proposal fairly and reasonably mitigates aircraft noise impacts. It is not enough for the Environment Minister's recommendations regarding a proposal to be "considered" by the Departmental determining authority.

Further, the conditioning of development consents for flight paths and air space designs needs to mitigate impacts. It is unreasonable to expect any Ministerial Office to develop proposals for recommendations to adequately address community aircraft noise concerns, let alone work to get them adopted against the wishes of the proponent Department that determines its own proposal. Something other than Departmental determination of flight path design proposals following consideration of Ministerial advice is required.

The unique problem with airports

Airports and aircraft flight path designs often impact a large numbers of Australians as large airports are located near centres of population.

Failure of aircraft noise impact mitigation is a serious problem affecting the happiness and health of millions of Australians. The Department's narrow focus on the needs of aviation when determining airspace and flight path design proposals does not serve Australia well.

The failure of environmental impact assessments to propose adequate mitigation of aircraft noise on residents and businesses in capital cities and regional towns is almost a certainty because of the partiality of the proposal assessment and determination processes.

The Department's development of flight path design principles in 2020 have had no real effect in mitigating impacts of the Department's proposals, other than to influence how future EIS reports were structured.

The consequence of administrative failure to adequately mitigate the impacts of aircraft movements is public protest and organisation of No Aircraft Noise groups that then may run single-issue marginal seat campaigns. This contingency should motivate Senators of this Committee to consider effective administrative alternatives that can more effectively mitigate impacts of aircraft noise. Federal elections are won or lost by the swing seats in major capital cities. Candidates in those swing seats that promise to fix aircraft noise following commissioning of a new but unsatisfactory flight path design are likely to receive support.

Surely it is better for such matters to be resolved by due process rather than political vagaries.

While the Department controls decision making for airspace and flight path design of airports, decision making for other urban development proposals is better regulated. Many other development proposals are moderated by independent decision making and review processes. For these proposals, mitigation of impacts is an everyday matter that Senators would be familiar with.

For airports it appears that social and environmental factors are not adequately considered due to an apparent bias by the Department towards maximising aircraft operations factors to the detriment of society in general.

So how can planning processes for airports to minimise aircraft noise to as low as reasonably possible be conducted?

Federal Inquiries for flight path proposals

While every new major project in the NSW is subjected to independent public enquiry, review and decision-making processes, **Federal planning processes have not made a single project subject to a public inquiry under the *Environmental Protection and Biodiversity Conservation Act, 1999*.**

The flight path options and airspace design proposals for airports are eminently suitable subjects for a public inquiry to examine and identify measures that can mitigate and minimise harm from aircraft operations. Under Section 87 of the *Environmental Protection and Biodiversity Conservation Act, 1999* (EPBC Act), the Federal Environment Minister may make a new decision that requires the relevant impacts of a flight path and airspace proposal be assessed by an inquiry.

Section 160 of the EPBC Act requires the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) to consider the advice of the Minister

for the Environment and Water, the Hon. Tanya Plibersek. Under s163(2)(b) the Minister's advice can be given to the Department after an inquiry under the EPBC Act.

A Department that did not subsequently follow the recommendations of a properly constituted public inquiry upon which the Minister provided advice to the Department would be considered brave. Until the EPBC Act is either replaced or substantially revised to create independent decision-making processes, this is the best administrative option to deliver better outcomes for airspace and flight path design of airports.

An open public inquiry should independently and transparently assess flight path and airspace design options to identify that option with the least environmental impact.

In these days of computers with teraflops of data manipulation capacity, alternative flight paths and airspace designs can be developed during a Public Inquiry, and the impacts of these alternatives considered by stakeholders in real time.

As members of this Committee may recall, interactive decision-making processes helped protect old growth forests and wilderness under the National Forest Policy using 1990s technology. A review of aircraft operation options with 2020s computer technology should be technically straight-forward, especially as only one location is involved. All aspects, economic, flight design, environment and social impacts should be considered for each airspace design option during a public inquiry process. Various designs could be developed by stakeholders. This approach would ease the toxic effects on society caused by the aircraft industry's strangle hold on the airport flight path agenda.

Western Sydney International Airport (WSI) – as case study

Mr Chris Brown, the long-standing chairperson of the Western Sydney Leadership Dialogue and before 2011 the executive director of the powerful lobby group the Tourism and Transport Forum, successfully secured a no aircraft curfew for the proposed WSI airport [see [Daily Telegraph](#), 18 march, 2015]. This design criterion underpins the flight path design and environmental assessments for the WSI. This design criterion is perceived by many as grossly unfair to the people of Western Sydney.

The design rules for the proposed WSI flight paths currently ensures lower living standards for Western Sydney than for the rest of Sydney. The noise from 24-hour-a-day airport operation shall interrupt the sleep patterns of hundreds of thousands of people in Western Sydney and the Blue Mountains.

On May 1, 2017, the Federal Government committed to building the new Western Sydney Airport after the Sydney Airport Group decided that would be too great a financial risk for their investors. No doubt WSI is financially risky, but is that sufficient reason to apparently maximise development of 24-hour flight paths as industry wants, regardless of the concerns of voters in the Federal electorates of Western Sydney?

Why should a Federal Government implement, without adequate mitigation, the flight path wishes of a development ginger group, enthusiastically supported by a pro-airport development Department, to the disadvantage of the citizens of Western Sydney?

The Western Sydney community considers the Draft Environmental Impact Statement (draft EIS) for Western Sydney International Airport (WSI) does not adequately examine measures to mitigate adverse environmental and social impacts from the proposed preliminary flight paths and airspace design. I will not itemise these matters, as no doubt others will do so.

The draft EIS goes through the motions of addressing flight path design principles, but ignores substantive concerns. Even the impacts of aircraft movements on Echo Point, the most popular tourist destination in the Greater Blue Mountains World Heritage Area (GBMWH), is not proposed to be mitigated, and protected wilderness was not understood by the EIS consultants, let alone properly considered.

The draft environmental impact statement did not consider a range of airspace design and flight path options for WSI that could further mitigate inevitable adverse environmental impacts arising from aircraft movements. The environmental assessment followed the established process, and justified the proposal as put forward. The development assessment and review process of this proposal does not seem to be rigorous, but rather is an internal Departmental process of limited transparency.

Rather than risk political protest in Western Sydney regarding aircraft noise from 2026 onwards, the community should be constructively engaged through stakeholder groups in the examination of flightpath options for WSI that reduce impacts to as low as reasonably achievable.

In the case of proposed WSI aircraft operations, a Federal inquiry should have terms of reference that seek to develop a long-term operating plan that minimises the harm caused by aircraft noise and visual pollution. The inquiry should examine flight operation options that:

- Minimise aircraft movements over the GBMWH, and especially its wilderness areas;
- Maximise the respite for communities and the GBMWH so that no area under a flight path has less than a minimum percentage of days with no flights and even greater percentage of nights with no flights;
- Ensure each community and precinct of the GBMWH be limited to a specified caps on the maximum of flights in daytime and a lesser maximum cap at night;
- Develop a website and a mobile phone application for WSI flight operations so that visitors to the GBMWH can identify when to visit a protected area, as a means to avoid aircraft noise and overflights;
- Reassesses noise impacts for day and night flight path operations so that community amenity and natural quiet of Blue Mountains wilderness are adequately considered;
- Develop an equitable share of aircraft movements over the entire population of Greater Sydney through an integrated aircraft noise sharing plan that is open, transparent and accountable;
- Examine options for a legislated 11pm to 6am curfew and aircraft movement caps for WSI, just as there are for Adelaide (ADL), Essendon (MEB), Gold Coast (OOL, YBCG), and Sydney (SYD) Airports.

The outmoded static environmental impact assessment process presented under Federal environmental law has failed in its mission of identifying reasonable mitigation measures for environmental impacts arising from aircraft operations. A new dynamic public inquiry process is required to test and review a range of options and develop the optimal outcome for the industry, community and the environment. By engaging with the community in a process of option selection, the community may have a far greater ownership of the outcomes and understanding of WSI operation.

Thank you for the opportunity to make a submission to this inquiry.

Yours sincerely,

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