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Reference: ACC2007/6226

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

Thank you for the opportunity to comment on the Airports Amendment Bill 2006. These comments are provided based on the adopted policies and resolutions of this Council.

Strategic Context and Overview

The growth of capital cities such as Adelaide is critical to the nation's economic growth.

Council recognises and supports the strategic synergies between Adelaide Airport and Adelaide CBD, as per our submission to the Review of the Airports Act 1996 of 27 February 2003 (attached). Council recognises the mutual benefits of the continued efficiency and growth of Adelaide Airport as an aviation and transport hub for the State and as a primary link to the City.

Whilst we appreciate the intent of the Bill to improve land use planning at leased federal airports, our contention is that:

- The Bill could better integrate airport and metropolitan strategic planning, particularly for non-aviation land use on airport land, whilst still achieving both Commonwealth and State goals.
- The Bill could refine airspace protection legislation regulating building heights outside airport land to better foster economic development, with four key amendments offering considerable potential for improvement.

Our detailed comments are as follows.

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Better Integration of Planning for Non-aviation Airport Activity with Metropolitan Planning

An integrated approach to metropolitan planning and transport by all three spheres of government is critical to the effective functioning of the nation's capitals.

Commonwealth exemption for matters of national interest is accepted, and this must be focussed on aviation infrastructure and operations. Land uses on airport land that are unrelated to airport operations should be subject to the State planning system.

The cumulative effect of land uses being developed outside state planning systems is economic disbenefits arising from increased vehicle traffic congestion, increased greenhouse gas emissions and increased social inequality, together with a significant risk that non-aviation activity on airports will undermine the role and function of other metropolitan centres (often better served with state and local services and infrastructure).

Consistent with the above, the Bill's proposals to reduce consultation periods for airport master plan and major development plans and to increase to \$20 million the trigger for development requiring Ministerial approval are not supported. Additionally, these proposals are considered to be inconsistent with the Bill's intent for improved planning and community engagement, and with the better consultation outcomes sought in the Airport Development Consultation Guidelines of December 2006.

Better Integration of State and Commonwealth Regulation of Building Heights

Council has been working collaboratively with Adelaide Airport Limited (AAL) and other airport agencies to resolve issues with the relationship between:

- Airspace protection arrangements for Adelaide Airport [established under the Commonwealth Airports (Protection of Airspace) Regulations 1996] and
- Building heights allowed under the State Development Act in Adelaide's Central Business District (in order to facilitate the sustainable growth of the State's Capital).

Arising from this work, we suggest the following:

1. The Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 be amended to require that DOTARS seek Airservices Australia or equivalent specialist "sign off" of prescribed airspace plans.

Depending on interpretation, a prescribed airspace plan affecting Adelaide's CBD could have resulted in an estimated loss of development capacity of \$50million over a twenty year time frame when compared to the equivalent State height regulations. Whilst AAL are working to clarify and correct the interpretation, the lack of certainty in the interim resulted in an apartment development being reduced in height to meet (now recognised as incorrect) prescribed airspace.

The "interpretation" issue and lack of clarity arose in part due to the current process under the Commonwealth Regulations to establish prescribed airspace not requiring DOTARS to validate the accuracy of prescribed airspace.

2. The Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 be amended to enable DOTARS to prescribe locations in which buildings to prescribed heights are acceptable regarding airspace protection.

The current Airports (Protection of Airspace) Regulations 1996 provides case by case consideration of individual buildings by DOTARS, taking into account the comments of Airservices Australia, the Civil Aviation Safety Authority, the airport operator company and the relevant local council.

The need for potentially erroneous case-by-case consideration could be avoided, and greater certainty provided, if the Commonwealth statutory framework were amended to allow DOTARS (following suitable investigations and consultation) to prescribe locations in which buildings to a prescribed height are acceptable regarding airspace management. Such a proposal brings the following benefits:

- Establishes a clear upfront policy position in which the development sector can invest with confidence, an improvement on the current less certain case by case process.
- For Adelaide, such a policy position would foster economic development given the dominant airspace impact the Santos building now has in relation to new buildings to the west of Adelaide's CBD.
- Would reduce administrative steps associated with the current case by case system, being a welcome regulatory improvement.

Whilst AAL and Council are investigating the possibility of establishing an informal agreement that would attempt to provide similar clarity, the potential for such an arrangement to be established by DOTARS as the decision making authority would significantly increase certainty for the development sector.

3. The Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 be amended to require greater clarity in the prescribed airspace information provided by airport operator companies.

The current Airports (Protection of Airspace) Regulations 1996 requires airport operator companies to provide a chart of prescribed airspace. It is requested that the desired outcome of providing such information be described.

Whilst we appreciate prescribed airspace matters are technical, information should be easily available for the development sector and planning authorities to readily understand the precise nature of prescribed airspace. For example, information regarding the height of prescribed airspace affecting a developers land parcel or land in a planning authority's jurisdiction should be readily available and easily understood.

In Adelaide's experience, it has proven unnecessarily difficult to establish for key parcels of land exactly where the airspace protection thresholds (OLS and PANSOPS) are situated. This has caused uncertainty and delay in the development assessment process, with resultant costs to applicants and Council.

4. The Airports Act 1996 and Airports (Protection of Airspace) Regulations 1996 be amended to require airport operator companies to consult with the relevant State planning authority and relevant local governments on changes to prescribed airspace

The current Airports (Protection of Airspace) Regulations 1996 requires airport operator companies to publish a notice that prescribed airspace plans have changed. It is requested that this be amended to require the State planning authority and relevant local governments to also be consulted regarding proposed changes to prescribed airspace.

This will allow such bodies to actively engage with airport operators at an early stage in the process of amending prescribed airspace, thereby recognising the mutual benefits to be gained by improved understanding of the strategic growth benefits of the changes.

Thank you for the opportunity to present these matters to the Committee. We are available to expand upon these comments if it would be of assistance to the Committee.

If further information is required, please contact Don Donaldson, Manager Development Planning on 08 8203 7596.

Yours sincerely



STUART MOSELEY
Acting Chief Executive Officer

23/01/2007

- Copy to: Phil Baker, Adelaide Airport Limited
- Kate Ellis MP, Member for Adelaide
- John Doherty, Department of Transport and Regional Services
- Denise Spinks, Airservices Australia
- Peter Jackson, Urban Development Institute of Australia – SA Division
- Nathan Paine, Property Council of Australia – SA Division
- Trevor Starr, City of West Torrens
- Rob Donaldson, City of Holdfast Bay
- Sandle Starr, City of Charles Sturt
- Stephen Hains, City of Salisbury
- Australian Local Government Association
- Victoria Gailit, Local Government Association of South Australia
- Vanessa Crimmins, Council of Capital City Lord Mayors



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27 February 2003

Director
 Regulation and Review of Airports Act
 Airports Planning and Regulation
 Department of Transport and Regional Services
 GPO Box 594
 CANBERRA ACT 2601

Dear Sir/Madam

Re: Review of Airports Act 1996

I refer to a letter of invitation from the Assistant Secretary of the Airport Planning and Regulation Branch of the Department of Transport and Regional Services, inviting Council to make a submission on the current Review of the *Airports Act 1996*.

Council has noted that all development proposals occur within the context of the Airport Master Plan and are subject to the formal consultation and decision making processes established under Commonwealth legislation. In its present form, this legislation limits the degree to which the Airport Master Plan can be satisfactorily integrated into the Metropolitan State Planning Strategy and the planning policies of councils within the airport's catchment area.

Accordingly, the Adelaide City Council, at its meeting on 26 February 2003, considered the areas being addressed by the Review and determined that the following issues should be brought to your attention:

- Council recognises and supports the strategic synergies between Adelaide Airport and Adelaide CBD. It supports many of the business strategies of Adelaide Airport Limited, particularly in relation to improving terminal facilities, growing visitor numbers, increasing international flights, improving export capacity and improving transit links between the Airport and the City.

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- However, Council has in the past expressed concern that non-airport development decisions are being taken without sufficient regard for State planning schemes and without sufficient consultation with affected State and Council planning authorities.
- While Commonwealth exemption from State and local legislation may be justified where necessary in the interests of national security, transportation and economic competitiveness, it is inappropriate that non-airport development of airport land is exempted from the operation of State development control legislation. Land not needed for airport activities should be subject to State planning legislation. The Airports Act and subsidiary airport development policy and process provisions should be amended to remove the exemptions in relation to non-airport related land use developments.
- The Commonwealth Government should encourage greater consistency with State planning systems by requiring Master Plans to identify ways in which they are consistent and/or inconsistent with State planning schemes. This will clarify the relationship between Airport Master Plans and State Planning Schemes. The inclusion of greater detail will facilitate the preparation of submissions on the Master Plan during the consultation phase and will provide the Federal Minister with a better basis for assessing the Master Plan.
- The Adelaide Airport Master Plan's consultation provisions apply only to Major Development Plans. This means that developments under ten million dollars can go through the system without undergoing scrutiny from external sources. The sole guarantee that such developments are consistent with the Master Plan is the declaration provided to the airport building controller by the lessee. The current legislation governing consultation is inadequate and fails to provide the checks and balances essential to a good planning environment.

Therefore, if the non-airport development of airport land continues to be exempted from the operation of State development control legislation, then local, public and state government agency consultation processes associated with Airport Master Plan preparation, Master Plan variations and Major Development Plans, should ensure that relevant opportunities for response are provided and that responses are given genuine consideration in a transparent process. Developments of significant value but which are not of major development status should nevertheless be subject to full consultation procedures. In addition to current provisions on consultation, the Commonwealth Government should prepare amendments that will:

- Introduce compulsory Council and State Government Agency consultation prior to public consultation; and
- Require consultation to be undertaken by the Federal Minister rather than the lessee.

- Section 71 of the Act requires the Master Plan to specify the airport lessee company's proposals for land use and related development of the airport site leased to the company including land use planning/zoning aspects. However, neither the Act nor the Regulations provide criteria to ensure that the land uses and proposals included in the Master Plan can be integrated into the existing land uses of surrounding areas or the strategic plans of relevant local and state governments. Lack of integration with local and state policy, forces planning authorities into ad hoc policy making such as has occurred in Adelaide, where the State's Centres Policy has had to be revised, after the event, to accommodate non-conforming airport development intentions. Development involving retail or office activities should, therefore, be of limited floor area consistent with State or Local Government planning strategies, especially in the event of an airports closure.

In order to facilitate more informed decision making at the Commonwealth level it is requested that the Commonwealth Government prepare an amendment requiring the Federal Minister for Transport and Regional Affairs to seek agreement from the appropriate State Planning Minister before approving a proposal for a Master Plan or a minor variation to a Master Plan.

Your consideration of the above would be appreciated.

Yours sincerely



Stuart Mosley
Manager, City Development