SHOPPING CENTRE
COUNCIL OF AUSTRALIA

19 January 2007

Ms Janette Radcliffe
Committee Secretary
Senate Rural & Regional Affairs & Transport Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Radcliffe

Inquiry into Airports Amendment Bill 2006

The Shopping Centre Council of Australia (SCCA) represents the owners and managers of shopping centres. Our members have a clear interest in ensuring there is a level playing field between retail developments on airport land and those on non-airport land. The SCCA has lodged a number of submissions on individual airport master plans and major development plans (MDPs) as well as to the review of the Airports Act that led to this Amendment Bill.

The SCCA considers that commercial non-aviation development on airport land should be subject to the same level of scrutiny, community consultation and planning assessment as similar developments under state or local planning laws. We can see no public interest justification for exempting non-aviation development on airport land from the state and local planning laws that apply to every other development. While Commonwealth control of aviation development at airports is warranted, given their national significance, there is no similar justification for exempting non-aviation development from local planning laws.

As the SCCA Chairman commented in an address to the Australian Mayoral Aviation Council:

Is it in the public interest that development of large tracts of land in our major cities is exempt from the planning laws that apply to every other development in those cities?

Is it in the public interest that tax payers and rate payers must meet the cost of any extra infrastructure required as a result of these developments because state and local governments cannot force airports to pay rates or infrastructure contributions?

Is it in the public interest that major new retail and commercial centres can be imposed on local communities without their say so?

The SCCA certainly does not think so, especially given that the Government requires its own government businesses to comply with local planning laws and yet exempts private businesses from these laws simply because they *lease* Commonwealth land.

Our longstanding concerns with the planning controls in the Airports Act are detailed in the **attached** speech by the SCCA Chairman to the Mayoral Aviation Council and our 2003 submission to the Airports Act review, also **attached**.

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Turning to the specific provisions of the Amendment Bill, the SCCA is pleased that some of the concerns we have been raising have been addressed, including:

- requiring airports to make their master plans and MDPs available free of charge on their websites;

- requiring airports to "demonstrate" they have taken public comments into account and not just "state" that they have done so;

- providing that the cost of site preparation and other associated works is included in construction costs for the purposes of determining whether a major development plan (MDP) is required; and

- preventing the 'splitting' of developments into stages to avoid the need for an MDP.

However, any benefit to the community from these changes is more than offset by the halving of public consultation periods on draft master plans and MDPs and the doubling of the threshold for MDPs from $10 million to $20 million. This increase cannot be justified on the basis of increased construction costs and makes a mockery of the development approval process – what other consent authority or council would allow construction of a $20 million building with no development approval?

In summary, the fundamental problems with the airport planning regime remain:

- the continued exemption of commercial development at airports from state and local planning laws;

- the absence of any sort of developer contributions regime to ensure that airports pay the infrastructure costs of their developments, not tax and ratepayers;

- the lack of transparency and public accountability in the building approval process for buildings worth less than $20 million. (Unlike other consent authorities, the Airport Building Controller is not required to give any public notice of building approvals sought and approved.);

- the deemed *approval* of an airport master plan or MDP if the Minister does not make a decision within the required time frame – not a deemed *refusal* as is normally the case. So for example, a $300 million shopping centre could proceed by default because the Minister and the Department did not complete their assessments of the MDP within the required time frame;

- the absence of any publicly available aggregate information on master plans and MDPs that have been approved by the Minister (The SCCA is unaware of even one master plan or MDP that has been rejected - a success rate that other developers can only dream about!)

We would be more than happy to expand further on our concerns at the inquiry hearings.

Yours sincerely

Milton Cockburn
Executive Director

ADDRESS TO AUSTRALIAN MAYORAL AVIATION COUNCIL CONFERENCE
18 AUGUST 2005

'BUILDING ON A LEVEL PLAYING FIELD'

ANDREW SCOTT, CEO,
CENTRO PROPERTIES GROUP;
CHAIRMAN, SHOPPING CENTRE COUNCIL OF AUSTRALIA

Councillor Hoenig, President of the Australian Mayoral Aviation Council, Mayors, Councillors, Ladies and Gentlemen.

Thank you for your kind introduction and for inviting me here today to address your annual conference.

It is a great pleasure to speak to you as Chief Executive Officer of Centro Properties Group, and also in my capacity as Chairman of the Shopping Centre Council of Australia.

Just to give you some background, Centro is Australia's largest shopping centre owner/manager in terms of the total number of centres, and the second largest owner/manager in terms of the total gross lettable area of our centres. Centro owns and manages 224 Centres throughout Australia, New Zealand and the United States, and is a Top 50 ASX listed entity with a market capitalisation of A$4.6billion. In Tasmania Centro co-owns and manages six shopping centres through its unlisted retail property syndicates with a total value of $150m. This equates to over 30% of the total retail space in Tasmania, and therefore makes Centro the largest retail manager in the State based on lettable area.

The Shopping Centre Council is a national industry association representing the common interests of shopping centre owners and managers.

This means we also represent the interests of the estimated 9 million Australians who are providing for their retirement with an investment in retail property - either through their superannuation and life insurance or through direct investment in managed funds, property trusts and property syndicates.

The SCCA has 20 members who own around 9¼ million square metres of gross lettable area in Australian shopping centres. This represents around two-thirds of the total gross lettable area of Australian shopping centres.

The subject of my address today, "Building on a Level Playing Field" goes to the heart of the SCCA's planning policy which is 'one rule for all types of retail centre development'.

This policy seeks to encourage investment in existing urban centres in order to:

- provide greater certainty for investment decisions on shopping centre development;

- protect the private and public investment in these urban centres and their infrastructure and to encourage full use of this infrastructure; and

- ensure there is a level playing field for competitive retail development and that development proposals are assessed on a consistent basis.

The SCCA has therefore been concerned for some years about the very unlevel playing field created by the Airports Act 1996 as it relates to retail development on airport land.

The SCCA has lodged seventeen submissions on individual airport master plans and major development plans, as well as making a major submission to the Federal Government review of the Airports Act.

This review, by the way, was announced almost three years ago but we are still awaiting the outcome!

Centro has been involved directly in this issue through our, ultimately unsuccessful, legal challenge to Brisbane Airport's plans for major retail development at the airport.

Centro in a joint claim with Westfield, upon acquisition of Centro Toombul, entered into legal proceedings against Brisbane Airport for breaching planning laws and airport legislation. It is important to note that I am not only referring to Centro as a company, but also the investors in Centro, which include Institutional and Superannuation funds (representing Mum and Dad's superannuation investments), and Mum and Dad investors directly.

I know that members of the Australian Mayoral Aviation Council also have a direct interest in this issue and have been raising concerns about the way in which development on airport sites is regulated – or should I say, is not regulated.

Now I am not going to pretend that the Shopping Centre Council or Centro have been raising these concerns purely in the public interest.

Obviously, our members have a material interest in ensuring there is a level playing field between retail developments on airport land and those on non-airport land and ensuring our potential competitors are not given an unfair advantage.

Our investors and shareholders would expect no less.

I want to stress this point. We are not complaining about competition.

Our centres and our retailers face competition every day - from other shopping centres, from other retail formats and from other retailers.

Our complaint is about unfair competition - the fact that the airport companies, in their role as commercial developers, are being given a significant advantage over their competitors.

The fact that we have a material interest does not mean that the concerns we have been raising are not valid concerns.

Nor does it mean that they are not matters of broader public interest.

We simply ask:

- Is it in the public interest that development of large tracts of land in our major cities is exempt from the planning laws that apply to every other development in those cities?

- Is it in the public interest that tax payers and rate payers must meet the cost of any extra infrastructure required as a result of these developments

because state and local governments cannot force airports to pay rates or infrastructure contributions?

- Is it in the public interest that major new retail and commercial centres can be imposed on local communities without their say so?

We do not think so.

The SCCA can see no public interest justification for exempting non-aviation development on airport land from the state and local planning laws that apply to every other development.

While Commonwealth control of aviation development at airports is warranted, given their national significance, there is no similar justification for exempting non-aviation development from local planning laws.

What is so different about a commercial development on airport land that justifies this special treatment?

Apparently, simply the fact that it is Commonwealth owned land.

This is a rather strange approach from a Government that requires its own government businesses to comply with the regulations that apply to private businesses (including local planning laws) and yet is happy to exempt private companies from these laws, simply because they lease Commonwealth land.

Of course, if the Federal Government had sold the airports rather than leasing them for 99 years, we would not even be having this discussion.

Having retained ownership, however, the Federal Government regulates development at airports through the Airports Act 1996.

Now I know you're all familiar with the basic elements of the Airports Act so I won't go through them in detail.

The basic requirements are that airport lessees must prepare an airport master plan every 5 years that sets out what development is allowed on the site.

Not surprisingly, we are now finding that airport master plans are simply a "wish list" of every conceivable potential development – retail, office, industrial, hotel, residential - to ensure that any type of future development will be not be inconsistent with the master plan.

A draft of this master plan must be publicly exhibited for 90 days and submissions invited.

Submissions, however, are lodged with the airport lessee, not with an independent body.

The airport lessee must then submit the master plan to the Federal Transport Minister for approval.

If an airport is proposing a building costing more than $10 million it must exhibit a major development plan and seek the Minister's approval in the same way as it does for a master plan.

A Federal Government appointed Airport Building Controller issues building approvals for works at the airport.

These are the basic features of non-aviation development control in the Airports Act.

As a planning instrument the Airports Act is fundamentally flawed.

Not surprisingly the Act's primary focus is on regulating runways and terminals and this has resulted in a very inadequate land use planning and assessment regime for non-aviation development.

This no doubt reflects the fact that planning assessment and development control is not normally a Federal Government responsibility.

There is no Federal Department of Planning and no history of expertise in this area.

It is the Department of Transport and Regional Services, which as far as we know has no expertise in land use planning, that undertakes the planning assessment of airport master plans and major development plans and it is the Transport Minister – yes, the Transport Minister - that approves them.

I'd like to outline just a few of the deficiencies in the Airport Act:

- If a proposed building is not a passenger terminal and costs less than $10 million, then there is no need for development approval at all!

Provided the building is consistent with the airport master plan – and, as I mentioned earlier, master plans generally provide for the widest possible range of uses - the airport just needs to get building approval from the local Airport Building Controller and start building.

There is also no need to publicly advertise the proposal. There is no need to invite submissions or consult the community. There is no need for Ministerial approval.

It seems you can possibly even split a larger development into $9.9 million stages and avoid the need for a Major Development Plan that way.

Great planning system!

To give another example: - if the Minister does not approve an airport master plan or an airport major development plan within the required time frame, then the Act provides that the development is deemed to be approved.

Yes that's right, not deemed to be refused as is normally the case, but deemed to be approved!

So you could have a situation where a $300 million shopping centre is allowed to proceed by default because for some reason the Minister and the Department did not complete their assessments of the proposal within the required 90 days.

Another area of concern is the lack of transparency and public accountability in the building and development approval processes.

For buildings worth less than $10 million, there is no requirement in the Airports Act for the Airport Building Controller to notify anyone that a multi-million dollar project has been proposed.

Unlike other consent authorities, such as democratically elected local councils and state governments, the Airport Building Controller is not required to give public notice of development approvals sought and approved.

Nor is he or she required to consult or take into account the views of local planning authorities or the community on buildings worth less than $10 million.

At a minimum the SCCA believes that the Airport Building Controller should be required to notify the local council and publish notices in the local newspaper of all development approvals sought and given.

Nor is there any publicly available aggregate information on master plans and major development plans that have been approved by the Minister to date and the Airports Act does not require it.

In this context I would note that the SCCA is unaware of even one master plan or major development plan that the Minister has rejected.

This is a success rate that other developers can only dream about!

Many of the ramifications of the Act's flaws are only now coming to light as the privatised airports seek to maximise commercial development on airport land.

In the past two years alone we are aware of at least 20 master plans and major development plans approved by the Minister.

So this is not an academic policy issue we are talking about today.

Many of the developments approved at airports in the past few years involve hundreds of thousands of square metres of retail and commercial floor space. This is the equivalent of several regional and sub-regional shopping centres.

If the airports were subject to state and local planning laws, detailed investigations would be required for the development of such large areas of additional retail floor space in an out-of-centre location.

The onus would be on the proponent to demonstrate that the development would not cause a deterioration of existing urban centres.

Yet new airport centres can sidestep this process, regardless of the impact on the viability or future capacity of surrounding centres.

True, the Airports Act does require the Minister to have regard to the effect that carrying out a master plan would be likely to have on the use of land in areas surrounding the airport.

But if the Minister is to be able to make an informed decision, he or she needs to know the likely impact of the proposed developments on local businesses and the local employment and services they provide.

The SCCA believes that the Minister is not provided with this sort of information in master plans.

Master plans and major development plans are not accompanied by the sort of needs and impacts analysis that is required under local planning laws.

There is no comprehensive assessment of the impact of the airport development on other centres within its trading catchment.

But perhaps one of the greatest shortcomings in the Airports Act is the absence of any obligation on airport lessees to meet the infrastructure costs of their developments.

At present an airport lessee can develop a large commercial or retail centre that generates lots of extra traffic but - unlike any other development - tax payers and rate payers, not the developer, have to meet the cost of any necessary road and traffic upgrades.

This is clearly not in the public interest.

It is also a matter of great concern to members of the Shopping Centre Council because it delivers a windfall advantage to airport lessees over other developers who are required to pay developer contributions.

In some recent approvals we have seen the Federal Government ask the airport lessee to consult with state and local governments over funding for infrastructure works.

This is a welcome development and a sign that some of our criticisms are hitting home.

A requirement to consult, however, is still not a requirement to contribute.

One might also ask whether there is some obligation on the Federal Government, which has received billions of dollars from the sale of these airports, to meet some of these infrastructure costs rather than local tax and rate payers.

Moreover, although airport lessees pay stamp duty and payroll tax under 'mirror' tax arrangements between the Federal and State Government, they pay no land tax.

Nor do they have to pay some other state taxes, including motor vehicle taxes or parking levies.

Again, this delivers the airports a windfall gain.

The advantages given to commercial developments on airport land are not only confined to planning and development control and to taxation.

Recently Brisbane Airport Corporation announced the trading hours of the new factory clearance outlet, DFO, at its airport, which opens next month, and informed the public that it intends to stay open late at the weekends.

Many of you here today may not be aware that Queensland still insists on regulating trading hours - unlike the enlightened state of Tasmania.

Now I happen to believe that every shopping centre should be able to decide the most convenient hours for it to trade.

But why should a shopping centre at Brisbane Airport be exempt from the Queensland Trading (Allowable Hours) Act when every other shopping centre in Brisbane has to comply with this Act?

I might add that airports in other states are also exempt from state government restrictions on trading hours.

Before concluding, I would like to respond briefly to some of the claims put forward by the airports and the Federal Government in response to criticisms of the Airports Act.

When their exemption from local planning laws is raised, the airports usually respond that the Airports Act requires them to take local planning laws into account.

Well, the Airports Act certainly requires airport master plans to *address* any inconsistencies with local planning schemes - but it imposes absolutely no obligation on the airports to comply with local planning laws.

Indeed section 112 of the Airports Act explicitly excludes state and territory land use planning laws.

Not only does this bestow an unfair advantage on airport developers over all other developers but, as you would well know, it creates significant problems for local councils and state governments in their strategic planning and infrastructure provision.

Another claim is that the Airports Act requires an extensive community consultation process.

True, the Airport Act does require airports to exhibit master plans and major development plans for 90 days for public comment.

The airports must give the Minister a list of those who have commented when submitting a plan for approval, together with a certificate stating that the airport has "had due regard to those comments"

So, tell the Minister that you have "had due regard" to community comments and your consultation obligations are met.

Finally, the previous Minister for Transport, John Anderson, was fond of declaring when approving an airport master plan that:

- "Approval of the plan does not automatically give approval for any major developments on the airport site."

Well if the development costs $9.9 million or less, it does!

Nor are we aware of any major development proposal that the Minister has rejected!

The SCCA outlined a host of these deficiencies in the Airports Act in its submission to the review of the Airports Act with the hope that these inequities would be addressed.

With the 3 year delay in completing the review, however, and the seemingly endless stream of approvals of master plans and major development plans which have occurred during the period of this review, our hopes for any meaningful reform have diminished.

Among the recommendations put forward for the reform of the Airports Act were proposals that the Act should:

- require non-aviation developments on airport land to be consistent with state and local planning schemes for the area;

- provide a level of public scrutiny, consultation and professional planning assessment equivalent to that applying under state and local planning systems;

- require non-aviation related development on airport sites to contribute to the cost of extra infrastructure;

- provide that a master plan and a major development plan are deemed to be refused (not approved) if the Minister has not made a decision within 90 days.

- replace the current $10 million threshold for a major development plan with a threshold based on the total gross floor area;

- require the Airport Building Controller to notify the local council and the local community of developments received and approved.

Fundamentally, however, we believe that the exemptions the airports currently enjoy - from state and local planning laws, from state taxes, from trading hours restrictions and so on - should be abolished for non-aviation development so that these developments have to comply with the same laws as everyone else.

In conclusion, let me stress that the SCCA is not saying there should be no commercial or retail development on airport land.

What we are saying is that, if there is to be commercial or retail development on land that has previously been set aside for aviation purposes, it should be subject to the same level of public scrutiny, community consultation, planning assessment, and developer contributions as similar developments under state or local planning laws.

In other words, there should be a level playing field.

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

REVIEW OF AIRPORTS ACT 1996

Submission by the Shopping Centre Council of Australia

1. Executive Summary

This submission is concerned with the land use, planning and building controls contained in Part 5 of the Airports Act 1996, as they relate to non-aviation related development on airport land.

Specifically, the submission is responding to two of the review terms of reference, namely:

1) Whether legislative changes to the operation of the current regulatory arrangements for core and non-core regulated airports would be appropriate.

3) Having regard to the Government's response to the recommendations from the Senate Inquiry into the Brisbane Airport Master Plan:

- *the effectiveness of the provisions related to Airport Master Plans (MP) and Major Development Plans (MDP) including: the triggers for the lodgement of an MDP and the practicality of Precinct MDPs: and*
- *what obligations should be placed on airports with respect to public consultation.*

The Shopping Centre Council of Australia (SCCA) is concerned that the Act's primary focus on aviation-related development such as runways and terminals has resulted in an inadequate planning and assessment regime for non-aviation development on airport land.

These inadequacies have been recently highlighted in the case of Brisbane Airport where it appears that the airport-lessee believes it can undertake major commercial development without any scrutiny, consultation or planning approval.

These inadequacies are also providing airport-lessees with an unfair advantage in developing land over developers of non-airport land who are subject to local planning laws. This is clearly contrary to the Commonwealth Government's own competition policy which identifies anti-competitive legislation as that which provides "advantages to some firms over others".[1]

The Act is also inconsistent with the Government's commitment to competitive neutrality principles. These principles require government businesses to comply with the same regulations that apply to private businesses, including planning and environmental laws. There seems to be no justification for requiring government businesses to comply with state planning laws, but exempting private companies from these laws, simply by virtue of their lease of government land.

The SCCA therefore considers that there needs to be a much more rigorous and professional planning and assessment process for non-aviation development on airport land, that:

[1] Commonwealth National Competition Policy, Annual Report 1999-2000, p.14

- provides a level of scrutiny, community consultation and planning assessment equivalent to that applying to developments under state and local planning systems;

- establishes a 'level playing field' between commercial development on airport and non-airport land;

- draws on planning principles that have been accepted by the courts; and

- ensures that non-aviation developments on airport land are consistent with state and local planning strategies for the area.

The need to address these issues will become more pressing as more airport-lessees seek to develop their quite substantial land holdings.

2. The Shopping Centre Council of Australia

The Shopping Centre Council of Australia is the retail property policy arm of the Property Council of Australia. It represents a large number of owners and managers of shopping centres in Australia. The Council's members are AMP Henderson Global Investors, Centro Properties Group, CFS Gandel Retail Trust, Deutsche Asset Management, FPD Savills/Byvan, Intro International, Jones Lang LaSalle, Leda Holdings, Lend Lease Retail, Macquarie CountryWide Trust, McConaghy Holdings, MCS Property, Perron Group, Queensland Investment Corporation, Stockland Trust Group, Westfield Holdings, and the Yu Feng Group.

3. Airport Master Plans

The SCCA has a number of concerns with the Act's provisions relating to airport master plans.

First, we consider that there is no justification for exempting non-aviation development on airport land from relevant state and local planning laws. While Commonwealth control of aviation related development at airports is warranted, given their national significance, there is no similar justification for completely exempting commercial, retail, and residential development from state and local planning laws.

We consider that such development should be required to be consistent with relevant state and local planning instruments to ensure that broader strategies to ensure sustainable urban development are not undermined. Otherwise, the community will be faced with lower quality developments that are incompatible with the local area and which have an unacceptable impact on local and regional infrastructure such as roads.

Second, the SCCA also considers that the status of airport master plans needs to be clarified. The Federal Court stated in *Brisbane Airport Corporation Limited v Wright* that "A master plan is part of a business plan for an existing airport. It is not a town planning document." If so, this means there is effectively no planning regulation of developments on airport land which do not trigger the requirement for a major development plan. This is of serious concern given the apparent ease with which airport-lessees can avoid the need to submit a major development plan, as discussed later.

The SCCA therefore recommends that the Act be amended to provide that airport master plans include an object and purpose statement (as recommended by the Senate Committee's *Report on the Inquiry into the Development of the Brisbane Airport Corporation Master Plan)* and also clarify that master plans are intended to provide planning control, at least at a strategic level.

Third, the Senate Committee report also identified “major deficiencies" in the Act, including a lack of detail about the interrelationship between planning documents and a lack of prescriptive information regarding consultation (summarised on pp xii-xiii of the report). In terms of public consultation, the Senate Committee considered that the *Airports Act* allows airport authorities to restrict consultation to a level which had given rise to a "strong community perception that the consultation with the public had been inadequate", and the Committee did not accept that this represented "responsible or desirable corporate behaviour" (pxiii). The Committee recommended that the Act be amended to include more prescriptive requirements for community consultation by airport owners and airport-lessees.

The SCCA supports these recommendations.

4. Major Development Plans

Section 89 of the Act sets out the circumstances in which an airport-lessee must submit a major development plan to the Minister for approval. In relation to non-aviation related development, section 89(1)(e) requires a major development plan to be submitted where any proposed ‘building’ is not a passenger terminal and the cost of construction exceeds $10 million.

This provision is presumably intended to implement the Government’s stated policy that “there can be no major developments occurring on (an) airport site without the community being fully consulted.”[2] However the provision fails to achieve this objective.

On the contrary, it is providing a loophole under which airport-lessees can avoid having to submit their development proposals to public scrutiny and Ministerial consideration - by artificially splitting a development into $9.9 million stages or constructing several separate but adjoining buildings each costing less than $10 million. Such tactics would be unacceptable under any state or local planning system where a consent authority would require information on the complete development proposal before considering or approving individual stages of it.

In addition, the current provision allows airport-lessees to exclude the cost of site preparation works (such as excavation and filling) from the cost of a development. Again, this would not be possible under state planning legislation which defines a ‘development’ as including site preparation works. This is common practice - earth works and excavation are not undertaken for their own sake but to prepare a site for further development. They therefore form part of the ultimate development. It is normal practice in the development industry to include the site preparation costs in the total costs of any major development.

[2] Minister for Transport and Regional Services, 25 June 2002, statement announcing the sale of Sydney Airport.

The SCCA recommends the words "new building" in s.89(1)(e) be replaced with the term "development". This would encompass such things as the use of land, the subdivision of land, the erection of a building, the carrying out of a work, and the demolition of a building or work[3] and would bring the Airports Act into line with state planning legislation in Australia.

In addition, we recommend that the cost threshold for requiring a major development plan be replaced with a threshold based on the total gross floor area for all relevant new buildings, similar to the current triggers for major development planning of passenger terminals.

The SCCA also considers that there is a need for greater transparency and public accountability in relation to the role of the Airport Building Controller. Unlike other consent authorities under state planning legislation, such as democratically elected local councils and state governments, the Building Controller is not required to give public notice of development and building approvals sought and approved, nor is he/she required to take into account local planning authorities or community views.

We therefore recommend that the Airport Building Controller be required to notify the local council and publish notices in the local newspaper of any development or building approvals sought and given.

5. Deemed Approval of Master Plans and Major Development Plans

Section 81(5) of the Act provides that if the Minister has neither approved nor rejected a draft master plan within 90 days, the Minister is deemed to have approved the plan. Similarly, section 94(6) provides that a major development plan is deemed to be approved, if no decision is made within 90 days.

This is completely contrary to consent procedures in state planning laws which provide that a plan or proposed development are deemed to be *refused* if no decision is made by a consent authority within a specified time period. This ensures timely consideration but prevents the possibility of an unacceptable plan or project proceeding without proper approval.

The SCCA therefore recommends the Airports Act be amended to bring it into line with other Australian planning legislation by providing that a master plan and a major development plan are deemed to be refused if the Minister has not made a decision within 90 days.

6. Developer Contributions

It is inequitable that non-aviation developments on airport sites have to make no contribution to the cost of additional infrastructure (such as roads, water, sewerage, and electricity) required as a result of a development All states and territories have a developer contributions regime to ensure that developers contribute to these infrastructure costs and they are not borne solely by ordinary taxpayers.

It is clearly inequitable for taxpayers to be subsidising non-aviation commercial developments on airport land because of the lack of a developer contributions scheme under the Airports Act. It is also inequitable that developers across the road from an airport site have to pay a developer contribution (under the local contributions plan) while a similar development on airport land on the other side of the road does not.

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[3] Environmental Planning & Assessment Act 1979 (NSW), s.4.

Allowing airport-lessees to commercially develop airport land without adequately addressing infrastructure needs also runs the risk of compromising an airport's core role of air transport. For example, a shopping centre could be built on airport land generating high levels of car traffic on roads funded by taxpayers to accommodate transport to and from the airport. Such development could ultimately inhibit future expansion of the airport's operations unless taxpayers funded further road upgrades.

The SCCA therefore recommends that a mechanism be established by which non-aviation related development on airport sites are required to contribute to the cost of extra infrastructure. This could be done by either establishing a contributions scheme under the Airports Act or by providing that any non-aviation related development on airport land is subject to the relevant state or local developer contributions regime.

7. Conclusion

The SCCA is strongly of the view that non-aviation developments on airport land should be subject to the same level of scrutiny, community consultation and planning and assessment that applies to developments under state and local planning laws. There should be a level playing field. The Act therefore needs to be amended to ensure that it does not provide unfair advantages to some firms over others, consistent with National Competition Policy.

8. Summary of Recommendations

1. Non-aviation related development on airport land should be required to be consistent with relevant state and local planning instruments.

2. The Airports Act be amended in relation to airport master plans as recommended by the Senate Committee's *Report on the Inquiry into the Development of the Brisbane Airport Corporation Master Plan,* and also clarify that master plans are intended to provide planning control, at least at a strategic level.

3. The words "new building" in s.89(1)(e) of the Act be replaced with the term "development" which would encompass the use of land, the subdivision of land, the erection of a building, the carrying out of a work, and the demolition of a building or work.

4. The cost threshold for requiring a major development plan be replaced with a threshold based on the total gross floor area for all relevant new development, similar to the triggers for major development planning of passenger terminals.

5. The Airport Building Controller be required to notify the local council and publish notices in the local newspaper of any development or building approvals sought and given.

6. The Airports Act be amended to bring it into line with other Australian planning legislation by providing that a master plan and a major development plan are deemed to be refused if the Minister has not made a decision within 90 days.

7. A mechanism be established by which non-aviation related development on airport sites are required to contribute to the cost of extra infrastructure - either by establishing a developer contributions scheme under the Airports Act or by providing that any non-aviation related development on airport land is subject to the relevant state or local developer contributions regime.

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