

Submission – Airport Amendment Bill 2006 on behalf of the City of Kingston

The following submission outlines the City of Kingston's response to the *Airports Amendment Bill 2006*. In making this submission Council would like to express its concern with the extremely short time period provided to us to prepare an adequate response. The fact that the two week submission period coincided with the key holiday period further exacerbated the ability of interested parties to give due attention to the matter.

The City of Kingston has previously made a comprehensive submission on airport related matters more specifically as they related to the Moorabbin Airport Masterplan. Council considers that many of the issues canvassed in that submission have not been adequately addressed by the *Airport Amendment Bill 2006* given that the Bill does not propose changes to the broad policy framework for privatized airports and consequently those comments are applicable to this submission. A copy of the Council's submission to the most recent Moorabbin Airport Master Plan (May 2004) is attached. (*Appendix 1*)

It is pleasing to note that the Government, in the Second Reading speech on the Bill, states that it takes the views of the community seriously and proposes that airport operators must clearly demonstrate how they have taken due regard of the comments made during the public comment periods on master plans, major development plans and airport environment strategies. This is most certainly an improvement on the previous requirement whereby the operator "*in determining land use application may take into account any relevant environmental, social or economic effects which it considers the proposal may have on the airport and surrounding land*".

However, it is a concern that the Bill proposes to significantly reduce the statutory public comment and assessment period for airport master plans, major development plans and environment strategies on the pretext that it brings them into line with state and territory planning regimes. The statutory and governance processes required under the Planning and Environment Act for variations to Kingston's Planning Scheme allow a number of opportunities for public comment which are not afforded by the *Airport Amendment Bill 2006*. Specifically the following process is required by Kingston:

Step 1

- The formulation of a proposed Planning Scheme Amendment involving the application of rezoning strategies or development controls which include:
 - ◆ Substantial background analysis to consider the impacts of the proposed change on the State and existing Local Planning Policy Framework. Such an analysis often includes considerations regarding economic impact assessments, infrastructure considerations, future demographic profiling and detailed design considerations;
 - ◆ Preliminary consultation with key stakeholders including residents, the business community, neighboring municipalities, servicing agencies and the State Government.

Step 2

- The recognition by Council and the State Minister for Planning that the proposed Amendment to the Planning Scheme has sufficient basis to be publicly exhibited.

Step 3

- The statutory exhibition of the Amendment and the formal direct notification to potentially affected parties allowing any party to formally lodge submissions.

Step 4

- Further consideration and review of any submissions and then formal consideration by Council of whether it wishes to continue to pursue the Amendment.

Step 5

- If the Amendment is to be further pursued subsequent consideration by an Independent 'Expert' Panel appointed by the Minister for Planning occurs and seeks to critically review the submissions received and the overall basis for the Amendment.

Step 6

- Subsequent consideration by the Council of the report of the Independent Panel and a decision as to whether it wishes to adopt, abandon or vary the Amendment.

Step 7

- If the Amendment is adopted final consideration by the Minister for Planning occurs as to whether the Amendment is approved.

The above Planning Scheme Amendment process provides clear opportunities for transparent and independent expert assessment and community input into the merits of key strategic decisions regarding land use and development.

It does not appear that the approval process for airport master plans etc will be subjected to nearly this degree of rigor. This remains of grave concern to the City of Kingston as it continues to create a most 'unlevel playing field' where airport land use decision making appears to occur in a bubble without any regard for the planning aspirations of the community which surrounds it. Consequently the public and other critical stakeholders need to be afforded sufficient time to adequately assess the proposals.

Should you wish to discuss matters raised in this submission please contact Jonathon Guttman, Manager Strategic Planning on (03) 95814789.

Yours sincerely

John Nevins
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19 January 2007

Submission Moorabbin Airport Masterplan

Introduction

The following submission outlines the City of Kingston's response to the Moorabbin Airport Draft Master plan (the Master Plan) and the Moorabbin Airport Land use Plan (the Land Use Plan). This submission seeks to build upon earlier submissions made by Council in relation to the future strategic and land use planning matters which the Moorabbin Airport Corporation (MAC) in its capacity as Airport Lessee has sought to advance.

Council understands that the review of the above documents is in accordance with Part 5 of the Airports Act 1996 and the Regulations made under that Act. It is clear that the Airports Act seeks to differentiate the role of 'airport regulator' which is primarily performed by the Department of Transport and Regional Services (DOTARS) and the role of 'airport lessee'. This submission seeks to reinforce the vitally important role of the Federal Government acting in its capacity as the sole regulator to ensure matters of State and Local importance are sufficiently considered. It is Council's view that comments such as "*the airport strategic statement is intended to provide a sound policy basis for which to assess all future land use proposals*" must be formally tested not only against the Lessee's commercial imperatives but also the State and Local policy context. If such 'testing' and wider input was not believed to be of benefit to the Federal Government it is clear that the status of these documents would not be represented as 'drafts' for consultation.

Aircraft Planning and Specific Land Use Issue

This component of the submission provides general comment on the elements of the Master Plan relating to aircraft movements, and provides comments on associated land use issues. The balance of the submission addresses Council's concerns with respect to the strategic and land use planning components of the Master Plan.

From an airport operational perspective, the Master Plan is largely based on the plan approved in 1999. The 1999 plan projected that the maximum operating capacity of the airport over a 20 year period would be 452,000 movements which include 12,500 regional passenger transport movements.

Australian noise exposure forecasts prepared as part of the 1999 plan were based on this target figure. The forecasts were then used by the City of Kingston to establish the boundaries for a special policy area and AEO1 zone. The 2004 plan recognises that the 1999 forecasts are no longer relevant due to a number of factors that have had a significant impact on the aviation industry. The plan suggests that a revised target for a 20 year capacity based on current activity would be 348,000 movements. The MAC has taken a conservative approach and based its current plan on the 1999 plan. Under this scenario, it is not necessary for the Corporation to revise its ANEF forecasts or for the City of Kingston to review the boundaries of the AEO1 zone within the Kingston Planning Scheme or the special policy area.

Future runway improvements detailed within the 2004 plan are identical to those proposed in the previous Master Plan. There is, however, a slight increase in the areas set aside for helicopter activities.

The City of Kingston accepts that the Master Plan has appropriately addressed future aviation requirements and associated noise exposure forecasts.

From a land use planning perspective, Council believes that the plan should:

- Recognise the opportunity to extend adjoining Southern Road to link with Second Street (Council has allowed to provide significant funding to achieve the outcome);
- Provide recognition for the retention of the Moorabbin Air Museum;
- Be supported by an analysis to support the conversion of all the open areas on the eastern perimeter of the airport to a more intensive use from an aviation safety perspective.

Strategic Planning Issues

The component of the report focuses on the strategic basis of the land use controls identified in the draft Master Plan and Land Use plan which have been developed by the Lessee. Since Council's original comments in July 1999 the vision governing land use planning policy has changed significantly in Victoria, as has the sophistication of the Victorian Planning Provisions. These changes reinforce the need to ensure that the commercial aspirations of the Lessee are carefully weighted against the interests of sustaining the local economy which exists beyond the boundaries of the Moorabbin Airport.

Victorian Planning and Environment Act (1987)

The Victorian Planning and Environment Act (1987) warrants strong consideration as it outlines what is an accepted process in the State of Victoria for establishing and subsequently amending Local Government Planning Schemes. Of relevance in this instance are the 'tests' which must be followed in order to generate variations of any significant nature to land use controls applicable to public or private land within Victoria. The Act is governed by a series of objectives those of particularly relevance to this submission include:

- To provide for the fair, orderly, economic and sustainable use and development of land;
- To secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria; and
- To balance the present and future interests of all Victorians.

Some of the relevant objectives of the planning framework established by this Act include:

- To ensure sound, strategic planning and co-ordinated action at State, regional and municipal levels;
- To enable land use and development planning and policy to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;
- To encourage the achievement of planning objectives through positive actions by responsible authorities and planning authorities; and
- To establish a clear procedure for amending planning schemes, with appropriate public participation in decision making.

Why the above objectives are important is they give rise to formal statutory processes which govern the 'checks and balances' which exist when land use change or development controls are modified. It is worthwhile considering these objectives for Planning in Victoria against the 'vision' expressed for the Moorabbin Airport.

- To develop a high quality aviation and commercial environment.
- To enhance the regional role of Moorabbin Airport, whilst respecting the needs of nearby industrial and residential land uses.
- To strengthen the current Airport operations by improving Airport management, attracting a new aviation business and increasing revenues by selective development of land not required for aviation purposes.
- To ensure the creation of a quality business environment, quality landscaping, prominent entry statements, broad boulevards and a management structure to ensure that these high standards are maintained.
- To ensure an efficient and fully functioning Airport of regional and state significance which contributes to and improves the regional economic and social base of south-eastern metropolitan Melbourne.
- To provide a sound and strategically orientated framework, whilst retaining flexibility to respond to market demand for new uses that could potentially be appropriately located on the site, and to guide the ongoing development of the Airport in the 21st century.

It is clear when reviewing this vision that no direct reference is made to the vital role the Lessor and Lessee hold in ensuring that its decision making does not compromise the existing State and Local Planning Policy Framework. Clearly a vision statement which seeks to *'improve the regional economic and social base of south-eastern metropolitan Melbourne'* must identify directly with and value add to well established State and Local Government planning policy objectives. This submission will illustrate strongly that at present the Master Plan and Land Use Plan seek to essentially create an 'economy within an economy' that provides little if any regard for relevant factors (apart from risk management) beyond the boundaries of the leased land.

The plan's total disregard of State and local planning is best illustrated in the following statement which details the role of the MAC as a responsible authority. The Master Plan states "*in determining land use application the MAC may take into account any relevant environmental, social or economic effects which it considers the proposal may have on the Airport and surrounding land*". This rather loose statement should be compared with the statutory and governance processes required under the Planning and Environment Act for variations to Kingston's Planning Scheme. The processes are as follows:

Step 1

- The formulation of a proposed Planning Scheme Amendments involving the application of rezoning strategies or development controls which include:
 - Substantial background analysis to consider the impacts of the proposed change on the State and existing Local Planning Policy Framework. Such an analysis often includes

- considerations regarding economic impact assessments, infrastructure considerations, future demographic profiling and detailed design considerations;
- Preliminary consultation with key stakeholders including residents, the business community, neighboring municipalities, servicing agencies and the State Government.

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- If the Amendment is adopted final consideration by the Minister for Planning occurs as to whether the Amendment is approved.

The above Planning Scheme Amendment process provides clear opportunities for transparent and independent expert assessment of the merits of key strategic decisions regarding land use and development.

The Airport Master plan states on Page 12 that *“an airport master plan must, in relation to the landside part of the airport, where possible, describe proposals for land use and related planning, zoning or development in an amount of detail equivalent to that required by, and using terminology (including definitions) consistent with that applying in, land use planning, zoning and development legislation in force in the State or Territory in which the airport is located”*. The Master Plan prepared by the Lessee then follows this direct extract from the Airports Act 1996 (Part 5) and states *“as such, relevant parts of the Victorian Planning Provisions have been utilized in the Moorabbin Airport Land Use Plan in a form consistent with Victorian planning schemes”*. It is simply incorrect to assume that because the Airport Land Use Plan is technically formed around the Victorian Planning Provisions model any consistency with State and Local planning processes is achieved, unless the enabling processes of the Planning and Environment Act 1987 (Part 3 – Amendment of Planning Schemes or Part 4 – Permits) are required to be followed.

Metropolitan Strategy - Melbourne 2030

Irrespective of the description provided on Page 12 of the Draft Preliminary Master Plan relating to Melbourne 2030 it is important to recognise that the positioning of the Urban Growth Boundary straddles the airports boundaries and as such the airport is located within the 'Non Urban Area'. As the Chifley Business Park develops along the Centre Dandenong Road frontage within Precinct 'D' it is clearly evident that no regard is given to the 'Non Urban' status of this land when compared with the private land to the north. One of the primary features of the South East Green Wedge as identified with Melbourne 2030 is to recognise the Moorabbin Airport and related flight paths. Given that the State Government's Metropolitan Strategy has now designated the land occupied by the Moorabbin airport as a non urban area, the Master Plan should be modified to reflect this recent policy initiative.

Also of relevance in considering Melbourne 2030 is the manner in which its key policies seek to reinforce the importance of the existing retail centre hierarchy. Notable policies include:

- *Build up activity centres as a focus for high-quality development, activity and living for the whole community.*
- *Broaden the base of activity in centres that are currently dominated by shopping to include a wider range of services over longer hours, and restrict out-of-centre development.*
- *Locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.*

When considering the above policies it is important to recognise the significant concentration of Principal (Southland) and Major (Cheltenham, Mordialloc, Moorabbin and Mentone) Activity Centres around the Moorabbin Airport and as such the significant potential for inappropriate land use change at the airport to undermine metropolitan planning objectives. The location of the Airport is clearly away from any fixed rail service and due to flight paths its immediate relationship with housing is limited thus bringing into question the appropriateness of offices and retail land uses to the extent proposed.

Council's will in the future be required to develop a solid strategic basis for any new 'out of centre development' which will need to consider the economic, social and/or cultural vitality of existing centres and ensure their sustainability is not compromised. It is an immediate imperative that such considerations are undertaken against the land use intentions of the proposed Master Plan. At present it is felt that that the proposed Master Plan and associated Land Use Plan provide scant regard for the recently released Metropolitan Strategy, which will be further demonstrated in subsequent sections of this submission.

Flexibility Provided to Lessee

It has been suggested in the Preliminary Draft Masterplan that the lessee is entitled to ignore the need to consider any wider policy objectives or due planning process given its need for almost 'unfettered' flexibility to further the 'aviation role' of the airport. The following statement from the Masterplan seeks to reinforce this by suggesting that "*due to the long-term nature of the Airport lease and MAC's investment it is important that the Preliminary Draft Master Plan provides flexibility within the land use zonings to allow for changes in potential uses over the investment period*". Council believe this proposition to be completely without reason given that it is the nature of any lessor / lessee arrangement that some degree of risk is created in such ventures. The

established five yearly review provides an opportune time for the Lessee to provide reasoned justification for pursuing alternate ‘non aviation related land use aspirations’ rather than maintaining an unsubstantiated Land Use Plan that provides ‘uncontrolled commercial freedoms’.

It is simply not the role of the Federal Government to downplay its role as regulator in controlling the ‘non aviation related’ commercial operations (ie retail, office and industry uses) at the airport in order to protect or enhance the earning capacity of the lessee. The potential negative externalities associated with an open ended ‘flexibility’ in making land use decisions is far more significant in relation to compromising sound State and Local Planning Policy than ensuring that the rights of a Lessee particular in relation to ‘non aviation’ related commercial endeavors.

The manner in which the Land Use Plan is presently structured allows the Lessee to have complete discretion to decide whether within the areas covered by Schedules 2 and 3 to the Special Use Zone (the vast majority of the leased land) commercial aviation related activities (ie transport, flight training etc) will or will not be pursued. This clearly creates an environment whereby it is in the interests of the Lessee to facilitate the most commercial expedient land use outcomes (ie DFO, Supermarkets, Specialty Shops, Bulky Goods Retailing) irrespective of whether or not they reflect the longer term strategic ‘aviation related’ needs of the Airport.

It must not be forgotten that what is unique for Kingston and the greater South East Melbourne is the existence of a most identifiable and appropriately protected aviation resource. Therefore the clear planning opportunity is to recognise that commercial opportunities which value add to the airport’s ‘aviation role’ must be prioritised ahead of expedient non aviation related commercial activities. The Federal Government in its regulatory capacity must ensure that current and future aviation related opportunities are prioritised and protected ahead of other land use outcomes (ie retail and office uses) which have no direct relationship with the Airport and are provided for in a planned manner beyond the airports boundaries by State and Local Government.

State Planning Policy Framework

The lack of consideration provided to the existing State Planning Policy Framework (SPPF) is no better illustrated than in its inclusion as an appendix within the Land Use Plan rather than presenting it as the appropriate ‘broader policy context’ for decision making as occurs in the actual Victorian Planning Provisions. In reviewing the ‘Airport Strategic Statement’ it becomes apparent why the State Planning Policy Framework is an attachment as the ‘Airport Strategic Statement’ provides scant regard to the broader State Planning Policy context. The SPPF seeks to reinforce the following key objectives for Planning in Victoria that run completely at odds with the manner in which the Airport Master and Land Use Plans have been developed. For instance the SPPF suggests:

Clause 17.01-1 – To encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community.

It is quite evident that the Moorabbin Airport is not defined as an Activity Centre and when considering its location and supposedly core aviation role such a classification would be inappropriate. The inconsistencies with State Planning Policy found under Clause 17.01 are of primary concern to Council as is the apparent departure from the following SPP:

Clause 18.04 – To facilitate the siting of airfields and extensions to airfields, restrict incompatible land use and development in the vicinity of airfields, and recognise and strengthen the role of airfields as focal points within the State’s economic and transport infrastructure”.

This SPP further suggests:

Planning for areas around all airfields should:

- *Preclude any new use or development which could prejudice the safety or efficiency of an airfield.*
- *Take into account the detrimental effects of aircraft operations (such as noise) in regulating and restricting the use and development of affected land.*
- *Preclude any new use or development which could prejudice future extensions to an existing airfield or aeronautical operations in accordance with an approved strategy or master plan for that airfield.*

This SPP raises clear issues relating to risk management in relation to the inappropriate intensification of non aviation related activities around the airport and the primary role of authorities to ensure that the longer term ‘aviation’ needs of the airport are prioritised. Council has no confidence that the exhibited Master Plan or Land Use Plan effectively implement the above SPP.

The Masterplan suggests that “*the airport strategic statement is intended to provide a sound policy basis for which to assess all future land use proposals*”. Given inconsistencies with the established SPPF and Melbourne 2030 one wonders whether the ‘*sound policy basis*’ is simply confined to the Airport operating in a ‘bubble’ without any consideration given to higher order and well established land use policies existing beyond its boundaries. It is clearly the role of the regulator to ensure that these wider considerations occur.

Local Planning Policy Framework

It is vitally important when undertaking the development of the task presented to the MAC in preparing the Master Plan and Land Use Plan that consideration is given to the environs in which these plans are required to operate within. The Local Planning Policy Framework (LPPF) within Kingston’s Planning Scheme deserves significant consideration as it has the clear potential to be inappropriately influenced by the strategic land use directions of the Airports Planning documents.

Kingston’s Municipal Strategic Statement (MSS)

The following components contained within Kingston’s MSS are worthy of note in relation to this submission:

21.02-2 – The Moorabbin Airport plays a major role within the State’s economic and transport infrastructure. Long term protection of its flight paths is required to optimize its potential for future growth.

Council has continued to support through Overlay and Local Policy controls the preservation of the airport’s aviation responsibilities based on an understanding that these planning controls were to strengthen the ‘aviation’ role of the airport.

The Retail and Commercial Land Use Section of Council’s MSS warrants significant consideration given it seeks to reinforce how the Council seeks to develop these activities within the Municipality. The following extracts are taken from the MSS:

Objective 1 – To Protect the hierarchy of activity centres within Kingston.

A strategy relevant to achieving the above objective is to:

Consolidate new retail and commercial land use activity within the boundaries of existing commercial and activity centres, except where the prospect of achieving good planning outcomes in other locations can be demonstrated.

Promote mixed use precincts around key activity centres which encourage a broader range of cultural, social, commercial and higher density housing opportunities to complement retail functions of activity centres and enhance their economic vitality.

Consolidate the existing commercial centre hierarchy and promote the development and expansion of retail and related facilities appropriate to the role and position of centres within the overall hierarchy.

The Moorabbin Airport does not appear within Council's existing retail centre hierarchy as Council has never considered this site as geographically appropriate to contain retail uses to the extent proposed within the Airport Master Plan. The Master Plan if approved in the format presented and then subsequently implemented through the Land Use Plan will without doubt significantly impact on the municipalities retail hierarchy. The onus must be on the lessee prior to planning for 'non aviation' related commercial uses such as supermarkets, specialty shops or bulky goods retailing to satisfy the airport regulator that such land use decisions will not undermine the sustainability of centres such as Dingley, Cheltenham and Mentone. One must consider that for Council to contemplate even a minor zoning change to facilitate a modification to its retail hierarchy it must satisfy itself, an independent panel and the Minister for Planning of the basis for the proposed change.

In order to demonstrate the need for 'checks and balances', previously when the MAC sought a variation to the Airport Master plan to create a supermarket of no greater than 1500m² in Precinct C, it undertook a detailed economic analysis of the likely impact. This version of the Land use Plan has sought to remove the above 'review' process by seeking to allow not only one 'small supermarket' as is now constructed within Precinct C but permit as a Section 1 use the construction of Supermarket(s) anywhere within the Special Use Zone 2 or 3. Why this consideration is so significant in a wider sense in relation to the established retail hierarchy is explained later in the submission.

In relation to the potential for the use of the land for Offices, Objective 5 of Council's MSS seeks '*to promote the development of office activity in locations which enhance rather than undermine Kingston's hierarchy of activity centres*'. Of concern to Council is the likely impact that substantial growth in office uses which are not directly related to the aviation role of the Airport may have on stifling the future development of established Activity Centres such as Cheltenham. It is believed that without properly considering such questions and other factors including the suitability of car dependant office uses on the airport land that an inadequate analysis of wider land use policies has occurred.

When reviewing the Industrial Section of Council's MSS it is apparent that no regard is given to the Moorabbin Airport (Airside) land as a potential area for industrial growth. Once again the most pressing concern for Kingston remains the impact that the significant amount of Industrial land at the Moorabbin Airport may have on the take up of existing Industrial areas within the region. It is also felt that the major competitive advantage of the airport land surrounding the Special Use Zone Schedule 1 is the direct relationship to the aviation related functions. Insufficient regulatory control exists to ensure that this competitive advantage is in a planning sense maximised in future land use

decision making particularly regarding commercial and industrial tenancy decisions involving the airport land.

The MSS also reinforces the importance of ensuring that transportation considerations are incorporated into decisions regarding land use change. It is not felt that sufficient consideration is given to the opportunities for alternative forms of transportation particularly in relation to strengthening the frequency of bus services provided along both Centre and Lower Dandenong Roads. Clearly the basis for further developing the Melbourne 2030 hierarchy of Principal and Major Activity Centres for office and retail functions and discouraging ‘out of centre’ development is to better align such land uses with non car dependant forms of transportation (ie buses and trains). Council has substantial concerns that without the provision of additional transport services the merits in further facilitating land uses to the extent proposed directly contrasts with higher order planning policies.

Appropriateness of Land Use Controls

Strategic Intent – Consistency with the Proposed VPP Model

The Master plan suggests that *“the Special Use Zone allows for a unique mix of uses and development which are specifically applicable to the Moorabbin Airport. Unlike other standard zones from the Victorian Planning Provisions (VPP), the special use zone is specifically tailored to provide for different land use outcomes. The need to retain flexibility to grow the aviation business on all parts of the site also reinforces the need for a flexible and unique zoning framework for the Airport”*. As previously reinforced Council completely disputes the above statement and believes that the flexibility provided through the Special Use Zone as tailored by the MAC is an entirely inappropriate method for dealing with land use planning decision making. Council believe that it is only within Precinct A and B that the Special Use Zone should be applied and in such instances its application should be restricted to uses related solely to aviation so that the intent of these Precincts as outlined under Clause 21.07 and 21.08 of the Master Plan can be delivered.

If the Victorian Planning Provisions are to be meaningfully applied to the land so that some consistency exists with their application in areas beyond the airports boundaries, the correct VPP zones and relevant schedules should be used to implement the stated Precinct objectives for Precincts C to G. Council has attempted to reflect the manner in which the VPP’s should be correctly applied to the Airport land if a justifiable basis can be built for the strategic land use objectives (ie retail, office) of the precinct, a point yet to be proven to Council.

- Precinct A (Airside) – Council supports the translation between the objectives for this Precinct and the use of Schedule 1 to the Special Use Zone
- Precinct B (Commercial Aviation / Landside) – Council does not believe this land should be located within the Special Use Zone No. 2 given many of the allowable uses are inconsistent with aviation related activities. The area could be controlled by the Special Use Zone though a schedule which expands upon Schedule 1 and should specifically nominate ‘aviation related’ uses.
- Precinct C – (Retail and Commercial Activity Node) – Council does not believe that allowing uses including Industry, Warehouse or Mining should be permitted in a zone which seeks ‘Retail and Commercial Activity’ as its strategic basis. A Business 1 zone should be considered in this instance as the entire Precinct is now almost completely developed. The opportunity to allow further ‘conventional’ retailing should be restricted as this differs from the Precincts purpose.

- Precinct D & E – Council is very concerned that within these precincts are based on an ‘anything goes’ approach and as such a potential proliferation of both ‘Restricted Retail’ and ‘Retail’ activities is possible. Council’s MSS already establishes a strong retail hierarchy which seeks to direct conventional retailing into designated Activity Centres and ‘Restricted Retail’ into strategic sites within the municipality. The MSS does not envisage the need for any additional retail destinations beyond those identified to be created to respond to the current and future population needs of the Kingston community.

It is the firm view of Council that a Business 2 zone which as its purpose encourages ‘Offices and Associated Commercial Uses’ should be applied to this land. The schedule to the zone must be used to prevent the amount of leaseable floor area from being anything greater than that required to service localised (on site) convenience needs (ie convenience shop). It is recognised that even major retail entities in the City such as Westfield Southland or the Aspendale Gardens Shopping Centre have imposed limits on retail floor area contained within the existing Kingston Planning Scheme.

- Precinct F – (Industrial) – Without doubt the purpose of this precinct is to foster further industrial land uses. As such it is entirely inappropriate to use an open ended schedule to the Special Use Zone which would permit a much more extensive palette of land uses than those contained within the Industrial 1 Zone. The schedule to the Industrial 1 Zone should also be utilised basically to remove any ability for ‘Restricted Retail’ Activities to occur within this precinct by making the minimum floor area so substantial that such a land use is impossible to proceed with.
- Precinct G - (Commercial, Light Industrial and Convenience Retailing) – It is clear the purpose of this Precinct is specifically targeted towards a select group of land uses. In this instance a Business 3 Zone is believed the appropriate VPP translation zone in order to prevent the development of a shop unless it is a Restricted Retail Premises or a Convenience Shop which the zone permits. Once again it would be appropriate to utilise the Schedule to the Business 3 Zone to prevent Restricted Retailing Activities by ensuring the Minimum floor area is of such a size to prevent such opportunities from occurring.

The above seeks to reinforce that it is simply incorrect for the Master plan to assert that *“the implementation of the Precinct Development Plan in conjunction with the Land Use Plan will ensure that future land use development occurs in a coordinated and strategically sound manner”*. The above illustrates that the Master Plan is based on a Precinct Development Plan with advocates for defined uses at a precinct level but **is then implemented through a zone which essentially permits anything irrespective of the Precincts stated purpose**. Any claim by the MAC that the VPP model identified above by Council is cumbersome or inflexible is without basis as the flexibility sought by the MAC should only be afforded if sufficient justification is made for a variation to the standard VPP zoning regime. Council’s earlier comments regarding the commercial nature of all Lessor / Lessee arrangements must be recognised in this regard.

Clearly in considering the Land use plan one must remember that this is a document that rather than being developed by a government authority has been shaped solely to address the commercial imperatives of the Lessee. Council in developing its new format Planning Scheme was required to put all its strategies, zoning and associated overlay controls through a public process whereby consideration by an independent panel and subsequently the Minister could occur in order to examine the merits of zoning regime chosen. In this instance the Lessee has never substantiated to Council the basis for the schedules to the Special Use Zone as proposed and has never been challenged on reconciling its Precinct objectives with its ‘anything goes’ zones. This review of the

Land Use Plan must ensure that the correct application of the VPP's occurs and only when a strategic basis for variations to zones can be adequately justified should a divergence from an appropriate specific zoning regime take place.

Allowable Land Uses

The previous section illustrates the clear inconsistency between the intent of the Precincts and the application of the Special Use Zone schedules. Council wishes to make the following specific comments regarding uses which are allowable under the Special Use Zone schedules as presented.

Child Care Centre – The Airport Environs Overlay Schedule 1 which exists within the Kingston Planning Scheme seeks to “ensure that land use and development are compatible with the operation of the airport in accordance with the appropriate airport strategy or master plan”. The use of land for a Child Care Centre is prohibited in the Kingston Planning Scheme as a result of this overlay on privately owned land which is clearly much further away from the airports aviation activities than the land adjacent to the runways (ie the SUZ2 ad SUZ3 land). Despite this being the case in the Airports Land Use Plan the Airport Environs Overlay Schedule 1 rather than prohibiting a Child Care Centre allows the Lessee to issue itself with a permit for such a use. This inconsistency is a blatant disregard of the responsibilities of the Lessee by requesting Council impose prohibitions over non airport land though it has not sought to provide the same control over its own Land Use Plan.

Shop – The land use plan over recent years has seen significant intensification of retailing activities within Precinct C with the recent expansion of the DFO, introduction of an Aldi Supermarket and additional specialty retailing. The scale of retail development within this precinct is now more significant in relation to the extent of tenancies than any established Activity Centre in the municipality apart from Westfield Southland. The attached recent marketing reinforces that essentially this precinct is being ‘badged’ as ‘Kingston Central’ an ‘unplanned’ Activity Centre in Council’s retail hierarchy.

It is noted that within the Special Use Zone (Schedule 2 and 3) the use of land for ‘Retail Premises’ which includes all forms of ‘conventional retailing’ is now permitted without even requiring a permit for the use of the land from the Lessee. Council believes this unfettered ability to facilitate the expansion of retail activities in any location on the Airport land acts to substantially undermine Council’s retail hierarchy and totally disregards State and Local Planning Policy as identified above.

The MAC have verbally presented an argument to Council that by preventing Department Stores from being constructed this prevents the creation of a Shopping Centre in a conventional sense. This proposition is completely without basis as proven both upon visiting the ‘Kingston Central Plaza’ and ‘Direct Factory Outlets’ and when considering that none of Council’s Major Activity Centres (Cheltenham, Chelsea, Mordialloc, Mentone, Moorabbin) contain a Department Store though are individually recognized as sizeable retail entities.

Council strongly believes that the airport land now contains substantial retail entities and that additional retail floorspace created on the airport land will do nothing to advance or service the aviation role of the airport. It is vital that prior to the advancement of any new retail premises within Precincts other than Precinct C, the lessee must be required to illustrate that any land uses contained within the ‘Retail Premises Group’ as defined in the Victorian Planning Provisions will generate no negative external impact on Kingston’s established retail hierarchy. Until this is done the Land Use Plan must be modified to reflect the appropriate VPP zones and the schedules used to ensure that retailing activity is prevented.

Supermarket – To further reinforce the concerns made in the previous section a most unacceptable change made to the current Land Use Plan is to now permit the creation of a supermarket or supermarkets of any size on any component of the airport land. No basis whatsoever in relation to an economic assessment has been provided to Council to quantify what affect this significant change may in fact have on the viability of surrounding existing Activity Centres. In agreeing to the previous ‘Minor Variation’ which allowed the 1,500m² Aldi Supermarket in Precinct ‘C’ the Lessee was required to undertake substantial catchment analysis to validate the variation to the Land Use Plan to permit this Supermarket.

It is vitally important to briefly recap on some of the critical findings of Essential Economics Pty Ltd in a report it prepared for the Lessee when it sought this variation to permit the now constructed Aldi store within Precinct C. The report indicated:

- *A small independent supermarket, if developed at the site, would be expected to trade from a relatively small and defined neighbourhood catchment, as well as attracting trade from shoppers at the DFO site and employees and visitors to the surrounding uses at the Moorabbin Airport.*
- *These trading patterns are reflected in the assumptions used in the analysis in Table 1, including an assumption that the supermarket would trade primarily from a local catchment of 2.5km.*
- *The analysis shows that an Aldi store in Precinct C would be expected to have very little effect on existing retail facilities, and would require a market share of only 2.3% of total available food spending in the catchment. This is significantly lower than typical market share achieved by full-line supermarkets (of up to 30% in primary catchments).*

Even based on the above analysis provided by the Lessee’s own consultant to now allow any additional supermarket facilities to be constructed on the airport land without any specific economic analysis about the likely impacts on the existing retail catchments and surrounding centres would be a clear failure to apply any reasonable regulation or acknowledgement of wider planning imperatives. It is clearly evident from the information provided above that the potential impact on allowing a full line supermarket onto a component of the Moorabbin Airport could dramatically reduce the market share of existing established food related operators located in established Activity Centres such as Dingley, Cheltenham or Mentone.

Gambling Premises – Council is most concerned that within the Special Use Zone No. 3 the Lessee is able to grant a permit for a Gambling Premises. Kingston has undertaken detailed work into the area of problem gambling and has lobbied hard to prevent the proliferation of such facilities within the municipality. It is irresponsible to allow the use of the land for this purpose given the use has no relationship whatsoever with aviation activities and could only adversely affect the problem gambling situation within the municipality.

Restricted Retail Premises – With a Lessee’s permit the Land Use Plan essentially allows ‘Restricted Retail Premises’ of any size to occur in either Schedule 2 or 3 to the Special Use Zone. When viewing Council’s ‘Retail and Commercial Land Use Framework Plan’ in its MSS it is clear that Kingston has nominated its ‘Preferred Locations for Bulky Goods Retailing’. Council is again not aware of any analysis undertaken by the Lessee to investigate what impact allowing unrestricted ‘Restricted Retailing’ / Bulky Goods retailing will have on the viability of pursuing or maintaining these activities in strategically identified areas within the municipality.

The above analysis of only a few land uses has been designed to reinforce that a significant potential exists to completely undermine the sustainability of existing and established land uses and vital community 'Activity Centres' existing within the municipality. It is most unreasonable to provide the MAC with a Land Use Plan that shifts focus from the vital aviation role of the airport to activities that can be facilitated without any analysis of their wider impact..

Strategic Land Use Assessment (Procedures)

The State Government Department of Sustainability and Environment have established the 'Strategic Assessment Guidelines' which perform a role in establishing a basis for land use planning decision making (copy of Strategic Assessment Guidelines enclosed). The proposed Master Plan and Land Use Plan radically alters the operation of the Moorabbin Airport as Council has historically known it and clearly departs from the positioning of the land within a Green Wedge. If Council were to undertake such a task it would be required to prepare a Planning Scheme Amendment addressing these guidelines to the satisfaction of both an Independent Panel and the Minister for Planning.

Reference is made to Page 62 of the Master Plan where it is stated that "*MAC has now prepared a detailed 'Protocol for Land Use Decisions' which is contained within the Land Use Plan as a reference document. The protocol establishes an overall process for land use decision making by the MAC which is generally consistent with the established Victorian town planning principles and procedures*". Upon enquiring with the planning consultancy responsible for assisting in the development of the Land Use Plan it is apparent that no such document is available or referenced in the Land use Plan. It was indicated however that the procedures were apparently outlined in the 'Explanatory Report' Section of the Land Use Plan.

When reviewing the Land Use Plan it is quite apparent that any 'Protocol for Land Use Decisions' is in no way reflective of Victorian 'town planning principles and procedures' and it is clear that effectively no transparent 'town planning procedures' exist. Clearly none of the statutory processes outlined earlier in the submission required under the Planning and Environment Act 1987 which reflect 'Victorian town planning procedures' are in anyway in existence in 'decision making by the MAC'.

It is therefore suggested that as this submission is being considered, the regulatory body introduce the 'Strategic Assessment Guidelines' as a required protocol which the Lessee must follow in reviewing the Master Plan and Land Use Plan at the required statutory review periods. This would then require the consideration of the following questions which Council believe are an imperative in undertaking this exercise in a manner which is reflective of best practice and the need for transparency:

- What is the strategic basis for the amendment or proposal?
- Have the requirements of the Act [Planning and Environment] been considered?
- Does the amendment or proposal support or implement the State Planning Policy Framework and the Local Planning Policy Framework?
- What consequences will any proposed or necessary changes to the MSS or local planning policies have for other aspects of the policy framework?
- Does the amendment make proper use of the VPP?
- What is the outcome of the amendment or proposal in terms of the planning scheme's strategic directions, usability and transparency?

It is believed that the Lessee's detailed assessment of the above matters should be provided to the wider community for consideration together with the Master Plan and Land Use plan during the

required review periods. Upon consideration of the above questions it is then felt that the documents presented to the regulator for consideration under the Airports Act will be more aligned with a process that actually resembles ‘Victorian town planning principles and procedures’.

Summary

This submission has sought to articulate the concerns held by the City of Kingston in relation to the content of the Airport Master Plan and Land Use Plan. Council’s submission seeks to reinforce the key role of the Federal Minister for Transport and Regional Services in ensuring that the approved documentation which guides the future development of the Airport is sufficiently justified and does not compromise the orderly and proper planning of the wider Kingston area. Kingston recognise that the most significant threat to the sustainability of the municipalities land use planning framework would be the unfettered ability of the Lessee to implement its draft Master Plan as is currently presented.

In summarizing, the following reflects some of the key concerns of Kingston:

- The plan gives no recognition to recent amendments to the Kingston Planning Scheme that designate the airport as a non urban area.
- The processes required under the Victorian Planning and Environment Act 1987, in relation to the development of Planning Scheme Amendments or assessment of Planning Permit Applications are not presently applicable to the Lessee as it prepared the documents which are presently on exhibition. The Federal Government therefore play a key role in ensuring that the utmost accountability is taken in justifying the basis for all ‘non aviation’ related land use activities.
- The Master Plan as presented is entirely inconsistent with the Metropolitan Strategy – Melbourne 2030 by undermining the identified retail hierarchy which exists within Kingston and facilitating substantial ‘out of centre’ development without any strategic basis provided for this land use direction.
- The flexibility sought by the Lessee in relation to the ‘open ended’ land use controls creates a completely distorted economic climate whereby commercial advantage is put ahead of any wider planning considerations. Council take the strong view that it is not the role of the Federal Government to protect the Lessee’s investment as like any commercial proposition, parties enter such processes understanding that a reasonable level of risk exists. In all other property matters administered under the Victorian Planning and Environment Act those who purchase or lease land are not provided with ‘unconstrained’ abilities to facilitate land use change.
- The draft documentation is completely at odds with the State Planning Policy Framework by seeking to concentrate major retail, commercial and administrative activities well away from a designated activity centre.
- The Master Plan gives little consideration to State Planning Policy relating to ‘Airfields’ and reinforces the importance of restricting non aviation related activities around airfields. The outcomes sought through the Land Use Plan seem to strongly encourage ‘non aviation’ related commercial pursuits (ie extensive retail, industrial and office development) at the cost of preserving land for future aviation related ‘commercial’ endeavours. Both from a risk management and strategic planning perspective greater thought should be given to the

primary role of the airport land and the protection of yet unforeseen aviation related expansion opportunities or potential requirements.

- It is completely incorrect to suggest that *'the Kingston Planning Scheme supports the zoning, overlay and local policy and master planning processes for the Moorabbin Airport, as reflected in this strategic report [the Master Plan]'*. For reasons including the threat to Council's existing retail hierarchy, the lack of public transport infrastructure (particularly fixed rail) and the potential risk associated with substantial development on the airport land it is believed the planning documents as exhibited by the Lessee actively work against the intent of the Kingston Planning Scheme. The Lessee's planning documents are certainly not supported by the Scheme as intimated by the Lessee.
- The structure of the Land Use Plan in relation to the strategic intent of the designated Precincts when compared with the 'generic' use of the Special Use Zone schedule does not illustrate an appropriate application of the Victorian Planning Provisions. It is not correct to suggest that *'the implementation of the Precinct Development Plan in conjunction with the Land Use Plan will ensure that future land use development occurs in a coordinated and strategically sound manner'* based on the manner in which the Special Use Zone schedule has been so openly applied.

The lessee must be required to completely overhaul the 'Zones' Section of the Framework Plan to reflect the appropriate zones and accompanying schedules which provides for the strategic land use objectives outlined if they can be sufficiently strategically supported. Should variations to the re-established 'Zones' be required the Lessee must then be required to follow a process of critical review where State and Local Government comment is sought. Without this most necessary overhaul and then an ongoing review process the Lessee is completely misleading the Federal Government by suggesting *"the land use plan format is broadly based on the land use planning policy and development legislation in force in the State of Victoria"*. The Land Use Plan must be redrafted and its strategic planning basis proven against external land use considerations.

- The recent major expansion of retail related activities in Precinct C has now created the second most concentrated centre for retail activity within the municipality. To reinforce the earlier point it is an imperative that the zoning regime is altered within the land use plan to prevent the expansion of retail activities within Precincts B, D, E, F and G unless the uses are of a 'Convenience Shop' nature as defined under the Kingston Planning Scheme. Any expansion of other 'Retail Activities' particularly those defined under the definition of 'Shop' and including Food and Drink Premises, Gambling Premises, Motor Vehicle Boat or Caravan Sales must not be prohibited unless a strategic basis exists to clearly illustrate that such proposed uses will not undermine Kingston's existing retail hierarchy. If due process is to prevail the responsibility must be on the Lessee to make the case to the Federal Government as the regulatory body that any of above identified uses should be allowed to prevail.
- A major amendment to the Land Use plan is the inclusion of the use of the land as a 'Supermarket' as an as of right use anywhere on the airport land. Council note that unlike the previous variation sought to the Airport Master Plan to allow the 1,500m² Aldi supermarket no analysis whatsoever has been provided to Council to justify what impact a full line supermarket(s) (3,500 m² to 4,500 m²) may have on the sustainability of existing retail hierarchy within Kingston. It is clear that the basis provided for Aldi, as identified in the body of this submission when compared with a full line supermarket is significantly different as are the potential impacts. This variation cannot be allowed to proceed as it has

the potential to completely undermine the local economy and the viability of many small business operators within existing activity centres.

- The Master Plan states that *'MAC has now prepared a detailed 'Protocol for Land Use Decisions' which is contained within the Land Use Plan as a reference document. The protocol establishes an overall process for land use decision making by the MAC which is generally consistent with the established Victorian town planning principles and procedures'*. Upon enquiring with the planning consultant representing the Lessee it was indicated that such a 'Protocol' does not exist and the Land Use Plan provides guidance on the manner in which decisions are made. Council is completely unconvinced that any existing process for land use decision making by the Lessee accords with 'Victorian town planning principles and procedures'. It is therefore an imperative that for each land use decision including the 'creation' of appropriate zones that the State Government provided 'Strategic Assessment Guidelines' are utilised to ensure a thorough and accountable assessment protocol is established.

Irrespective of the twenty year planning horizon envisaged for the Master Plan it will be the next five years that seek to strongly reinforce the strategic land use direction of the Moorabbin Airport. It is therefore vital that in the interests of protecting community driven State and Local Planning policies that consideration be given to addressing the matters raised in this submission prior to formal consideration of the current documentation presented to the Federal Minister. The Lessee suggests within the Master Plan that *"The implementation of the Land Use Plan and zoning framework will ensure that there is a sound strategic approach to the use and development of land in the Airport"*. Council does not believe that this is the case and as such call on the Federal Government as the regulator to ensure that in defining what is a *'sound strategic approach'* the Lessee must properly consider wider land use planning objectives.

Should you wish to further discuss this most important submission please contact the undersigned on 9581 4708.

Yours sincerely

A P Rijs
ACTING CHIEF EXECUTIVE OFFICER