



23 January 2007

Ms Jeanette Radcliffe
Committee Secretary
Rural and Regional Affairs
and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Radcliffe

**Re: Airspace Bill 2006
Airspace (Consequential and Other Measures) Bill 2006
Airports Amendment Bill 2006**

I am responding on behalf of Qantas Chief Executive Officer, Mr Geoff Dixon, to your letter of 22 December 2006 inviting comments on the above Bills.

As the principal commercial user of Australian airspace and airports, Qantas welcomes this opportunity to provide the views contained in the attached submission.

The proposed changes with respect to airspace regulation sit well with Australia's broader move towards internationally harmonised, outcomes-based aviation regulations, a further example of which is reform of the Civil Aviation Safety Authority's regulations relating to aircraft maintenance activities.

We would be pleased to provide any further information in relation to these Bills, or wider aviation regulatory issues, if it would be of assistance to the Committee.

Yours sincerely

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AIRPORTS AMENDMENT BILL 2006

A number of the amendments proposed in the Bill, in particular those relating to non-aeronautical development and consultation processes, are of concern to Qantas. These are discussed in greater detail below. Areas where clarification of the triggers proposed for major development plans (MDPs) and master plans (MPs) would be of benefit are also highlighted.

Some of these issues have been previously articulated in Qantas' submission to the Review of the Airports Act launched by the Department of Transport and Regional Services (DOTARS) in 2002.

Non-aeronautical activities (Items 16,23)

While the Government has indicated its intention to provide for non-aeronautical development, it is important that – consistent with the overarching objective of the Act – aeronautical activities remain the primary focus of airports, and that adequate scope for expansion to cater for this in the future is ensured.

Although a non-aeronautical development proposal may sit within the parameters of an airport's MP and the Act, it may also have the potential to impinge upon aeronautical development, hindering aviation and tourism activity over the longer term. A case in point is Sydney Airport Corporation Limited's (SACL) proposal to develop a "DFO" and bulky goods depot, notwithstanding the inability projected under its MP to provide enough parking spaces for aircraft due to the limited development footprint.

A balance must be struck between the objectives of providing airports with a broader and more flexible business model and encouraging a growing aviation sector capable of accommodating increasing traffic volumes and new large aircraft types.

If the primary purpose of airports is to be maintained, consideration needs to be given on a practical level to the ability to convert land for aeronautical use while providing planning certainty over a reasonable horizon for non-aeronautical activities.

In this context, it is imperative that non-aeronautical activities do not become the basis for the valuation by airport operators of the commercial opportunity cost of airport land used to levy charges on airlines to generate a return on capital (which is not inconceivable given the monopoly power of airports). This would result in an untenable situation for airlines and their passengers, and one which runs counter to the continuing obligation of airport lessees – that is, that the airport site is used as an airport.

While all these considerations cannot be fully resolved within the legislative framework being addressed here, they need to be weighed carefully to ensure that non-aeronautical development does not prejudice the development of aviation uses of airports. In addition to the planning issues, Qantas believes it would be appropriate to

include the pricing aspects of this matter in the terms of reference for the Productivity Commission's next review of airport pricing.

Replacement of final master plan (Item 39)

The Bill requires a new MP to be developed for approval if a more recent Australian Noise Exposure Forecast (ANEF) for the airport is endorsed.

As an ANEF would be likely to change only as a result of an MDP, this provision appears to be superfluous, as the revised noise contours would be subject to public comment through the MDP process.

Nonetheless, and although revision of ANEFs would likely be an infrequent occurrence, Qantas assumes that the circumstances that would trigger revision of an ANEF will be made clear through the Regulations.

Public comment period (Items 42,43,45)

The amendments covered by these Items reduce the time for public comment for preliminary draft MPs from 90 calendar days to 45 business days.

Qantas is disappointed at the changes to the timeframes for public consultation. In our view, the longer timeframe provides the opportunity for major stakeholders to fully identify their respective objectives and concerns, and thereby contribute to the achievement of improved outcomes.

Airlines in particular require considerable time for consultation with airports in relation to developments that directly impact their operations and entail significant costs for them and their passengers. As a range of parties within an airline has an interest in the issues covered by the planning process, internal coordination is required to assess the impact of proposals, develop views that usefully contribute to discussions with airports, and provide formal comments.

Qantas regards a 45 business-day period as insufficient to achieve this satisfactorily, especially in cases where an airport has provided little by way of a consultative process during the preparatory phase of developing an MP, that is, prior to the public comment period.

If the inclusion of airlines in the preparatory phase of planning by airports were mandatory, however, Qantas would be comfortable with the truncated timeframe (and subsequent timeframes for public comments covered under Items 58,59,61, 80,81,83 and 100,101,103). The inclusion of airlines and other key stakeholders at this stage would be wholly consistent with the Airport Development Consultation Guidelines issued by DOTARS in December 2006. The Guidelines note that industry's expectation that its views and input will be sought at an early stage is appropriate given the pivotal nature of

an airport's operations to these businesses and the impact on their long term operating plans.¹

This approach would ensure the development of plans that take into account the requirements of major stakeholders, while not compromising the Government's objective of streamlining and bringing the public comment period into alignment with State and Territory planning processes.

Response to public comments (Items 47,63,85)

Qantas welcomes the amendment that requires airports to demonstrate how they have had due regard to the comments furnished by the public in preparing their draft MP. This will ensure that stakeholders' comments have received consideration and will serve as a useful feedback mechanism for stakeholders as well as a summary of views for the Minister.

Major airport development criteria (Items 72,73,74)

These Items raise the dollar threshold for construction costs - one of the factors in determining when an MDP needs to be submitted - from \$10 million to \$20 million.

Qantas has no difficulty with this change, which we regard as appropriate from a commercial perspective. While we understand the associated intent of Item 74 is to ensure that the need for approval of major developments cannot be avoided by dividing projects into parts which fall below the threshold, we believe its application could pose difficulties in practice.

The Item envisages that projects which singly do not exceed the threshold, but which are consecutive or concurrent projects or extensions to existing buildings would be able to be determined as major airport developments at the Minister's discretion. Currently, extensions to buildings such as hangars and catering facilities do not trigger an MDP. However, these could now be assessed as requiring an MDP regardless of their dollar value, if the Minister determined that one was required.

Qantas is concerned that this approach involves an element of uncertainty which could impact the timely delivery of development projects. To avoid this, the development of guidelines to provide clarity on the circumstances in which developments might be regarded as consecutive and trigger a requirement for an MDP, would be helpful.

Qantas notes that the Bill retains the current trigger for an MDP if a development increases floor space by more than 10% (Section 89(1)(d)). We believe that, consistent with the increase in the dollar value threshold, an increase to 20% is justified. At smaller airports in particular, the 10% criterion can activate the requirement for an MDP

¹ Airport Development Consultation Guidelines, December 2006, Department of Transport and Regional Services, p 10, § 33.

for relatively minor works. In addition, if the floor space increase is consistent with the airport's MP, it has already been the subject of public comment.

Ministerial approval time limit validity (Item 90)

Item 90 provides for a requirement that approved major developments be substantially completed within five years of the approval date, with a two-year extension option. These timeframes may be varied at the Minister's discretion.

While consistent with the validity periods for MPs and airport environment strategies, Qantas does not regard this timeframe as suitable for aeronautical related development, due to the volatility of passenger movements. It is conceivable that deferral of projects might be appropriate in some instances where traffic volumes experience an unanticipated downturn, for example as was the case following the Ansett collapse in 2001 and the SARS pandemic in 2003.

The absence of a timeframe for completion ensures that construction is not occurring unnecessarily. In addition, where the ability to fund development is contingent on passenger throughput, deferral may be the only viable option for an airport if volumes fall substantially, particularly where projects with significant capital expenditure are concerned.

In light of these considerations, Qantas believes it would be desirable to retain the current flexibility.

Productivity Commission review outcomes

In the Second Reading of the Bill it was indicated that an amendment to the Act was being made to facilitate the timely introduction of any Government-supported changes arising from the Productivity Commission's (PC) review of airport pricing to provide for future monitoring arrangements to be addressed through amendment to regulations.

Qantas has not been able to locate this amendment in the Explanatory Memorandum and assumes it is being held over and will form part of the amendments to the Airports Regulations 1997. The inclusion of the amendment is important, as it would enable any changes, for example a revised definition of aeronautical services, as foreshadowed by the Minister² and the PC's draft report³, to flow through to the relevant sections of the Airports Act.

Publication criteria (various Items)

Qantas is pleased to see the amendments throughout the Bill providing for electronic publication, circulation and submission of documents, which enhances efficiency and reduces the environmental impact of paper printing.

² Media Release by the Minister for Transport and Regional Services, Hon Warren Truss MP, 14 November 2005
³ Productivity Commission 2006, Review of Price Regulation of Airport Services, Draft Report, Canberra