

19 January 2007

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

Dear Sir

Inquiry into the *Airports Amendment Bill 2006*

The Australian Local Government Association (ALGA) represents the interests of the more than 700 councils at the Federal level. Its membership is made up of the associations of local government in each state and territory. The ACT Government is also a member in its role as the local authority in the Australian Capital Territory.

ALGA seeks to bring to the attention of the Committee, in general terms, a number of issues arising from the current arrangements for the management of airports covered by the *Airports Act 1996*. Specific matters relating to individual airports are being brought forward to the Committee separately by individual councils and State and Territory Local Government Associations.

Background

The airports covered by the *Airports Act 1996* were established in some cases more than 50 years ago on Commonwealth land on the outskirts of major cities. Excluding these facilities from state and local planning at that time may have been a reasonable approach given the relatively low impact on surrounding largely rural areas. The growth of our cities since then has meant that in some case these airports are now surrounded by urban developments and have become major generators of transport demand.

The situation has been exacerbated in recent years with a significant shift in the use of airport land from purely aeronautical purpose to other commercial developments. These commercial developments are in fact no different to commercial developments elsewhere in our cities yet are excluded from normal state and local government planning processes.

The significant impact of these developments on airport land use and therefore on local communities and economies has been recognised by the Australian Government. The amendments to the *Airport Act 1996* being considered by the Committee appear to be the Australian Government's attempt to address the consultation issues associated with these developments. While improvements in the consultation requirements for non-aeronautical developments on airport land are positive and welcomed by ALGA they do not change the fundamental concern of local governments' that there are large tracts of land located within or near our urban areas on which major commercial developments are taking place outside state and local planning.

Issues of concern for local government

ALGA has concerns with four matters of principle with the current arrangements for the planning of commercial developments on airport land covered by the *Airports Act 1996*.

Consultation

The *Airports Amendment Bill 2006* in conjunction with the recently released Airport Development Consultation Guidelines makes a number of useful amendments to the current consultation requirements and is welcomed by ALGA. In particular ALGA supports the requirements to make development plans more readily available to the community via the internet and the stop clock provisions for Ministerial consideration of development plans.

ALGA does not support the proposed reduction in the statutory consultation period from 90 calendar days to 45 working days. This does not provide Local Government with adequate time to have a matter formally considered by its Council. If there is a strong desire for the consultation period to be expressed in working days rather than calendar days we suggest that it be 60 working days to more closely approximate the current period.

ALGA recognises that the Bill and consultation guidelines make more explicit the expectation that operators clearly demonstrate how they have given due regard to public comments for master plans, major development plans and airport environment strategies. However this is only an expectation with no mechanism specified as to how this should happen.

Planning

The proposed amendments to the *Airport Act 1996* do not address the fundamental concern of ALGA that major commercial developments on airport land in urban areas can proceed without reference to state or local government planning or policy.

It appears clear that the Australian Government does not wish to change the broad policy framework under which it controls airports and that it wishes to retain responsibility for planning and development. ALGA is not proposing that national infrastructure element of airports, namely the aeronautical aviation capacity, be subject to state and local planning provisions. ALGA's concerns relate to commercial developments eg shopping facilities and hotels which are no different to developments elsewhere and, in ALGA's view, should not be

exempt from the same planning provisions. Commercial developments on airport land have impacts on surrounding communities including traffic management and environmental impacts such as noise and emissions which are similar to commercial developments on non-airport land that are subjected to planning provisions. It could be argued that this provides an unfair commercial advantage to developments on airport land which contravenes the principle of competitive neutrality.

ALGA proposes that in relation to non-aviation developments at airports the Minister be required to consult with relevant local governments, state in any planning decision under the legislation whether a proposed development is, or is not, consistent with state and local government planning and if not consistent explain and justify why agreement has been given to the proposal.

The effect of this proposal would be to make Ministerial decision making more transparent without taking decision making power away from the relevant Commonwealth Minister. It would require the Minister to give reasons for any decision to allow developments, not consistent with state and local government planning, to proceed.

Financial considerations

Councils rely for their finances to a large extent on raising rates on land owners and businesses. Commonwealth land, such as airports are excluded from paying rates. ALGA accepts that there may be a case for key national infrastructure such as the aeronautical facilities to be exempted from the payment of council rates and local charges. However there is no logical reason why a commercial facility on airport land is exempt while an identical facility on non airport land would be required to pay rates.

Additionally it is common practice for councils and states to seek “developer contributions” when approving major facilities to help pay for the necessary upgrading of any associated infrastructure that might be required by the development. This of course is not possible for developments on airport land yet there is an expectation that states and local government will provide the necessary infrastructure. Indeed it could again be argued that this is contrary to the principles of competitive neutrality providing a financial benefit that it is not available to developers on non-airport land.

The Committee could examine this anomaly and give consideration to the scope for charging the commercial developments on airport land the equivalent of rates and developer contributions which could be passed to councils.

Impact of airport commercial developments on neighboring areas

Concerns have developed around a number of airports about the impact of new airport commercial developments on surrounding businesses. As part of development approvals councils and states take into account the impact of a new development on existing residents and businesses. The concern is that developments on airports are not subject to such a

process and can result in a conflict or indeed an over supply that impacts on the viability of all businesses.

ALGA asks that the consultation process and Ministerial decision making in relation to commercial development be required to take this factor into account.

Conclusion

ALGA accepts that the aviation elements of airports are key parts of the nation's infrastructure and their planning is a matter for the Australian Government. The occurrence in recent years of extensive non-aviation commercial developments does not in ALGA's view constitute key national infrastructure and does not justify being excluded from state and local planning regimes.

While ALGA recognises the Australian Government's desire to keep control over the planning for airports sites as a whole ALGA asks that in relation to commercial developments on airport land the Minister be required to appropriately consult with local government, state in any decision whether developments are consistent with state and local plans and if not why they should proceed. The Minister in making a decision should also be required to take account of the proposed development on nearby residents and businesses.

Consideration should also be given to charging commercial developments on airport land the equivalent of rates or where appropriate developer contributions on behalf of councils to help pay for any infrastructure requirements and to assist in meeting the overall community needs.

ALGA would be happy to expand on this submission before the Committee if required.

Yours sincerely

A handwritten signature in black ink, reading "Adrian Beresford-Wylie". The signature is written in a cursive style and is positioned to the left of a vertical red line.

Adrian Beresford-Wylie
Chief Executive