



Rural and Regional Affairs and Transport Committee

Airports Amendment Bill 2006

Airspace Bill 2006

Airspace (Consequential and Other Measures) Bill 2006

Bankstown Airport Limited thanks the Senate Committee for the opportunity to place its submission before the Committee.

The comments regarding Bankstown Airport Limited should be read as generally applying to Camden Airport Limited.

1. Context

For the Committee's benefit, Bankstown Airport is a General Aviation Airport Procedures (GAAP) airport which was privatised in December 2003. It was the last of the federally owned airports to be privatised under the current legislation '*Airports Act 1996*'.

Based within the geographical confines of a metropolitan area Bankstown Airport Limited is not classified as a major airport as it does not currently support any form of Regular Public Transport (RPT). The airport has physical limitations on the size of aircraft that can operate through it due to the runway lengths and load capacities.

In fiscal year 05 / 06 Bankstown Airport recorded 305,700¹ movements making it the second busiest airport in Australia in terms of movements. The majority of aeronautical activity emanates from general aviation flying schools, charter operations, flying clubs and aeronautical sports. Approximately 94% of activity involved aircraft weighing fewer than 7,000 kilograms.

Notwithstanding the high level of aeronautical activity on the airport, aeronautical charges only contribute approximately 12% of the company income and the aeronautical charges do not cover the aeronautical operating costs or supply a commercial return on investment for the Bankstown Airport Limited aeronautical assets. The balance of the company income is generated from property activity on the site.

It is in this context that we submit the Committee should ensure their deliberations consider the unique situation of small metropolitan airports like Bankstown Airport and in particular the:

¹ <http://www.airservicesaustralia.com/reports/>

- relative underdeveloped nature of the airport site;
- aeronautical activity on the airport site has less impact on the community and environment than the majority of airports in Australia yet we are captured by the same rigorous requirements of the Airports Act regime;
- limited capacity for small airport management companies to meet ever increasing requirements of the Act, noting Bankstown Airport Limited revenues in the 05/06 year were approximately \$14 million and only employs 27 people;
- very limited capacity of airport our users to absorb the cost of increasing regulatory requirements, again noting 94% of movements at Bankstown Airport were by general aviation aircraft less than 7,000 kilograms; and
- need for Sydney to continue to have a regulatory regime that supports the ongoing access to quality aviation infrastructure including general aviation infrastructure, in the metropolitan area, at a reasonable cost for users.

2. Executive Summary

Bankstown Airport Limited supports the intent of the proposed legislation and acknowledges the Government's effort in aligning the Airports Act regime to appropriately balance community concerns, airport operator concerns, airport user issues and all levels of government interest in airport activities.

Foremost Bankstown Airport Limited considers that the assessment of aviation and non aviation activity must remain with the Federal Government. This is because:

- airports operate in complex regulatory and operational environments requiring exceptional levels of expertise and coordination which do not reside at any other level of Government;
- national standards are required so airport users and customers can be dealt with on a consistent basis across Australia, given the high mobility of aircraft around the nation, and indeed the Pacific basin, this point takes on heightened significance; and
- the privatisation process for the Federally leased airports was conducted on the basis that the Federal government would retain control of such airports.

We note that the main objectives of the Federal Government in privatising the Federally leased airports included the continued investment in airport assets, the supply and growth of aeronautical transport options for airport users and the promotion of competition between airports.

Bankstown Airport Limited believes there are some areas of the Bills which may be overly onerous on airport operators, especially small airport management companies such as Bankstown Airport which are still developing their aviation and non aviation business. Broadly, our concerns include that the Bills:

- are not precise in the wording or impacts in some of its requirements;
- potentially will lead to greater costs being incurred in meeting the revised regulatory requirements (such costs will ultimately be passed on to our customers); and
- may inadvertently make approval processes longer than the current regulations stipulate.

3. Detailed Response

Bankstown Airport Limited has structured its detailed response in concert with Schedule 1 - Amendments *Airports Act 1996* contained in the Explanatory Memorandum of the Airports Amendment Bill 2006.

Bankstown Airport Limited essentially supports all items that are not listed as part of this the section of the submission.

Matters of concern and our comments on each item are detailed below.

Item 16 The intent is to clarify types of business which may operate on airports including non-aeronautical development; it refers to Feb 05 Federal Court decisions *Westfield Management V BACL* as well as *DFO V Westfield*.

The Bill as drafted does refer to particular principles or issues but rather to the more general legal case. Bankstown Airport Limited recommends that at least core principles and issues are clearly included in the Bill.

Item 21 Airline can take a greater stake than 5% in an airport other than a core regulated airport which may not be subject to particular conditions by regulation.

Bankstown Airport is not a core regulated airport as defined in the Airports Act.

Due to the relative low value of Bankstown Airport, an airline may wish to purchase a substantial stake of the business. This has the potential to limit or artificially control competition between airlines for Cargo or Regular Public Transport activity as well as competition between Airports.

Bankstown Airport Limited recommends that an Airline not be allowed to become a major shareholder of a non core regulated airports.

Item 26 / 30 Relates to responding to community concerns about adequate information about flight paths and noise exposure patterns in Draft Master Plan and Final Master Plan

This requirement may be an onerous and expensive requirement and may expose airports to unreasonable levels of scrutiny.

As part of the existing Master Plan process airports forecast and describe aircraft mix, aircraft numbers, flight paths, airspace regulations, interdependence between airspace and technology that may apply during the period of the Master Plan and an extensive amount of data relating is made available to the community.

To require a greater level of detail than is currently supplied as part of the existing Master Plan process will increase the cost and time required to achieve increased information. Where the Bill does not clearly limit the amount of information required, and the costs in relation thereto, the continued commercial viability of both small

metropolitan airports and the general aviation users of those airports (to whom part of the regulatory costs are passed onto) may be threatened.

For the information of the Committee, Bankstown Airport Limited notes that the Bankstown Airport Master Planning process undertaken in 04/05 cost in excess of \$1 million (\$700k of which was borne solely by Bankstown Airport Limited). The revenue base for Bankstown Airport Limited in the 04/05 year was \$13.5 million.

Where greater depth of data must be provided, in particular forecasts based on expert modeling or opinion, this creates the increased possibility that airports will be open to further criticism should the actuality deviate from the detailed information supplied.

Bankstown Airport Limited requests this item be removed from the Bill. It is further submitted that the Government should have a clear understanding of the impact of any proposed changes on small metropolitan airport costs and resources, before any amendments are enacted.

Item 33 Provides that a draft or final Master Plan may, subject to special conditions, relate to a period beyond 20 years planning as currently in place.

Notwithstanding that Bankstown Airport Limited supports that the Federal Government must retain the planning and development powers over the privatised airports, there is a concern that planning beyond a 20 year horizon may limit on the integrity of information especially the ANEF modeling. It is submitted that the ability of any model to accurately predict information beyond 20 years is doubtful at best, and where the data quality is questionable it is submitted it is not appropriate to impose further costs on airports.

Bankstown Airport Limited recommends this item be deleted, but if it decided not to delete the proposal it should be developed further by specifying what specific conditions would trigger a planning period beyond 20 Years. Without knowing these conditions Bankstown Airport Limited cannot provide meaningful input.

Item 39 Requires a replacement Master Plan for approval should a more recent ANEF be endorsed.

Bankstown Airport Limited is a developing airport facility where potentially an updated ANEF may be required to be endorsed on a semi regular basis. As such this item may require Bankstown Airport Limited to replace its' Master Plan on a semi regular basis. This will have a material impact on our business as the cost and process of carrying out a Master Plan is disproportional for a business our size. The requirement would devalue the intent of the existing Master Plan arrangements.

It is noted that the associated costs with this item will most likely be passed to all aviation users of our facility including the General Aviation industry. It is further noted that Bankstown Airport Limited tenants, aviation users and the shareholders of Bankstown Airport Limited have built businesses on an existing Master Planning framework and associated cost structures. To alter the status quo some three years after privatisation will adversely impact each of these stakeholders.

Bankstown Airport Limited suggests that this item be removed from the Bill.

Item 47 This item requires an airport to 'demonstrate' how it has due regard to comments provided by the public in preparing a draft Master Plan. At present an airport is only required to state it has had due regard to those comments.

The major concern with this aspect of the Bill is that it does not give guidance as to what 'demonstrate' due regard entails.

For the benefit of the Committee, Bankstown Airport Limited received approximately 4000 submissions for its first Draft Master Plan in 2004. As an airport that is likely to continue to have this level of interest, without knowing what will be required Bankstown Airport Limited cannot provide meaningful input.

Bankstown Airport Limited recommends this item be developed be removed from the Bill until such time that more information is provided as to the meaning of what 'demonstrate' due regard entails.

Item 48 Allows the Minister to 'stop the clock' for when further information is needed during the approval process of a Master Plan.

Bankstown Airport Limited supports the intent of this Item, as it will require airports to ensure their submissions are complete. However it has concerns that multiple 'stop the clock' implementations may lengthen the actual time take to approve a Master Plan thereby eroding the intent of shortening approval periods contained in the Bill.

Bankstown Airport Limited recommends that the 'stop the clock' requirement be limited to a single period no longer than 15 working days for each Master Plan.

Item 56 Provides the minister has 50 business days instead of 90 to approve a minor variation to the Master Plan

Bankstown Airport Limited supports this item and believes the time span can be reduced further as the variation is minor.

Bankstown Airport Limited would support the approval period for this item to be reduced to 40 days.

Item 63 This item requires an airport to 'demonstrate' how it has due regard to comments provided by the public in preparing a draft minor variation to Master Plan. At present an airport is only required to state it has had due regard to those comments.

Bankstown Airport Limited refers the committee to Item 47 above

Item 73 Clarifies that the cost of construction to be used in assessing a project against the threshold is to include the costs of all associated *building activities*.

Bankstown Airport Limited has a concern with this item as the airport is located on what was previously an Australian Air Force Base during WWII as well as being an

aircraft manufacturing centre. As such all developments at Bankstown Airport require considerable preliminary work including environment assessment, services location, contaminants clean - up (where required), ordinance location / removal etc. These costs can be considerable and in some cases this may push a development over the Major Development Plan threshold.

It is noted that the purchasers of Bankstown Airport Limited were required to acquire the airport lease generally on an "as is" basis. During the privatisation process three years ago, the Government decided not to undertake comprehensive studies to identify and disclose adverse environmental or contamination issues that exist on the Bankstown Airport site. As a result the current shareholders agreed to accept a significant risk (and potential cost) of remediating land they did not contaminate. It is submitted that to include site preparation, in particular remediation, in building activities unfairly penalises the airport owners.

Bankstown Airport Limited does not support this item and recommends it be deleted. We recommend that airports with similar history be exempt from this aspect of the Bill.

Bankstown Airport Limited also recommends the Committee review whether building costs or activities that clearly provide positive environment benefits should be excluded from the project cost. Certain environmental technology solutions offer higher unit value than the equivalent non-friendly environment material.

Item 74 Provides that when individual developments which individually do not exceed the Major Development Plan threshold, but are consecutive or concurrent or an extension to existing buildings, may be determined to be subject to a Major Development Plan

Bankstown Airport Limited has operated Bankstown Airport for relatively short period and now has a clear vision and desire to develop and invest in its aviation and non aviation facilities. The application of this item will almost certainly stifle this development and potentially unduly limit development.

Bankstown Airport Limited recommends individual developments that are unrelated should not be affected by this item.

Item 77 If an MDP impacts upon flight paths or noise exposure patterns then the likely affect is to form part of the draft Major Development Plan released for public comment.

Bankstown Airport Limited refers the committee to the response with item 26/30 as well as Item 47.

Item 85 This item requires an airport to 'demonstrate' how it has due regard to comments provided by the public in preparing a draft Major Development Plan. At present an airport is only required to state it has had due regard to those comments.

Bankstown Airport Limited refers the committee to Item 47 above.

Item 86 Allows the Minister to 'stop the clock' for when further information is needed during the approval process of a Major Development Plan.

Bankstown Airport Limited refers the committee to Item 48 above.

Item 93 Provides that the Minister can determine if a minor variation to Major Development Plan is subject to public consultation.

Bankstown Airport Limited does not support this item as it may adversely impact on project delivery time and materially contribute additional regulatory based cost. The item does not stipulate guidelines for airport operators to utilise in respect to triggers for the public consultation and what form that consultation should take.

Bankstown Airport Limited requests the committee to reject this item.

Item 95 Minister has 50 days instead of 90 to approve a draft variation to Major Development Plan.

Bankstown Airport Limited supports this item and believes the time span can be reduced further as the variation is minor.

Bankstown Airport Limited would support the approval period for this item to be reduced to 40 days.

Item 106 This item requires an airport to 'demonstrate' how it has due regard to comments provided by the public in preparing a draft variation to Major Development Plan. At present an airport is only required to state it has had due regard to those comments.

Bankstown Airport Limited refers the committee to Item 47 above.

Item 132 This item requires an airport to 'demonstrate' how it has due regard to comments provided by the public in preparing a draft environment strategy. At present an airport is only required to state it has had due regard to those comments.

Bankstown Airport Limited refers the committee to Item 47 above.

Item 133 Allows the Minister to 'stop the clock' in approving a draft, or a variation of a final environment strategy.

Bankstown Airport Limited refers the committee to Item 48 above.

Item 141 The Minister has 50 days instead of 90 to approve a draft variation to environment plan.

Bankstown Airport Limited supports this item and believes the time span can be reduced further as the variation is minor.

Bankstown Airport Limited would support the approval period for this item to be reduced to 40 days.

Item 153 Provides for aspects of airport services to be monitored by ACCC using criteria following consultation with the departments of Transport and Regional Services and Treasury.

Bankstown Airport Limited considers a single set of standards is no longer applicable in the Australian aviation market. The ACCC must develop standards that reflect the different markets in which airports and airlines operate now and in the future. The standards must be flexible enough to support and encourage new airline entrants, particularly Low Cost Carrier airlines (LCCs).

As an example an airport, or part of an airport, that services LCCs may choose to have standards contrary to the ACCC endorsed levels in certain areas. These different levels may be required to ensure LCCs can offer choice and value airfares to a broader range of Australians than is currently offered. All appropriate safety and security requirements would need to be satisfied. A uniform standard across all airports will limit competition, protect existing full cost and higher cost airlines and continue to prevent a large proportion of the Australian public from regularly accessing the benefits of air travel.

Bankstown Airport Limited recommends that the ACCC only monitor core regulated airports, but that if a broader monitoring role is to be legislated the criteria standards are modified to reflect a wider range of markets. Without additional information regarding particular services at the different types of airports Bankstown Airport Limited cannot provide further meaningful input.

Bankstown Airport Limited does not support this item as drafted and recommends it be deleted.

4. Summary

Bankstown Airport Limited understands the Australian Government's desire to improve the current legislation for all sectors of the community and the aviation industry.

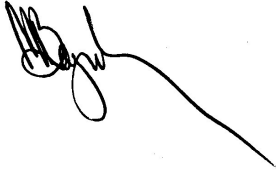
The Airports Amendment Bill 2006, Airspace Bill 2006 and Airspace (Consequential and Other Measures) Bill 2006 addresses many issues which we support the governments endeavors.

However our concern, as the most recently privatised airport with limited resources and a diverse customer base, is that some amendments will disproportionately impact on our business, the businesses operated by out tenants and airport users. Special regard should be had to the general aviation sector and to the substantial opportunities that the emerging low cost carrier operations can bring to Australians if appropriately supported by the regulatory regime.

We have submitted to the Committee alternatives to certain proposals, exemptions to some and rejecting others.

We look forward to the Committees support and feedback.

Mario Bayndrian

A handwritten signature in black ink, appearing to read 'Mario Bayndrian', with a long horizontal line extending to the right.

**Aviation Manager
Bankstown Airport Limited**

19 January 2007