



***AUSTRALIAN AIRPORTS ASSOCIATION***

***SUBMISSION***

***TO***

***SENATE STANDING COMMITTEE ON RURAL AND  
REGIONAL AFFAIRS AND TRANSPORT***

***ON***

***AIRPORTS AMENDMENT BILL 2006***

***JANUARY 2007***



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### **SUBMISSION TO SENATE STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT ON AIRPORTS AMENDMENT BILL 2006**

#### **SUMMARY**

*The Australian Airports Association (AAA) supports the Airports Amendment Bill 2006 subject to clarification and amendment of some items in the Bill.*

*In general, the proposed amendments will facilitate better management of Commonwealth leased land at airports and provide more transparency through revised consultation regimes for major planning and development processes. The use of ultimate capacity ANEFs will also enhance the potential for protecting the national aviation infrastructure from inappropriate development in areas surrounding airports.*

*The AAA supports those proposed amendments that are procedural in nature and bring the existing regime up to date. For instance, the changing of the definition of Auditors to comply with preceding changes in the Corporations Law.*

*Other proposed amendments are not straightforward however, and the AAA has suggested some changes to the drafting of the Bill to allow the intent of the change as expressed in the Explanatory Memorandum to work more efficiently in practice.*

*A few of the proposed amendments are contested by the AAA, such as the need for a new Master Plan if the ANEF changes.*

*In summary, the AAA supports the majority of the amendments in the Bill as proposed but believes that there is an opportunity for some further improvement.*

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## 1 INTRODUCTION

*The Airports Amendment Bill 2006 was introduced into the House of Representatives on 30 November 2006. The second reading speech was delivered by The Hon. De Anne Kelly on 7 December 2006 and the Bill was subsequently referred to the Senate Standing Committee on Rural and Regional Affairs and Transport.*

*This Submission has been co-ordinated and facilitated by Dr Russell Synnot of Synnot & Wilkinson Pty Ltd at the request of the Australian Airports Association (AAA).*

*The AAA presents this submission to the Senate Committee on behalf of all twenty two leased airports.*

*The AAA has, to the best of its ability, consolidated the views of all the 22 leased airports, and this submission represents a majority view. However, if an individual airport has any differing view on a matter raised in this submission, it will comment as appropriate in their individual submissions, or at the public hearing, giving due regard to their own particular location and circumstances. The AAA is sure that the Committee will give all due regard to any contrary views so expressed to it.*

## 2 OVERVIEW

*In general, the AAA supports most of the amendments included in the Bill. There are some amendments, however, that the AAA does not support in their current form and we have proposed alternative drafting to facilitate better outcomes.*

*There are a number of proposed amendments which are designed to move controls from the Act to the Regulations. While such changes are not opposed in principle, it is not possible to offer unqualified support for these amendments because no indicative drafts of the proposed Regulations have been provided. Many of the amendments proposed are fairly straightforward and are fixing issues which have become apparent over the 10 years of operation of the Act.*

*However, some of the amendments clearly will lead to longer assessment periods for approvals processes. For instance the "stop the clock" provisions proposed for Master Plans, Environment Strategies and Major Development Plans could add significantly to the already long assessment periods and thereby prejudice the ability of airports to offer opportunities to developers within a commercially acceptable timeframe.*

*The most significant changes, however, are designed to ensure continuity of the existing Commonwealth controls on planning and development approvals for non-aviation developments.*

*The pressure from State and Local Governments on this issue has been noted by the Minister in the Explanatory Memorandum and the Minister has taken a strong position that the existing system will remain in force. Amendments to consolidate this position are contained in many places in the Bill.*

*AAA members are united in their support for this position.*

*Where amendments have been included in the Bill to reflect accuracy, updated references or current drafting practice, no separate issues have been identified and these proposals are not dealt with further in this submission.*

*In analysing the amendments as they have been presented in the Bill, the AAA has tried to distil the major issues. We have provided some background, articulated the consensus view of the leased airports and advanced support, qualified support, or in a few instances disagreement with the proposed amendments.*

*It should be noted that particular circumstances due to locality or operations at an airport may affect the supporting arguments for a particular amendment. For instance, some proposed amendments will probably work well at larger airports whilst the same amendment could be counterproductive at other airports. The AAA has sought to find and suggest modifications to proposed wordings, where relevant, to ensure applicability across all airports and in doing so, achieve the stated objectives of the proposed amendments.*

### **3 MASTER PLANS AND DEVELOPMENTS**

*The Bill includes many amendments to ensure that the control of on-airport, non-aviation development and planning is retained by the Commonwealth. The AAA strongly endorses the continuation of this approach.*

*This approach has been the basis on which the airports were originally leased and the Government received considerable sums of money for the development rights to airport land. The development of such land was predicated on the existence of a Commonwealth planning system and on this basis the airports valued the development potential of the land in their bids for the airport leases.*

*The Government appears to strongly endorse this system but recognises the need to now amend the system to allow for increased consultation and to increase public access to the display of draft planning documentation. In the Second Reading Speech for the Bill, The Hon De-Anne Kelly MP stated:*

*“The Australian government will continue to control planning and development on the airport sites, which remain Commonwealth land”,  
and,*

"The government is mindful that the planning arrangements for Australia's leased federal airports have been an area of concern for the states and territories and some local governments, who have responsibilities for planning and infrastructure provision in surrounding areas."

*This commitment to continuing the existing planning and development approvals regime is also highlighted in the Explanatory Memorandum for the Bill:*

"The key areas in which the Bill amends the Act are as follows:

- permitting non-aeronautical development at leased airports, provided such development is consistent with the airport lease and approved master plan, to make clear the Australian Government's intention at the time of privatisation of the airports;"

*The Government has addressed the issue by strengthening the consultation requirements for master planning and public commenting (through the issue of guidelines), and specifically stating the purpose of Master Plans in determining and approving non aviation developments on airports.*

*In addition, the specific requirements for airports to address local and state planning schemes in devising Master Plans remain in the Act (section 71(6)):*

"a draft or final master plan must address the extent (if any) of consistency with planning schemes in force under a law of the State or Territory in which the airport is located."

*and in S81(3)b;*

"the effect that carrying out the plan would be likely to have on the use of land:

- (i) within the airport site concerned; and
- (ii) in areas surrounding the airport;"

*Item 16 clarifies that if a proposed development is consistent with the Airport Lease and is included in a Final (Approved) Master Plan, including non-aeronautical developments, then it is consistent with the expectations of the Government.*

*Items 22 and 23 clarify the role of the Master Plan by inserting a new section 70(2):*

- (2) The purposes of a final master plan for an airport are:
  - (a) to establish the strategic direction for efficient and economic development at the airport over the planning period of the plan; and
  - (b) to provide for the development of additional uses of the airport site; and

- (c) to indicate to the public the intended uses of the airport site; and
- (d) to reduce potential conflicts between uses of the airport site, and to ensure that uses of the airport site are compatible with the areas surrounding the airport.

*The AAA is concerned about the second part of proposed paragraph (d) above which would provide that one of the purposes of a final Master Plan was to "ensure that the uses of the airport site are compatible with the areas surrounding the airport". Under current arrangements, local councils/State Governments regulate land use in surrounding areas.*

*If airport uses have to comply with specified land uses as determined by local councils and State Governments, then this may effectively inhibit the uses to which airport land may be put. For example, if a local council approves a housing development under a flight path, then section 70(2)(d) could be argued to require a Master Plan that limits airport use so that it is compatible with residents being able to sleep at night without any aircraft noise.*

*This drafting seems to be totally at odds with the Commonwealth's assertion that it wishes to retain control of planning at airports as stated in the Second Reading Speech quoted previously.*

*All leased airports have prepared Master Plans which have been approved by the Minister. In preparing those plans, the Airport Lessee Companies (ALCs) have complied with the requirements of sections 71(6)) and 81(3)b which require an ALC to take account of the local planning schemes and the effect of implementing proposed developments on the surrounding areas.*

*This process has worked well for the establishment of new industrial and commercial areas on airports. The major objections against such developments have usually come from bodies with vested financial interests in protecting their, or their constituent's, interests from competition.*

*The AAA rejects the involvement of State and local Governments in the development of on-airport commercial and industry precincts and is concerned that those agencies could interpret proposed section 72(2)(b) to relate to the assessment and provision of off-airport infrastructure systems; an issue clearly beyond the strategic intent of a Master Plan.*

*A key consideration for the Inquiry is that the State and Local Governments do not deal well with major infrastructure planning and provision. These governments have a track record of not appropriately recognising the importance of national infrastructure such as airports and the impact on that infrastructure in their decision making when considering "State" issues. Unfortunately in Australia we are beginning to see the consequences of State planning departments failing to provide the major infrastructure and associated processes.*

*This is highlighted across Australia at the moment in regard to water, roads, rail and ports.*

*In September 2006 the Planning Institute of Australia (PIA) conducted a poll of all its members to:*

*“Peer review the performance of the planning systems and current planning outcomes across the nation” (The Planning report Card - “Planners Telling It Like It Is” PIA 2006).*

*In judging infrastructure planning in all States, “no States scored very highly and most States scored poorly”. The PIA concluded for infrastructure planning that “clearly we need stronger investment in development infrastructure, better coordination across all three tiers of government, long term commitment and a stronger link to strategic planning”.*

*Further, State planning has consistently failed to protect airports from urban encroachment and hence operational constraints. This is a major issue which completely undermines the credibility of State Governments and local councils to be given responsibility for an airport’s development. The Commonwealth generally bears the responsibility for flight paths, noise complaints, the imposition of curfews and noise abatement levies and noise insulation programs as a result of the inability of the States to successfully and sustainably manage major infrastructure.*

*Clearly, the Commonwealth should have more say over controlling incompatible State/Council developments as they further limit the operations of major national infrastructure.*

## **CONCLUSIONS**

*The AAA strongly supports the proposed Amendments under which the Commonwealth would retain planning and development approvals for all airport plans and developments by the Commonwealth Minister.*

## **4 ACCC MONITORING OF SERVICES AND FACILITIES**

*A series of amendments (Items 3, 12, 151, 152, 153, 154, 155) affect the capacity of the ACCC to monitor and evaluate the quality of certain aspects of airport services and facilities and to publish reports on that monitoring. The intent of the amendments is that the airports that can be monitored by the ACCC and the scope of that monitoring can now be set in Regulations.*



*The AAA is concerned with the proposed amendment to section 150 (Item 151) to the extent that it seems to allow the ACCC not only to monitor and evaluate the quality of certain aspects of airport services and facilities in accordance with the Regulations (which it does today) but also on its "own initiative". The Explanatory Memorandum indicates the changes to section 150 are consequential to items 152-155. However, these make no mention of the ACCC being able to undertake monitoring on its "own initiative".*

*It is unclear how this "own initiative" is intended to work or why it is necessary or appropriate. Clearly the ACCC already has extensive powers to investigate matters under the Trade Practices Act. We would suggest that the ACCC does not need and should not have any general ability to expand its areas of responsibility at will. Rather, the ACCC should only be able to monitor quality of service matters if it is expressly required to do so under the Regulations.*

*As a general principle of regulatory policy, regulators should not be able to determine what they regulate. As there is no justification given for the need for any extension of the ACCC's power, the AAA believes the sentence*

*"The ACCC may also do so on its own initiative"*

*should be deleted from the proposed amendment to section 150.*

*The AAA welcomes the requirement for the ACCC to be required to consult with DOTARS and Treasury prior to providing criteria for quality of service monitoring. However, given the importance of these reports and the potential costs they may place on ALCs (and potentially other stakeholders), it is appropriate that the ACCC should also be required to consult with any organisation required to provide information under this Part.*

## **CONCLUSIONS**

*The amendments to enable the ACCC to monitor and evaluate the quality of certain aspects of airport services and facilities are supported by the AAA, with the proviso that the clause -*

*"The ACCC may also do so on its own initiative",*

*should be deleted from the proposed section 150. Further, the ACCC should be required to consult with all affected parties before setting criteria for quality of service monitoring.*

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## **5 CHANGES TO THE CAP ON THE AIRLINE OWNERSHIP OF NON-CORE REGULATED AIRPORTS**

*Amendments proposed by Items 1, 2, 17, 18, 19, 20, 21 allow for the Regulations to permit airlines to hold greater than five percent ownership of a non-core regulated airport.*

*This change has been made on the basis that it will enable a greater investment base for airports:*

*“enable the five per cent limit on airline ownership at the non-core regulated airports to be removed to improve the pool of available investment funds”.  
The Hon De Anne Kelly (Second Reading Speech).*

### **CONCLUSIONS**

*These amendments are supported by the AAA.*

## **6 THE NOMINATION OF CASA TO OVERSEE AIR TRAFFIC CONTROL, RESCUE AND FIREFIGHTING SERVICES AT AIRPORTS**

*New provisions under Items 4, and 161-165 will allow for service providers other than Airservices Australia to provide air traffic control and rescue and firefighting services at airports as long as they are licensed by CASA.*

*In the Second Reading Speech by The Hon De Anne Kelly, the issue of parties other than Airservices providing air traffic control and rescue and firefighting services was specifically raised to:*

*“allow for scope in the future for additional providers of air traffic control and rescue and fire-fighting services at the leased airports. Any such future provider would be subject to Civil Aviation Safety Authority regulatory approval and safety licensing”*

### **CONCLUSIONS**

*These amendments are supported by the AAA.*

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## **7 CHANGES TO THE AIRSIDE VEHICLE CONTROL HANDBOOK**

*Items 5, 13, 156, 157, 158 allow for the Regulations to control the use of airside vehicles through the formal adoption of the Airside Vehicle Handbook.*

*In the Second Reading Speech by The Hon De Anne Kelly, it was noted that the issue of Airside Vehicle Control Handbooks was raised to address concerns which had previously been raised by the AAA, to:*

*“enable airport-operator companies to update their respective Airside Vehicle Control Handbooks, thereby allowing them to deal promptly with issues related to the operation of airside vehicles, rather than through the current regulatory amendment process”*

### **CONCLUSIONS**

*These amendments are supported by the AAA.*

## **8 CLEAR DEFINITION OF AN “APPROVED AUDITOR”**

*The proposed amendments in Items 6 and 150 recognise a change in the Corporations Law which approves registered auditors or an “authorised audit company” to undertake audits of airport companies.*

*These new definitions of an “approved” auditor are supported as they are defined in the Corporations Law and it is up to the individual airport as to who should be engaged.*

### **CONCLUSIONS**

*These amendments are supported by the AAA.*

## **9 ANEFS**

*The proposed amendments refer to a requirement for a New Master Plan when the Australian Noise Exposure Forecast (ANEF) changes (Items 7, 39). If a new ANEF is endorsed by the Minister, then an airport has 180 days to provide a new draft master plan to the Minister for approval or later if the Minister agrees to a longer time period.*

*A second amendment is for a Master Plan to include ANEFs and also flight paths (Items 26, 30) for civil and commercial operations.*

*There are three major issues contained in this section:*

- *provision of ANEFs and flight paths in Master Plans;*
- *provision of an entire new draft Master Plan if the ANEF for an airport changes, and*
- *provision of aircraft noise information.*

## **9.1 PROVISION OF ANEFs AND FLIGHT PATHS IN MASTER PLANS**

*The issue of providing ANEFs and flight paths in Master Plans is not contested as this should be transparent if the local and State planning authorities are to take on board planning for aircraft-noise affected areas.*

*This provision is also to be taken in the context of the June 2000 Senate Committee Inquiry into "The Development of the Brisbane Airport Corporation Master Plan", where there was insufficient factual information from a variety of sources regarding flight paths.*

*The issues with the quality of ANEFs and public consultation are a result of the Senate Committee Inquiry into the BAC Master Plan and in the Government's reply to that Committee's report which included a commitment to:*

- *amend the Airports Act to require "outer" flight path information to be produced for any major development plan that could substantially affect aircraft flight paths; and*
- *have "close in" flight paths used to develop ANEF contours shown in master plan documents and the relationship between flight paths and ANEF contours discussed to provide a better community understanding of the issues.*

*ANEFs have been adopted by a few local governments in areas surrounding airports to warn prospective purchasers of the likely impact of aircraft noise.*

*Hence the continued use of the ANEF system, particularly the ultimate capacity ANEF for long-term land use planning off airport is supported.*

*This argument relates well to larger Jet RPT airports, but for the smaller GAAP airports, ANEFs are a very limited land use planning tool. ANEF 20 level contours usually barely extend beyond the boundaries of such airports, depending on the size of the airport. The vast majority of noise complaints at such airports come from communities and individuals several kilometres away from the ANEF coverage area.*

*For larger airports we would argue there is a considerable implication contained within explaining flight paths. As has been adequately stated, airports do not, in any way, shape or form, control the tracks of aircraft operating to their airport. This is entirely in the hands of Airservices Australia and is subject to a huge number of variables such as safety, weather, aircraft type and company operating procedures.*

*The issue of State and Local Governments recognising aviation impacts on areas surrounding airports has not been clearly dealt with. The Department has included some amendments which allow for longer-term Master Planning, particularly where it addresses longer-term aviation objectives. In reality, the use of Ultimate Capacity ANEFs needs to be clearly enunciated in the Bill with some commitment that a process will be put in place to ensure that they will be recognised by State and Local Government in planning schemes. This is imperative if the issues regarding aircraft noise and land use planning are not going to continue or escalate.*

## **CONCLUSIONS**

*The AAA supports the use of ultimate capacity ANEFs as it will enhance the potential for protecting the national aviation infrastructure from inappropriate development in areas surrounding airports.*

*The AAA also supports the amendments to include ANEF and flight path information in Master Plans.*

### **9.2 PROVISION OF A NEW MASTER PLAN IF THE ANEF FOR AN AIRPORT CHANGES**

*The provision of a new Master Plan if an ANEF changes is however contested.*

*From an ALC perspective, short-term trends and influences, such as variations in traffic, are generally unlikely to impact on an ultimate capacity ANEF. The Master Planning process requires a 5 year cycle, therefore if a major industry trend or factor that has the potential to significantly alter an ANEF was to present, then the 5-yearly cycle would address this. Given the costs and complexities of the Master Planning process, an ALC would obviously resist announcing such a change, deferring to the next Master Planning review.*

*The purpose of the ANEF is to help with land use compatibility planning and given the elements used in developing the ANEF it would have to be a major operational change (such as a new runway, or cessation of a runway) to initiate major changes in the ANEF - it would be difficult that such a change could not be anticipated by an ALC in the normal 5-yearly master plan process.*

*Therefore, if an Airport was to so significantly have its ANEF altered outside of the normal Master Plan review process, then it is likely to need a revised Master Plan anyway.*

*However, ANEFs can change for many reasons and some changes could be caused by third parties. A possible scenario is that the ANEF could change due to:*

- *changes in flight paths instigated by Airservices;*

- *major changes in aircraft type and movement frequency caused by Airlines; and*
- *prescribed use of a different version of the computer model used to create the ANEF (the INM model).*

*ALCs have no control over any of the above. Given the highly fluid nature of the aviation industry, some changes as described above could affect an ANEF.*

*As stated previously, Master Plans cost airports many hundreds of thousands of dollars to write, produce, consult and seek public comment on. Each time a Master Plan consultation is required, considerable debate is initiated regarding on-airport land uses and planning. It seems sensible not to open up such debates on a regular basis under the guise of just changing an ANEF.*

*In essence, there is likely to be very little change to the bulk of a Master Plan if flight paths change or frequency of movements change. However, if the change to an ANEF is significant, then a number of external assessments can then come into consideration. Under Section 60 of the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 :*

- “(1) Before a Commonwealth agency or employee of the Commonwealth gives an authorisation (however described) of an action described in subsection (2), the agency or employee must obtain and consider advice from the Minister in accordance with this Subdivision.*
- (2) Subsection (1) applies in relation to: .....*
  - (b) the adoption or implementation of a plan for aviation airspace management involving aircraft operations that have, will have or are likely to have a significant impact on the environment; and*
  - (c) the adoption or implementation of a major development plan (as defined in the Airports Act 1996);”*

*Hence the implications for an airport may extend through to the EPBC Act and associated assessments under that Act if the change warrants assessment, in addition to preparing and consulting on a new Master Plan due solely to an external agency initiating a change.*

*This situation highlights the relationship between the responsibility of an airport and those that operate at the airport and manage air traffic. Both those parties can and do change aircraft types and flight paths, but under the Airports Act it is the responsibility of the airport to deal with local and State Governments in relation to land use planning affected by off-airport noise.*

*Hence the requirement for the airport to produce a new Master Plan every time during the 5-year period of the document that an ANEF changed could potentially cost the airports considerably and require the ALC to undertake a process for a New Master Plan when only a small part has changed.*

*One solution to this is that the requirement for a new Master plan to be produced to be amended to require an ALC to produce a **variation** to a Master Plan if the ANEF changed during the five-year period. Thus only the section of the Master Plan dealing with ANEFs and aircraft noise would need to be revised, not the total Master Plan.*

*Another solution, given the cost and time required to develop a Master Plan, may be to have a materiality trigger before a new Master Plan was required or to have Ministerial discretion to require an update to the Master Plan following an ANEF change.*

*The AAA therefore suggest that the following change should be made to the Bill to reflect the realities discussed above:*

- (a) If a final Master Plan (the original plan) for an airport is in force, and a more recent ANEF for the airport is endorsed in a manner approved by the Minister, the ALC for the airport must give to the Minister, in writing, an explanation for the change in the ANEF*
- (b) If the change is not related to on airport activities or land use, the new ANEF is to be expressed to replace the original ANEF on the Master Plan.*
- (c) If the change is related to material changes of airport activities or land use, the Minister can direct the ALC to provide a draft Master Plan that is expressed to replace the original plan.*

## **CONCLUSIONS**

*The AAA does not support the requirement for a new Master Plan if a change is made to an ANEF.*

*The AAA recommends that the proposed amendments be changed to allow for a variation to the Master Plan to be required if a material change to an ANEF occurs.*

### **9.3 PROVISION OF AIRCRAFT NOISE INFORMATION**

*The AAA is supportive of the concept of providing aircraft noise information to planning authorities and surrounding communities. The nature of the information to be provided and the methods of consultation are already in existence.*

*The AAA would like to establish several points in relation to the provision of noise information.*

*Firstly, the use of an ultimate capacity ANEF for use by land use planners to protect areas from urban encroachment, or to stop higher incompatible uses under flight paths is strongly supported.*

*The experience of ALCs and the Department is however, that ANEFs are not suitable tools to explain noise levels associated with existing aircraft movements to affected residents or land owners.*

*The provision of temporal noise information and information about areas affected by aircraft noise well before the 20 year ANEF or the ultimate capacity ANEF are reached needs to be addressed separately.*

## **CONCLUSIONS**

*The AAA recommends that the ANEF process is separated from the Master Planning process and that airports are required to prepare their ANEFs. These two items would be prepared in consultation with aviation stakeholders and with local and State Governments. Twenty-year and Ultimate Capacity ANEFs could be produced for the specific purpose of long-term land use planning.*

*This recommended approach is in conformance with the initiatives outlined in the Ministers Media Release 14 November 2005:*

- d) provide for the utilisation of master plan specific Australian Noise Exposure Forecasts (ANEFs), developed by the airport lessee company in concert with local planning authorities, while also clarifying the role of ANEFs as a way of describing aircraft noise exposure.

## **10 CHANGES TO THE COST TRIGGERS FOR MAJOR DEVELOPMENT PLANS**

*There are a range of amendments relating to the triggers for the requiring of a Major Development Plan (MDP) for proposed major developments on airports.*

*The AAA strongly supports these amendments.*

*There are three areas covered by the amendments in the Bill relating to MDP triggers:*

- *the increase from \$10M to \$20M for a project;*
- *a new definition of the total project costs; and*
- *the Minister's powers to determine if consecutive or staged projects require one overall MDP.*



*The change to \$20M is regarded as reasonable as:*

- *ten years has elapsed since the original setting of the trigger value and no provision was made for commensurate increases due to inflation, CPI, increased construction costs etc.; and*
- *the additional proposed amendments now mean that site works, clearing etc. are included and this will effectively mean an expansion of the items now included in the calculation of building costs.*

*Given the above, the AAA supports the amendments to increase the trigger value to \$20M.*

### **10.1 Cost Triggers**

*The current cost trigger for a project to require a Major Development Plan is \$10M which was established in 1996.*

*The \$10M trigger value for a MDP has been amended to \$20M. This is long overdue and is supported. In addition, a commitment has been made by the Hon De Anne Kelly to amend the Regulations to increase the \$20M figure annually:*

*“An appropriate cost inflator will be included in supporting regulations so that the Airports Act does not have to be amended periodically to adjust the threshold.”*

*It is understood that the original trigger of \$10M was established in 1996 based on the operation of the Public Works Committee deliberations. Since that time, construction costs have increased markedly and the application of building cost indices clearly establishes a much higher figure. In addition, the proposed amendments mean that additional costs are now to be included when estimating the cost of a development. These include all clearing and earthworks, site preparations and potentially, site remediation. Given the condition of some of the leased airport lands, these costs could be very significant. Hence the increase to \$20M is seen as simply keeping pace with the changes in the economy for construction costings.*

*This amendment is supported.*

### **10.2 Definition of Total Costs**

*Items 8, 10, 11, and 72 change the trigger Items 73 to include all building costs. This is later defined to also include the costs of “undertaking land clearing”.*

Hence project costs used for assessing the trigger values for MDPs must now include all site and ground works, including any remediation works (Items 114 and 115). Accordingly, the increase from \$10m to \$20m is not as significant as it might otherwise appear.

### **10.3 Staged Development or Combinations of Projects**

Item 74 addresses the issue of staged development or combinations of projects requiring an MDP rather than singly not requiring such an approval:

Provides for when individual developments which individually do not exceed the MDP threshold but are consecutive or concurrent or extension to existing buildings may be determined to be subject to a MDP.

The AAA believes that, if developments are unrelated, they should not be linked through use of this proposed provision.

## **CONCLUSIONS**

The AAA supports the increase from \$10M to \$20M and the items relating to the inflator and the sequencing of developments.

## **11 CHANGES TO THE PUBLIC DISPLAY PERIODS AND METHODS FOR MASTER PLANS, MAJOR DEVELOPMENT PLANS AND ENVIRONMENT STRATEGIES**

There are a number of amendments relating to the public display and assessment processes for Master Plans, Major Development Plans and Environment Strategies. These changes also relate to variation documents for these plans and strategies.

The proposed changes occur in a number of significant areas:

- a reduction on the display times for the draft documents;
- a reduction of the assessment times by the Minister;
- changes to the display times for final documents;
- the introduction of "stop the clock" provisions for the Minister in assessment of some documents;
- the expiry date for MDP approvals is set at 5 years;
- a public interest test by the Minister for determining if a minor variation to an MDP needs Public Comment; and
- assessing the draft Master Plan against the newly described "Purposes of a Master Plan".

### ***11.1 Reductions in Display and Approvals times.***

*The amendments provide for some reductions in the display periods for Master Plans, Environment Strategies and MDPs. Also, reductions are proposed for the times the Minister has to approve or reject the documents.*

*The AAA supports the reduction in the statutory times in the Act.*

### ***11.2 Stop the Clock Provisions***

*Item 48 inserts a new section (80A) which provides a "stop the clock" mechanism to extend the period for a Ministerial decision in relation to a Master Plan where the Minister requests additional specified information.*

*The Minister will now have 50 business days (as opposed to the current 90 calendar days) to assess a draft MDP and make a decision, but again there will now be a "stop the clock" mechanism (Item 86) which could extend the assessment period indefinitely. A similar "stop the clock" provision is incorporated in the Bill for Airport Environment Strategies (Item 125A).*

*With the "stop the clock" provisions, the AAA is concerned that the approvals system is at risk of becoming almost open-ended in a manner that is incompatible with the commercial environment within which airports must operate.*

*The AAA does not dispute that it may be not inappropriate to include the "stop the clock" provisions and appreciates that each of the provisions stipulate that the Minister "believes" that the requested information is required, that it must be "relevant" to making the decision, and that what is sought must be "specified". At the same time, however, the AAA is concerned about the potential for inappropriate recourse to these new powers to unreasonably extend decision times for airport plans and developments.*

*The AAA therefore suggests that consideration be given to amending each of these Items so that:*

- the Minister must, in making a request, provide reasons why the specified information is considered to be necessary to allow a decision to be made;*
- the "stop the clock" process can be used by the Minister only once in relation to any proposed decision; and*
- the airport may restart the clock at any time by declining to provide the requested information and asking the Minister to make a decision within the remaining time on the information then available.*

### **11.3 Expiry Dates for Approvals**

*MDP approvals from the Minister are now valid for 5 years, within which the development must be substantially completed. However, the approvals can be conditionally extended for an additional two years (Item 90).*

*The AAA supports this clarification of the validity of MDP approvals.*

### **11.4 Public Interest Test**

*Preliminary draft Minor Variations to MDPs are currently required to undergo a 30 day public comment. However under Amendment 93, the Minister will apply a public interest test to see if the proposed variation should be subject to public comment. If the answer is yes, then the airport has to re-submit the minor variation to the Minister (Amendment 98).*

*The AAA supports this amendment.*

### **11.5 Purposes of a Master Plan**

*The Minister now has to consider the new purposes of a Master Plan (See Items 22 and 23 above) when assessing a draft Master Plan, subject to comments made earlier regarding Items 23(2)(d).*

*The AAA supports this amendment.*

## **CONCLUSIONS**

*These changes as proposed are not significant in terms of time savings and with 'stop the clock' provisions, little time will in reality be saved.*

## **12 RECOGNITION OF THE NAME CHANGE FROM COOLANGATTA AIRPORT TO GOLD COAST AIRPORT**

*Proposed Item 14 allows for the name change from Coolangatta Airport to Gold Coast Airport in the Act.*

## **CONCLUSIONS**

*The change of name for Coolangatta Airport is supported by the AAA.*

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### **13 ALLOWANCE FOR THE ELECTRONIC LODGEMENT OF DRAFT (OR VARIATIONS TO) MASTER PLANS, MAJOR DEVELOPMENT PLANS OR ENVIRONMENT STRATEGIES**

*Items 15, 36, 37,38, 55, allow for the electronic lodgement of documents as specified in the Act to the Minister.*

#### **CONCLUSIONS**

*The lodgement of draft documents to the Minister by electronic means is supported.*

### **14 REQUIREMENTS FOR THE PUBLICLY DISPLAYED DOCUMENTS TO BE MADE AVAILABLE ON AIRPORT WEBSITES**

*The proposed amendments require airports to place draft Master Plans, Environment Strategies and Major Development Plans, variations to any of these and final copies of the documents, on airport websites during public comment periods and when approved.*

*Also the provisions require airports to clearly state their website address in any newspaper advertisements lodged under the current notification processes.*

#### **CONCLUSIONS**

*These series of amendments are supported by the AAA.*

### **15 EXEMPTING CANBERRA AIRPORT FROM THE NATIONAL CAPITAL PLAN.**

*In Item 120, Canberra Airport is exempted from the National Capital Plan administered under the Australian Capital Territory (Planning and Land Management) Act 1988.*

#### **CONCLUSIONS**

*The amendment to exempt Canberra Airport from the National Capital Plan is supported by the AAA.*

## **16 ENVIRONMENT STRATEGIES**

*In the Minister's Press Release of 14 November 2005, the Minister stated that one of the key outcomes of the Department's review of the Airports Act 1996 was*

*"... the need for:....*

- iv) implementing an outcomes-based regulatory framework for environment matters."*

*and hence the Minister has proposed to amend Part 6 of the Act to:*

- a) make explicit the central role Airport Environment Strategies (AESs) in implementing airport environment outcomes;"*

*While no mention was made of this key outcome in the Second Reading Speech, Item 122 sets out the "Purposes of an Environment Strategy:*

*(2) The purposes of a final environment strategy for an airport are:*

- (a) to ensure that all operations at the airport are undertaken in accordance with relevant environmental legislation and standards; and*
- (b) to establish a framework for assessing compliance at the airport with relevant environmental legislation and standards; and*
- (c) to promote the continual improvement of environmental management at the airport.*

*It would appear that these purposes establish a more strict compliance regime than previously existed and one that could be implemented through Regulation. The exact nature of the proposed changes remain unclear.*

*Even if the proposed amendments are passed, there will remain a duplication of environmental management. On the one hand airports are required to manage environmental issues according to ISO14001, and on the other, have in place an Environmental Strategy.*

*Item 122 essentially states the broad components of what should be contained in an Environmental Management System (EMS) aligned with ISO14001.*

*The Airport (Environment Protection) Regulations 1997 already outline the requirement for ALCs to develop and maintain an Environmental Management System aligned to the relevant Australian and International Standard (currently ISO14001).*

*The purpose of an EMS is to outline:*

- *the ALCs requirements to comply with relevant environmental legislation ;*
- *outline how continual improvement can be demonstrated;*
- *provide a framework for ongoing review and analysis for environmental objectives and targets; and*
- *provide a framework for an ALC to reduce and manage environmental risks that it determines to be significant.*

*This said, Item 122 as it stands reinforces the duplication which exists between having both an Airport Environment Strategy and EMS in place. To streamline environmental management (and avoid duplication of information), a single framework for environmental management should be adopted and that should take the form of an Environmental Management System, not an Airport Environment Strategy. This is because the components of an Airport Environment Strategy can be quite easily incorporated into an EMS (not vice versa).*

*Rather than relying on a duplicated system of Strategies, DOTARS should accept the international standard of environmental management (ISO 14001) which all other government departments accept, and revise their standards accordingly.*

## **CONCLUSIONS**

*The AAA submits to this Senate hearing that the Bill be amended to reflect international standards of environmental management and reporting and the Airports Amendment Bill 2006 be amended to reduce the duplication in having Environmental Strategies and Environmental Management Systems operating concurrently.*

## **17 AIRPORTS SUBJECT TO PRICE MONITORING**

*Item 149 places the definition of which airports are under price monitoring under the control of the Regulations.*

*In the second reading Speech by The Hon De Anne Kelly, the reason for amendment in relation to price monitoring by the ACCC was addressed:*

*“Earlier this year the Productivity Commission commenced a public inquiry to examine the effectiveness of the price-monitoring regime in place for airport services at the seven price-monitored airports. To facilitate the timely introduction of any changes flowing from this review supported by the government, an amendment is being made to the Airports Act that will provide for future monitoring arrangements to be addressed through amendment to regulations”*

*This amendment will enable the Minister to determine which airports will be subject to price monitoring and what will be monitored and also gives the Minister powers to change these arrangements in the future through Regulation.*

## **CONCLUSIONS**

*This amendment is supported by the AAA.*

## **18 CONTROL OF GAMBLING**

*Item 159 extends the listed forms of gambling that are prohibited on airports and allows for regulations to address any other forms that may arise in the future.*

*This proposed change seems only to consolidate the existing regime and no issue is taken with the proposed amendment.*

## **CONCLUSIONS**

*This amendment is supported by the AAA.*

## **19 CHANGES TO THE SCHEDULE FOR OWNERSHIP PROVISIONS**

*Items 166, 167, 168, 169 make changes to the acceptable ownership provisions as set out in the schedule to the Act. Specifically, they address the class of person who is deemed to be an "associate of another specified person", and also redefine the ownership interests from "shares" to "direct control" or "interests" and "stakes".*

*These proposed amendments clarify some of the ownership terms used throughout the Act and appear to be relatively straightforward.*

## **CONCLUSIONS**

*These amendments are supported by the AAA.*

## **20 APPLICATION AND TRANSITIONAL ARRANGEMENTS**

*Items 171 to 174 relate to the commencement date for the amendments proposed and a number of transitional arrangements for Master Plans, Major Development Plans and Environment Strategies.*

## **CONCLUSIONS**

*These proposed amendments are supported by the AAA*



***THIS SUBMISSION IS PRESENTED TO THE SENATE STANDING COMMITTEE ON  
RURAL AND REGIONAL AFFAIRS AND TRANSPORT IN RELATION TO THE INQUIRY  
INTO THE AIRPORTS AMENDMENT BILL 2006***



*Signed.....Ken Keech  
Chief Executive Officer*

*Dated..... 24 January, 2007  
Australian Airports Association*