



QEANBEYAN CITY COUNCIL

**Submission to Senate
Inquiry into Airports
Amendment Bill 2006**

January 2007

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Supplementary Statement/Recommendations

Introduction

This written statement elaborates on Queanbeyan City Council's original submission (Submission 24) which is appended (Appendix 1). In some cases it raises additional points to those raised in the original submission as well as making recommendations. It also includes verbal statements by Councillor Tom Mavec Deputy Mayor Queanbeyan City Council and Mr David Carswell Manager of Strategic Planning Queanbeyan City Council (Appendix 2). Finally the statement clearly identifies those Items in the Airports Amendment Bill 2006 that are supported.

Consequently it is requested that this supplementary statement, in its entirety, be incorporated into evidence.

The statements of Deputy Mayor Tom Mavec and Mr David Carswell follow and are contained in Appendix 2:

1. Items in Schedule 1 of the Bill

1.1 Item 23: Purposes of a Final Master Plan/Permitting Non-Aeronautical development at leased airports

(See also Permitting Non-Aeronautical development at leased airports and Refining the Planning and Development Approval Regime of Appendix 1)

Items 16 and 23 address the issue of non-aeronautical development at leased airports.

In regard to Item 23 this will insert into the *Airports Act 1996* that one of the purposes of a final master plan for an airport is to:

“(b) to provide for the development of additional uses of the airport site; ...”

For many airports this is a fact and in many cases substantial non-aeronautical development has caused major concern and litigation.

At present substantial commercial developments on airport land adjacent to urban areas may proceed without reference to state, territory or local government planning policy. This is despite the fact that these developments can be very large with potentially major impacts on external infrastructure and facilities.

Such impacts can be a concern to all stakeholders including owners of Airports.

A recent local example of this is the traffic problems on roads adjoining Canberra International Airport. This resulted in a working group being formed last year which amongst other things sought to:

- “Overview the planning of road upgrades in the vicinity of Canberra Airport over the short to medium terms (0 – 15 years)
- Identify the contribution that road improvements can make locally, in a regional context as well as part of the National AusLink Network
- Agree on a staging plan for such road improvements and make recommendations to the relevant governments on this program of work as well as funding requirements”.

The working group included representatives from all levels of government including the Australian Government and Queanbeyan City Council as well as from Canberra International Airport.

The final report of the working group was tabled in October 2006 and identified an improvement program in two stages costing some \$45M.

In these cases there is an argument that Airports should be required to contribute towards their proportion of any necessary upgrades of infrastructure and pay developer contributions in a similar manner to those paid by major developments in New South Wales which are outside of airport leased land.

This would put the two situations at a level playing field.

This could be achieved by amending the Bill to require major¹ airport developments of a non-aeronautical nature to be subject to relevant state and local or territory planning requirements.

To support this Council also submits that 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.

Council also submits that while 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).

¹As defined by the *Airports Act 1996* (as amended)

Recommendation

- 1 That major developments of a non-aeronautical nature and falling into the category of major as defined by the *Airports Act 1996* (as amended) be subject to relevant state and local or territory planning requirements for the equivalent type of development.

1.2 Item 33: 20 Year Horizon for Master Plans

(See also "Clarifying and Refining processes Associated with Current Noise Management" of Appendix 1)

Item 33 provides that a draft or final master plan may, subject to specified conditions related to a period beyond the 20 year planning period.

In Queanbeyan City Council's submission the *Airports Act 1996* should not be amended to enable any master plan to extend beyond the 20 year planning period.

There are a number of reasons for this:

- Imposition of costs that may never have been necessary. For example the residential sector may have to comply with AS2021, despite the fact that forecast air movements in, for example 2050, may never be realised.
- Uncertainty of planning horizon beyond 20 year period for critical factors such as the future availability and cost of fossil fuels, the future of the airline industry, technological advancements and the like.
- A planning horizon of 15 – 20 years is a much more certain time horizon in which to plan for and parallels the current 20 year planning period required by the *Airports Act 1996*.
- Creation of potential litigation eg *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. all of which raised issues concerning Canberra International Airport's 2050 ANEF. Making this section of the Act more explicit in the Act could avoid this in the future.

Although section 72 states that "a draft or final master plan must relate to a period of 20 years" it does not prevent a ultimate capacity ANEF being contained within a final master plan which is likely to extend to a much longer period. Such an inconsistency can again cause uncertainty and considerable debate. Indeed it has been this Council's experience that considerable debate has occurred since the preparation of the Canberra International Airport 2050 Master Plan (considered as an "ultimate capacity" master plan).

This section of the Act should be tightened to ensure that a master plan (and associated ANEF) is prepared for a maximum of a 20 year planning period, but not exceed that period. As proposed the Bill will introduce further uncertainty in regulating land use for land affected by airports.

Recommendations

- 2 That Item 33 be deleted from the *Airports Amendment Bill 2006*.
- 3 That the Bill strengthen the Act and its Regulations in regard to the planning period so as not to permit any master plan or any associated ANEF to exceed the 20 year planning period.

1.3 Items 41, 57, 81 and 127: Publication and Notification Procedures

The changes proposed by Items 41, 57, 81 and 127 in relation to publication and notification of master plans, major development plans and environmental strategies are supported. However they need to be strengthened by altering the Bill to include provisions which require an airport-lessee company to notify in writing those persons identified in sections 80, 93 and 125. This would also be complementary to better consultation with the key stakeholders as urged by DOTAR's recent consultation guidelines.

Recommendation

- 4 That Items 41, 57, 81 and 127 be altered to require an airport-lessee company to notify in writing those persons identified in sections 80, 93 and 125.

1.4. Items: 42, 45, 80, 83, 127 and 130: Reduction of Consultative Periods

(See also Reducing Public Exhibition timeframes of Appendix 1)

Items 42, 45, 80, 83, 127 and 130 shorten the consultative period and period in which the community can comment on preliminary draft master plans, major development plans and environmental strategies from 90 calendar days to 45 business days.

However in Councils submission these consultative periods should not be shortened and the Bill's proposal to include Ministerial stop the clock powers (see Items 48, 86 and 133) be supported.

There are a number of reasons why consultative periods should not be reduced. These include:

- Airport developments can be of a significant size and potentially have significant external impacts. For example Canberra International Airport has recently proposed a 65,000 m² office extension which will bring the total office space on its site to about 135,000 m².
- Issues can be highly technical requiring stakeholders to obtain external expert advice to properly comment eg ANEF's, traffic impacts, local and regional economic impacts as well as impacts on vulnerable and threatened flora and fauna. These can be time consuming to obtain expert information on, particularly if governed by statutory tendering requirements eg section 55 *Local Government Act 1993 (NSW)*.

Recommendation

5 That those parts of Items 42, 45, 80, 83, 127 and 130 which propose reduced consultative periods be deleted from the *Airports Amendment Bill 2006*.

1 5. Items 120 and 170: Excluding Canberra International Airport from the operation of the National Capital Plan and local planning control

(See also Excluding Canberra Airport from the operation of the National Capital Plan of Appendix 1)

Items 120 and 170 excludes Canberra Airport from Commonwealth and ACT planning control or any other planning control except that provided under the *Airports Act 1996*.

This is done on the basis that it "...will bring Canberra Airport into line with all the other leased federal airports in that all planning and control of developments will be governed by the Act".

However there is a strong argument that because of its location within the ACT Canberra International Airport is not like other leased federal airports. Indeed this uniqueness is recognised in the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)*.

For instance section 9 "Object of Plan" in relation to the National Capital Plan states:

"The object of the Plan is to ensure that Canberra and the Territory are planned and developed in accordance with their national significance."

This equally applies to Canberra International Airport?

In addition Section 26 "Territory Plan not to be inconsistent with National Capital Plan" states:

"The Territory Plan has no effect to the extent that it is inconsistent with the National Capital Plan, but the Territory Plan shall be taken to be consistent with the National Capital Plan to the extent that it is capable of operating concurrently with the National Capital Plan."

If the planning of the rest of the ACT has to be consistent with the National Capital Plan why not any plan for the Airport?

A practical effect of these proposed changes would be to remove the current floor space restriction for Canberra Airport in the National Capital Plan, a provision which affects a current major development plan.

Amongst other things Amendment 44 inserts the following into the National Capital Plan:

Office Use

- *Office is a permitted use at Canberra International Airport.*
- *There is no gross floor area limit for any office use, or for any particular office building, at the Airport where the office use is permitted as 'Primary Uses' or 'Other Uses'.*
- *The total gross floor area of all offices permitted as 'Office Use' shall not exceed 120,000 m². This gross floor area limit applies to offices which are permitted only as 'Office Use'. The limit does not include offices which are permitted as 'Primary Uses' or 'Other Uses'.*
- *Subject to the gross floor area limitation, and subject to any other relevant provisions of the Plan, there is no gross floor area limit on any individual office building at the Airport.*

This was inserted less than two years ago by Amendment 44 which was registered in March 2005 (Appendix 3) after going through a process involving approval by the relevant Commonwealth Minister and the scrutiny of the Australian Parliament.

Again the question has to be asked what has changed in less than 2 years.

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 floor space 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.

Recommendation

6 That Items 120 and 170 be deleted from the *Airports Amendment Bill 2006*.

1.6 Item 122: Purposes of Environmental Strategies/Refining the Regulatory Framework for Environmental Matters

(See also Refining the Regulatory Framework for Environmental Matters of Appendix 1)

Item 122 which proposes to clearly state the purposes of a final master plan is generally supported particularly subclause (d) of it with some reservations (see above).

However nowhere in it is there a reference to sustainability or to developing in accordance with sustainable principles even though Item 122 inserts into the Act what the purposes of a final environment strategy are.

In these times when there is a heightened awareness of undertaking land uses in ways which either promote sustainability or sustainable principles this is an important omission.

Council is also of the opinion that Draft Major Development Plans should be of a certain acceptable standard (which is not always reached) and urges the Committee to investigate ways to improve this aspect of airport planning.

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.

Reasons for this include:

- It is felt that the Department of Transport and Regional Services (DOTARS) is not a planning authority and should not be able to determine planning policy and the future land use strategies for non-airport related developments at airports.
- This would reduce the perception of any conflict of Interest that may exist arising from the fact that the Australian government is both the landlord and the regulatory authority for what could be major development on their land.
- Such a measure would provide a level playing field with development on non airport leased land.

Recommendations

- 7 That the Committee investigate and recommend on ways to ensure that major development plans improve their environmental assessments.
- 8 That Item 122 be added to include a purpose requiring final environmental strategies to promote sustainable development principles.

2. Matters not dealt with by the Bill

2.1. Status of Consultative Guidelines (December 2006) issued by the Department of Transportation and Regional Services

(See also Reducing Public Exhibition timeframes of Appendix 1)

In December 2006 the Australian Government through the Department of Transport and Regional Services issued the *Airport Development Consultation Guidelines*.

The stated aim of these guidelines "*is to promote a shared understanding of how consultation processes in relation to land use, planning and developments at the leased federal airports should be managed.*"

The guidelines make it clear that they are not intended to be prescriptive but to provide a useful reference to airport-lessee companies to ensure that an appropriate level of effective consultation be undertaken. To strengthen and ensure effective consultation the guidelines should be given statutory recognition which would also complement other Items in the Bill, for example Items 43 and 46. Council is of the opinion that it has not been recently consulted in accordance with the guidelines.

Recommendation

- 9 That the Bill be altered in regard to Items affecting section 79 (2) (c), new section 84A (2) (c), section 92 (2) (c), new section 95A (2) and section 124 (2) (c) to require airport-lessee companies to include in their demonstrations how they have had due regard to the Airport Development Consultation Guidelines (December 2006) or an approved alternative consultative mechanism.

3. Items in Schedule 1 of the Bill which are Supported

In earlier parts of this statement it was made clear that various Items proposed in the *Airports Amendment Bill 2006* are supported. These include (with some reservations in relation to Item 23):

- Item 23: dealing with purposes of final master plans (with reservations about the magnitude of non-aeronautical uses on airports). This is addressed in 1.1 above.
- Items 41, 57, 81 and 127: dealing with publication and notification procedures.
- Item 33 in relation to utilising a more recent Australian Noise Exposure Forecast in replacement master plan. Whilst the ANEF system is not perfect DOTARS "Expanding Ways to Describe and Assess Aircraft Noise" observed:

"This paper is not an attempt to replace the ANEF system as a planning tool. The ANEF system continues to be the most technically complete means of portraying aircraft noise exposure and the Department is not proposing any changes to the land use planning principles and restrictions embodied in Australian Standard AS2021."

- Items 47, 63, 85, 106 and 132: requiring airport-lessee companies to demonstrate how they have had due regard to comments in regard to draft master plans, draft variations to these, draft major development plans, draft variations to these and draft environment strategies.
- Items 48, 86 and 133: allowing the Minister to "stop the clock" in regard to decisions on draft master plans, major development plans and environment strategies.

Recommendations

In regard to the *Airports Amendment Bill 2006* the following recommendations are made.

1. That major developments of a non-aeronautical nature and falling into the category of major as defined by the *Airports Act 1996* (as amended) be subject to relevant state and local or territory planning requirements for the equivalent type of development.
2. That Item 33 be deleted from the *Airports Amendment Bill 2006*.
3. That the Bill strengthen the Act and its Regulations in regard to the planning period so not to permit any master plan or any associated ANEF to exceed the 20 year planning period.
4. That Items 41, 57, 81 and 127 be altered to require an airport-lessee company to notify in writing those persons identified in sections 80, 93 and 125.
5. That those parts of Items 42, 45, 80, 83, 127 and 130 which propose reduced consultative periods be deleted from the *Airports Amendment Bill 2006*.
6. That Items 120 and 170 be deleted from the *Airports Amendment Bill 2006*.
7. That the Committee investigate and recommend on ways to ensure that major development plans improve their environmental assessments.
8. That Item 122 be added to include a purpose requiring final environmental strategies to promote sustainable development principles.
9. That the Bill be altered in regard to Items affecting section 79 (2) (c), new section 84A (2) (c), section 92 (2) (c), new section 95A (2) and section 124 (2) (c) to require airport-lessee companies to include in their demonstrations how they have had due regard to the Airport Development Consultation Guidelines (December 2006) or an approved alternative consultative mechanism.

Appendices

**Appendix 1 – Submission 24: Original Submission
from Queanbeyan City Council**

File SF020294

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 floor space 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 land use 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.

- 1.1.1 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.
- 1.1.2 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 master plan 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 master plan to exceed the 20 year planning period.

Considerable debate has occurred since the preparation of the Canberra International Airport 2050 Master plan (considered as an "ultimate capacity" master plan), prepared within a few months following the approval of the previous 2020 master plan (which effectively meant that the 2020 master plan 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 Airports 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 master plan (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 land use 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
MANAGER STRATEGIC PLANNING

Cc The Mayor
General Manager

Appendix 2 – Verbal Submissions

Opening Statement: Councillor Tom Mavec, Deputy Mayor Queanbeyan City Council

Mr Chairman firstly I would like to thank you and the Committee for inviting Queanbeyan City Council to make this submission.

Queanbeyan City Council's submission is contained in a written supplementary statement which will be distributed to the Committee.

The written statement elaborates on Queanbeyan City Council's previous submission (Submission No.24) which is appended to it (Appendix 1).

In some cases it raises additional points to those raised in the original submission as well as making recommendations.

It also includes my statement and that of Mr David Carswell Manager of Strategic Planning Queanbeyan City Council.

Consequently it is requested that this supplementary statement, in its entirety, be incorporated into evidence.

If it is acceptable to you and the Committee it is proposed that after my statement and subject to time permitting, that a brief statement also be made by Mr Carswell who is Council's Manager of Strategic Planning. Mr Carswell's comments are also contained in and elaborated on in the supplementary statement and Mr Carswell will also be available any questions that the Committee may have.

As was said in Council's original submission (Appendix 1 of the written statement) "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."

This experience has been gained by:

- Being approximately seven kilometres from Canberra International Airport.
- Being a founding member of the Canberra Airport Aircraft Noise Consultative Forum chaired by Canberra International Airport and its predecessor committee.
- From comprehensively reviewing various draft Master Plans and Major Development Plans produced by Canberra International Airport.

In addition the Council has been a member of various regional planning forums and committees over the last 20 years.

Consequently I believe that the Council is well placed to comment on the practical implications of some of the changes proposed under the *Airports Amendment Bill 2006*.

Today I propose to briefly introduce those six items of Schedule I of the *Airports Amendment Bill 2006* as well as the additional matter not dealt with by the Bill which causes Queanbeyan City Council considerably concern and which it would like to comment and to make recommendations on. As mentioned above it is then proposed that Mr Carswell will further comment on them.

I start with the Items in the Bill.

In regard to these Queanbeyan City Council has concerns with three items and associated items. These include:

- Item 23: Purposes of a final master plan/Permitting Non-aeronautical development at leased airports.
- Item 33: 20 Year Horizon for master plans.
- Items 41, 57, 81, and 127: Publication and Notification Procedures.
- Item 42, 45, 80, 83, 127 and 130: Reduction of Consultative Periods.
- Items 120 and 170: Excluding Canberra International Airport from the operation of the National Capital Plan and local planning control.
- Item 122: Purposes of Environment Strategies/Refining the Regulatory Framework for Environmental Matters.

Next there is an additional item not covered by the Bill which in the Council's view should be. This is the status of Consultative Guidelines (December 2006) issued by the Department of Transportation and Regional Services.

In regard to these Queanbeyan City Council makes nine recommendations which are contained in this statement.

There are also a number of Items in the Bill which are supported and these are identified in this statement and will be briefly touched on by Mr Carswell.

That concludes my opening statement. I now hand over to Mr Carswell.

Thank you.

**Further Statement: Mr David Carswell, Manager Strategic Planning
Queanbeyan City Council**

Thank you Mr Chairman.

Like the Deputy Mayor Councillor Mavec, I propose to briefly address three of the seven matters raised by this statement if time permits. Accordingly I request that members closely review all of the material in the written statement so as to cover all of Queanbeyan City Council's submission. I am also happy to answer any questions.

The matters to be addressed include:

- Item 33: 20 Year Horizon for Master Plans.
- Item 42, 45, 80, 83, 127 and 130: Reduction of Consultative Periods.
- Items 120 and 170: Excluding Canberra International Airport from the operation of the National Capital Plan and local planning control.

1.2 Item 33: 20 Year Horizon for Master Plans.

Item 33 provides that a draft or final master plan may, subject to specified conditions relate to a period beyond the 20 year planning period.

The stated intention is to enable State and Territory land use planning agencies to implement long-term planning goals that are compatible with an airport's proposed long term aeronautical operations.

However for a number of reasons it is Queanbeyan City Council's submission the *Airports Act 1996* should not be amended to enable any master plan or associated ANEF to extend beyond the 20 year planning period.

Reasons for this include:

- Imposition of costs that may never have been necessary. For example the residential sector may have to comply with AS2021, despite the fact that forecast air movements in say 2050, may never be realised.
- Uncertainty of planning horizon beyond 20 year period for critical factors such as the future availability and cost of fossil fuels, the future of the airline industry, technological advancements and the like.
- A planning horizon of 15 – 20 years is a much more certain time horizon in which to plan for and parallels the current 20 year planning period required by the *Airports Act 1996* and local government planning.
- Creation of potential litigation eg *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 all of which raised issues relevant to Canberra International Airport's ANEF 2050. Making this section of the Act more explicit could avoid this in the future.

Notwithstanding that section 72 of the *Airports Act 1996* states that "a draft or final master plan must relate to a period of 20 years" this does not prevent an ultimate capacity ANEF being contained within a final master plan which is likely to extend to a much longer period.

Again this can cause uncertainty and considerable debate as well as unwarranted costs. Indeed it has been this Council's experience that considerable debate has occurred since the preparation of the Canberra International Airport 2050 Master Plan (considered as an "ultimate capacity" master plan).

This section of the Act should be tightened to ensure that a master plan (and associated ANEF) is prepared for a maximum of a 20 year planning period, but not exceed that period.

To deal with this, the submission makes two recommendations i.e. Recommendations 2 and 3.

1.4 Item 42, 45, 80, 83, 127 and 130: Reduction of Consultative Periods.

These Items propose to shorten the consultative periods from 90 calendar days to 45 business days in which the community can comment on preliminary draft master plans, major development plans and environmental strategies. These consultative periods should not be shortened. There are a number of reasons why consultative periods should not be reduced.

These include:

- Airport developments can be of a significant size and potentially have significant external impacts which require detailed assessment. For example Canberra International Airport has recently proposed a 65,000 m² office extension which will bring the total office space on its site to about 135,000 m².
- Issues can be highly technical requiring stakeholders to obtain external expert advice to properly comment eg ANEF's, traffic impacts, local and regional economic impacts as well as impacts on vulnerable and threatened flora and fauna. These can be time consuming to obtain expert information on particularly if governed by statutory tendering requirements eg section 55 *Local Government Act 1993 (NSW)*.

Recommendation 5 is relevant to this issue.

It is also Council's submission that the Bill's proposal to include Ministerial stop the clock powers (see Items 48, 86 and 133) be supported.

1.5 Items 120 and 170: Excluding Canberra International Airport from the operation of the National Capital Plan and local planning control.

Canberra International Airport currently and will continue to have (under its approved Master Plan) a major impact on land use planning both within the ACT and the Region.

Items 120 and 170 excludes Canberra Airport from Commonwealth and ACT planning control or any other planning control except that provided under the *Airports Act 1996*.

This is done on the basis that it "...will bring Canberra Airport into line with all the other leased federal airports in that all planning and control of developments will be governed by the Act".

No other reason is given.

However there is a strong argument that because of its location within the ACT, Canberra International Airport is not like other leased federal airports. Indeed this uniqueness is recognised in the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)*.

For example section 9 of "Object of Plan" of the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* states in relation to the National Capital Plan:

"The object of the Plan is to ensure that Canberra and the Territory are planned and developed in accordance with their national significance."

This applies equally to Canberra International Airport?

Section 26 of the National Capital Plan also states:

"The Territory Plan has no effect to the extent that it is inconsistent with the National Capital Plan, but the Territory Plan shall be taken to be consistent with the National Capital Plan to the extent that it is capable of operating concurrently with the National Capital Plan."

If the planning of the rest of the ACT has to be consistent with the National Capital Plan why not long term strategic plans for the Airport?

A practical effect of these proposed changes would be to remove the current floor space restriction for Canberra Airport in the National Capital Plan which was inserted by Amendment 44.

This was inserted less than two years ago by Amendment 44 which was registered in March 2005 (Appendix 3) after going through a process involving approval by the relevant Commonwealth Minister and the scrutiny of the Australian Parliament.

Again the question has to be asked what has changed in less than 2 years.

Items 120 and 170 of the Bill would also have the effect of removing the only commercial floor space 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 Commonwealth National Capital Authority, NSW State government, the ACT government, Queanbeyan Council, and Recommendation 6 is relevant to this issue.

As indicated above there are also a number of Items in the Bill which are supported. These are:

- Item 23: dealing with purposes of final master plans (with reservations about the magnitude of non-aeronautical uses on airports). This is addressed in 1.1 above.

- Item 33 in relation to utilising a more recent Australian Noise Exposure Forecast in replacement master plan. Whilst the ANEF system is not perfect DOTARS "Expanding Ways to Describe and Assess Aircraft Noise" observed:

"This paper is not an attempt to replace the ANEF system as a planning tool. The ANEF system continues to be the most technically complete means of portraying aircraft noise exposure and the Department is not proposing any changes to the land use planning principles and restrictions embodied in Australian Standard AS2021."

- Items 41, 57, 81 and 127: dealing with publication and notification procedures.
- Items 47, 63, 85, 106 and 132: requiring airport-lessee companies to demonstrate how they have had due regard to comments in regard to draft master plans, draft variations to these, draft major development plans, draft variations to these and draft environment strategies.
- Items 48, 86 and 133: allowing the Minister to "stop the clock" in regard to decisions on draft master plans, major development plans and environment strategies.

Appendix 3 – Overview of Amendment 44: National Capital Plan

Amendment **44**
Office Employment Location Policies (Registered: 8 March 2005)

Amendment 44 modifies the office employment location policies in the National Capital Plan in the light of changes that have taken place in employment in the Australian Capital Territory since the introduction of the National Capital Plan in 1990.

A principal outcome of the review is that there is no longer a need to restrict the location and amount of Commonwealth office employment in Civic.

Other features of the new policies include that major office employment is to be located within Defined Office Employment Centres that occur within the two main transport corridors operating from Gungahlin in the north through the Central area to Tuggeranong in the south and from Belconnen in the west through the Central Area to Queanbeyan in the east. Canberra International Airport is recognized as a Defined Office Employment Centre with an upper limit for general office development of 120000m² gross floor area.

Office developments are also permitted at Local and Group Centres at a scale appropriate to each centre. As a general rule offices should not exceed the total retail floor space in a Local or Group Centre.
