

18 January 2007

Committee Secretary
Senate Rural and Regional Affairs and Transport Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

Inquiry into the Airports Amendment Bill 2006

Queanbeyan City Council is a Council affected by airports legislation and has extensive experience in relation to developments at Canberra International Airport and aircraft noise issues. In this regard Council is well placed to make the following submission to the Senate Inquiry into the Airports Amendment Bill 2006.

It is understood that the purpose of the Airports Amendment Bill is to improve the land use planning system in place at the leased federal airports through increasing the focus on strategic planning, simplifying planning controls and improving development assessment processes. In Councils opinion the Bill does not achieve the stated aims and indeed it could be strongly argued that it will further hamper effective and sound planning practice for leased airports. Comments on the key areas in which the Bill amends the Act are outlined below.

Permitting Non-Aeronautical development at leased airports

At present major commercial developments on airport land adjacent to urban areas may proceed without reference to state, territory or local government planning policy. The proposed amendments to the *Airport Act 1996* do not address this important issue. Airport development proposals should be assessed under the provisions of relevant planning controls and undergo rigorous scrutiny in the same way that similar proposals on non-airport land are assessed by state, territory and local government planning authorities.

Commercial developments such as office development, shopping facilities and hotels, unrelated to the primary function of airports should not be exempt from planning provisions applicable to similar developments that lie outside the airport lease area. Commercial developments on airport land have impacts on surrounding communities including traffic management and environmental impacts such as noise and emissions similar to commercial developments on non-airport land that are subjected to planning provisions. For example traffic

management around Canberra International Airport is currently a major concern to all stakeholders including the Airports management.

Council has previously expressed concerns to the Department of Transport and Regional Services (DOTARS), AirServices Australia, and Canberra International Airport that the creation of a substantial employment node at Canberra Airport will have a seriously damaging effect on existing commercial centres in Canberra and Queanbeyan, effectively placing a single developer into a monopoly position against other commercial developments in Canberra and Queanbeyan. As such it provides an unfair commercial advantage to developments on airport land. This has been evidenced by developments at the Airport over the last 6 years whereby the Airport has grown to the point where it is one of the largest commercial centres in the Region and potentially threatens the viability of other centres.

The lack of any coordinated approach of the Airport with the Territory and with Queanbeyan Council and the failure of it to consider external impacts is a key concern of Council. As a recent example the Canberra International Airport Major Development Plan for a 65,000m² expansion, or almost doubling the size of the Brindabella Business Park, failed to address the relationship of the proposal to the planning framework of the adjoining Queanbeyan Local Government area. The draft plan only provided a cursory (half-page) overview of the socio-economic issues attributable to the proposal. A development of this scale should have warranted a full and detailed overview of the social and economic impacts of the proposal within the region as would be the case in any State or Territory jurisdiction for a development of the size contemplated.

The draft plan failed to consider the social and economic impacts upon the City of Queanbeyan by the development of some additional 65,000 square metres of office floor space some 5kms from the CBD at a time when the CBD of Queanbeyan is stagnant. Indeed Queanbeyan was not mentioned within the draft plan at all. A consideration of the effect of this proposed development on local and regional transport infrastructure, amenity and existing commercial activity in nearby local centres should have been adequately provided.

Airports do not adequately consider the impact of new airport commercial developments on surrounding businesses and therefore the viability of local retail and commercial precincts, which may result in a conflict or an over-supply impacting upon the viability of all businesses. Such an anomaly may also provide uncertainty and a disincentive for investors on surrounding land.

Council requests that the consultation process and Ministerial decision making in relation to commercial development be required to comprehensively take external impacts into account. This Bill should ensure effective planning co-ordination. Instead the Bill proposes to further remove the need for compliance with other relevant legislation and increases the thresholds for when approvals and consultation is required. This is particularly the case for Canberra International Airport which is considered below.

Councils also seek “developer contributions” when approving major facilities to contribute to the costs of providing the necessary upgrading of any associated infrastructure that might be required by the development. This is not possible for developments on airport land. Yet there is an expectation that states, territories

and local government will provide the infrastructure required to support the developments. This is a real issue as recently evidenced by a Ministerial Task Force being established to consider additional road infrastructure around the Canberra International Airport and so should be carefully considered.

Excluding Canberra Airport from the operation of the National Capital Plan

Amendment 44 of the National Capital Plan - Office Employment Location Policies (Registered: 8 March 2005) modified the office employment location policies in the National Capital Plan in the light of the changes that had taken place in employment in the Australian Capital Territory since the introduction of the National Capital Plan in 1990. Canberra International Airport was recognised as a Defined Office Employment Centre with an upper limit for general office development of 120,000m² gross floor area.

Contrary to the National Capital Plan it is understood that the recent proposed draft Major Development Plan would result in office development at the Airport exceeding 120,000 m² gross floor area, which is currently not permitted by the National Capital Plan. The 2004 Canberra International Airport Draft Master Plan reinforced the proposed development of up to 120,000 m² of office space in Brindabella Business Park. The proposed Draft Major Development Plan failed to adequately justify the reasons for the need to provide in excess of 120,000 m² of office space.

The 2005 Approved Master Plan confirmed that the South-west commercial precinct has the capacity for development of office space totalling 120,000m². This amount of floor space could be substantially increased (with an estimated extra 200,000m² to 300,000m² of commercial floor space for non-airport related uses) if development of a similar scale proceeded in the North-west and North-east precincts. Whilst a development of 120,000 m² of office space would generate about 6/8,000 jobs – the equivalent of a Woden Town Centre office complement – unrestrained office and retail development could easily present a much larger and adverse impacts – particularly in regard to exerting downward pressure on new office demand in Queanbeyan's CBD some 5kms away as well as in the Canberra Civic Centre. Added to this is the stronger competitive position adopted by the Airport, based on a lower development cost regime experienced there and its ability to achieve a faster approval process.

It is of great concern to Council that this Bill proposes to exclude Canberra Airport from the operation of the National Capital Plan. This would have the effect of removing the only commercial floorspace restriction (120,000 m²) for Canberra Airport and possibly enable the Airport to develop as a major city centre unrestricted by any effective planning controls or planning scrutiny from the NSW State government, the ACT government, Queanbeyan Council, and the Commonwealth National Capital Authority. It is argued that DOTARS is not a planning authority and should not be able to determine planning policy and the future landuse strategies for non-airport related developments at airports.

The Bill suggests that the exclusion of Canberra International Airport from the operation of the National Capital Plan will bring Canberra Airport in line with the legislative requirements of other Australian cities. The Committee is reminded that the National Capital Authority was established due to the unique situation of

the Nations Capital, and the National Capital Plan reflects this. Canberra is unique amongst the Australian cities, and should be treated as such. To remove the application of the National Capital Plan based on the sole argument of conformity is an unsound policy, particularly given the timing of this Bill and the Airports recent Major Development Plan which fails to comply with the National Capital Plan. This proposed amendment could be simply considered as an attempt to remove a restriction on the Canberra International Airports development plans at an opportune time, rather than achieving any effective policy amendments.

Refining the Planning and Development Approval Regime

Council has previously raised concerns to the Airport and the Department of Transport and Regional Services (DOTARS) that unfettered office and retail development at the Airport will draw office employment from the existing urban fabric, and have an adverse impact for small business in those centres. Whilst airports are a Commonwealth administrative responsibility, the use of these facilities for commercial activity un-related to the normal operation of an airport puts at jeopardy the efforts of the National Capital Authority, the Territory and Queanbeyan City Council to deliver a proper planning strategy for Canberra and Queanbeyan.

The magnitude of issues raised by Council in the 2004 Preliminary Draft Master Plan, and the recent Major Development Plan, highlight the need for a coordinated and strategic approach that involves all levels of government and the private sector. The recent Major Development Plan represents a significant planning document that will have long term lasting impacts on Canberra and Queanbeyan. In this context alone, approval should not be taken independently of other planning strategies and policies affecting Canberra, Queanbeyan and the National Capital.

Although it is appropriate for DOTARS to administer airport related matters, the development of very substantial non-airport related commercial development should not be considered by this organisation but rather the responsibility should be properly passed to the relevant urban planning authority (ACTPLA). The Commonwealth Government by its actions has a substantial impact on urban areas and the location of employment, with flow on effects to other infrastructure, movement patterns and environmental issues. The Commonwealth also has environmental responsibilities that should be considered in the context of such large development projects as the Canberra International Airport. These are matters that should be given careful consideration by the Committee and DOTARS.

Reducing Public Exhibition timeframes:

Council does not support the proposed reduction in the statutory consultation period from 90 calendar days to 45 working days. This does not provide Council with adequate time to have a matter formally considered particularly if it needs to seek external expert advice. The Bill and consultation guidelines make more explicit the expectation that airport owners clearly demonstrate how they have given due regard to public comments, although there is no mechanism specified as to how this should happen. The recently released Airport Development

Consultation guidelines should be given some statutory authority. Council has recently written to Canberra International Airport expressing its concern with the Airport's lack of consultation and non-compliance with the guidelines.

This occurred in regard to the recent Major Development Plan for the Expansion of Brindabella Business Park. Although the proposal was placed on public exhibition in October 2006, Council only became aware of the draft plan recently as it had not received any formal or informal notification of the proposal from Canberra International Airport and as far as Council is aware a notice was not placed in the local Queanbeyan newspaper despite the fact that it had consulted with other government departments.

Although Council did manage to submit a submission, the lack of timely notification by the Airport restricted Council's ability to provide a more detailed submission. Considering this proposal represents a large scale office expansion within close proximity to Queanbeyan with the potential to impact on the development of the Queanbeyan Central Business District and the Queanbeyan transportation network, this lack of consultation was disappointing.

This also means that Council was not consulted in regard to the proposal as outlined in Section 93 of the Airports Act 1996 or during the preparation of the Draft Plan as outlined by Clause 13 of the Airport Development Consultation Guidelines.

The recently released *Airport Development Consultation Guidelines* (December 2006) outline a recommended consultation process. Clause 13 of the guidelines which, under the heading of *Preparatory Consultation*, state that:

“13. While consultation should be viewed as an on-going process, at a minimum it is seen as constructive for ALCs to initiate discussions with the various categories of persons set out in sections 80 (regarding MPs), 93 (MDPs) and 125 (AESs) of the Airports Act well before entering into the public comment process on the development of these documents. When considering whether to approve or refuse to approve a draft Plan or Strategy, the Airports Act provides that the Minister must have regard to those consultations undertaken in preparing that document.”

In this regard it is considered appropriate that Council be consulted on all future draft MP's, MDP's and AEE's both prior to the public comment process and formally during the public comment process.

Contrary to the above, the Airports Amendment Bill 2006 proposes to reduce the consultation time period, rather than improve the already inadequate consultation procedures. The recently released guidelines are non-statutory and are clearly not working in Councils experience and so should be made statutory.

Refining the Regulatory Framework for Environmental Matters

In Council's experience the Draft Major Development Plans for the Airport often fail to adequately address the full environmental impacts of such proposals. As a recent example the Major Draft Development Plan for the expansion of office development at the airport failed to outline any staging sequence to enable stakeholders and interested persons to determine the impact of the proposal upon, among other things, the existing road network and the possible movement of heavy vehicles through the City of Queanbeyan.

The draft plan addressed the likely traffic impacts upon the existing road network in one paragraph and simply referred to an untitled traffic impact assessment report which was not made available on the airport website. Pialligo Avenue is an important regional road connection from Queanbeyan to Canberra and clearly the draft plan did not adequately address the likely traffic impacts to enable Council and other stakeholders to determine the possible impact.

Council is of the opinion that Draft Major Development Plans should be of a certain acceptable standard and urges the Committee to investigate ways to improve this aspect of airport planning. Such improvement would also be complementary to better consultation with the key stakeholders as urged by DOTAR's recent consultation guidelines.

Clarifying and Refining processes Associated with Current Noise Management

Council is strongly opposed to the proposal to enable a masterplan to extend beyond the 20 year planning period (item 33). Indeed Council suggests that the Bill strengthen the regulations in regard to the planning period so as to not permit a masterplan to exceed the 20 year planning period.

Considerable debate has occurred since the preparation of the Canberra International Airport 2050 Masterplan (considered as an "ultimate capacity" masterplan), prepared within a few months following the approval of the previous 2020 masterplan (which effectively meant that the 2020 masterplan had a lifespan of around 2 years). This debate has centred on the accuracy of the planning horizon, and the fact that forecast aircraft movements may be unable to be achieved within such a long timeframe, particularly given uncertainties regarding the future availability and cost of fossil fuels, the future of the airline industry, technological advancements and the like.

The impact of such a long and perhaps unrealistic planning timeframe for ANEF forecasts is felt immediately by placing (in some instances unwarranted) costs on the residential development sector and individuals to ensure compliance with AS2021, despite the fact that forecast air movements in, for example 2050, may never be realised. This is in contrast with the planning horizon for local planning which is often 15-20 years and parallels the current 20 year planning period suggested by the Aiports Act 1996.

However the Airports Act 1996 (Section 72) is vague in relation to the planning period and states that “*a draft or final master plan must relate to a period of 20 years*”. This section of the act should be tightened to ensure a masterplan (and associated ANEFs) is prepared for a maximum of a 20 year planning period, but not to exceed that period. As proposed the Bill will introduce further uncertainty in regulating landuse for land affected by airports.

There have been a number of court cases in regard to this matter and the Committee is referred to Village Building Company Limited v Canberra International Airport Pty Ltd & Ors [2003] FCA 1195, Village Building Company Limited v Canberra International Airport Pty Ltd & Ors [2004] FCAFC 240, and Robin Pty Ltd v Canberra International Airport Pty Ltd [1999] FCA 1019. Making this section of the Act more explicit in the Act could avoid these in the future.

The Committee is requested to have regard to the above comments and to carefully consider the concerns of Council prior to the further consideration of this Bill. Council representatives would be pleased to attend the Senate Committee Hearings if requested to do so.

Should you have any further enquiries please contact David Carswell of Council’s Strategic Planning Section on 6298 0276.

Yours faithfully

DAVID CARSWELL
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Cc The Mayor
 General Manager