

**PRODUCTIVITY COMMISSION INQUIRY
INTO
THE ECONOMIC REGULATION OF AIRPORTS**

**OUTLINE OF SUBMISSIONS BY
ERIC WILSON**

GIVEN AT THE HEARING IN MELBOURNE
5 OCTOBER 2011

INTRODUCTION

This presentation concerns the present regulatory environment and Departmental policy settings affecting competition around Melbourne airport. The following shows how businesses and consumers are being gouged by the monopoly characteristics of Melbourne airport – and how investment surrounding the airport is being stifled to the detriment of the wider economy.

INITIAL POLICY SETTINGS

1. **Airport Inception** – the Commonwealth's policy as set by senior Departmental figures and Federal Cabinet, still operative today, is:

(a) **Take advantage of State planning authorities** – instead of acquiring property, use State authorities – Melbourne & Metropolitan Board of Works “M.M.B.W.”¹ – to restrict rezoning of land around the airport, then acquire surrounding land cheaply before it can be productively rezoned. Specific direction: The “Bayview” (McLaughlin) land must only be used for extractive industry.

– see memorandum for the Chief Property Officer of the Department of Interior from the Director General for Civil Aviation dated 5 October 1959, paras 1-4 & 8.

(b) **Recognise the sterilising effect of freeway on adjacent land** – locate the freeway on the border of the airport land to minimize its “sterilising effect” when land becomes isolated from the airport by the freeway.

– see letter to the Chairman of the Victorian Country Roads Board from the Director General of Civil Aviation dated 19 April 1960, page 2 item (iii).

(c) **Keep the freeway in Commonwealth hands** – instead of transferring roads of restoration to the State as promised² (in exchange for Bulla Road on which the airport is built) the freeway and Sunbury Road near the airport should remain as Commonwealth property.

– see Federal Cabinet paper of the Minister of Civil Aviation dated November 1962, last paragraph (obtained from the *National Archives*).

1 NOTE: The modern day successors to some of the the M.M.B.W. powers are Melbourne Water and Hume City Council which opposed the McLaughlin Land's development – see my response to the Draft Report 26/09/2011.

2 See Submission 183 of the Australian Senate inquiry into Government Compensation Payments (July 2010), items 8 to 14 of [Attachment 1](#)

DEREGULATION

2. **Economic deregulation of airports:** Corpritzation of aviation occurred with the vesting of property in the Federal Airports Corporation (FAC). Airport access was advertised in *The Age* by the FAC's Commercial Manager.
 - see FAC advertisement in *The Age* dated 11/10/88
3. **FAC opposes rezoning of adjacent land** – Ministry of Planning told McLaughlin land should be used for sand mining as per Departmental policy in 1(a) above.
 - see letter to Ministry of Planning from FAC Manager of Technical Services, 29 July 1988.
4. **FAC also opposed outside development for commercial reasons:** options were to locate Hertz on Commonwealth land, lease or acquire McLaughlin land, and then sublease back to Hertz. Allowing the McLaughlins to compete with their land was not an option. Alternative access costs Hertz would incur using McLaughlin land via Quarry Rd or freeway (the Hertz run-around calculation) was calculated by T.M. Cullinan.
 - see V160/8/15 filenote and Eric Wilson's and also Keith McLaughlin's responses to the Commission's Draft Report, both dated 26 September 2011.
5. **Rezoning request for adjacent airport land** – Hertz Australia Pty Ltd wrote to the Victorian Minister of Planning to have the McLaughlins' land rezoned.
 - see letter from Hertz Australia Pty Ltd to Vic Minister for Planning, 17 July 1989.
6. **Sterilisation of competing land recognised** – Melbourne Airport Land Use Study Committee, partly funded by the FAC, stated nearby land should be rezoned for industrial airport use but recognised “*questions of access across the Tullamarine Freeway must be resolved*”.
 - see Report of the Melbourne Airport Land Use Study Committee, June 1992 (as recognised in the 2008 Melbourne Airport Master Plan³) item 6.3.
7. **Sterilisation of competing land ignored** – Keith McLaughlin complained that the FAC's Bob Young is “not interested in assisting in any shape or form” when shown the Report of

3 See page 19 of the 2008 Melbourne airport [master plan](#)

the Melbourne Airport Land Use Study Committee because “we would be competition to them”.

– see fax to Ministry for Planning from Keith McLaughlin dated 5/8/83

8. **Freeway crossing in FAC plans** – Terminal and Precinct Study (TAPS) shows Victoria Street overpass to allow access east of Freeway. (Unfortunately it also showed a proposed heavy rail link and a proposed freeway realignment through the middle of the McLaughlins' land which took years to resolve.)

– see Melbourne International Airport Terminal and Precinct Study, Figure 7 – Draft Master Plan, September 1993

9. **FAC invests in car parking business** – transport users association objects to car transport “lock in” that will “*delay for many years, if not forever, the possibility of a public transport link*”. Note not all the land at that time was used by the multi-story car park, which was expanded later.

– see column 3 of newspaper article dated 20/2/1995

PRIVATISATION

10. **FAC staff transferred to airport lessees** – imposition on new “airport owners” by Federal statute – see [Part 9](#) of *Airports (Transitional) Act 1996 (Cth)*.

11. **Terminal access cut** – Tim M Cullinan (the FAC property officer who did the Hertz run-around calculation) as Melbourne airport property officer approves cutting of direct terminal precinct access from the competing McLaughlin land. McLaughlins must use 7km trip via Western Avenue, Mickleham Road & Freeway..

– see letter from Melbourne airport lessee property officer to McLaughlin solicitor dated 9 March 1999.

12. **Contamination scare started** – Bob Jones (the FAC planning officer who ignored the sterilisation of the McLaughlins land) as Melbourne airport planning officer alleges contamination issues affecting airport land at Victorian Civil Administrative Tribunal in opposition to the McLaughlin land's development.

– see Statement of Grounds dated 16/01/2003

13. **Vic Roads raises surrounding land owners' issues** – approval of airport lessee's APAC drive extension near Victoria Street was made contingent by Vic Roads on solving access issues for northern land holders.
 - see second last paragraph of Vic Roads letter to Melbourne airport lessee dated 17/03/2003.

14. **Limited access proposed for surrounding land** – the airport lessee uses Hume City Council to distribute a concept layout which shows a freeway connection to Western Avenue.
 - see second last para in Melbourne airport lessee's attachment to letter from Hume City Council to McLaughlin, 28 & 29 September 2004.

15. **No freeway overpass in sight** – McLaughlin's consulting engineer reports Vic Roads says overpass may not be built by airport lessee “*for some time*”.
 - see fax from John Randles and Associates to Keith McLaughlin dated 16/11/04.

16. **Another freeway interchange proposed** – Hume City Council proposes another freeway interchange near Victoria Street to allow duplicated two-way freeway access for the Northern land owners.
 - see Aitken Boulevard (E14) map dated August 2008 with Victoria Street blow up attached.

17. **Sterilisation of competing land ignored again** – the Melbourne Airport Ground Transport Plan (July 2009) commissioned by the Minister completely ignores the lessee's commitment to allow Western Avenue freeway access and Hume City Council's Aitken Boulevard (E14) Victoria Street interchange proposal. While purporting to consult with State and local government authorities, the Transport Network Improvements page shows the land to the North-East of the freeway as sterilised with none of those land owners' access issues resolved.
 - see Melbourne Airport Ground Transport Plan (July 2009), pages v and 52.

18. **McLaughlin land unsterilised after acquisition by airport lessee** – the airport lessee unregistered the former McLaughlin land's carriageway easement from its title. The street

address was then switched to “Sunbury Road Melbourne Airport”. (e.g..the destroyed Quarry Road access was known as “off Sunbury Road”). So the access the McLaughlins tried to obtain for over 20 years⁴ was simply granted by the airport lessee to itself after it became the owner of that land comparatively cheaply, before the land could be developed (Largely because of the airport's opposition). This was accomplished by the airport lessee's former FAC employees implementing the Commonwealth's Departmental policies of 1(a)(b) & (c) above.

19. **Airport lessee claims vindication** – in its [response](#) to the Commission's draft report (23/09/2011), the airport lessee used the Commission's initial findings (which only spoke of no evidence at that time) to vindicate its actions. In this way, it has tried to justify a watering down the Commission's proposed show-cause regulations. However, the above demonstrates the Melbourne airport lessee is far from a model citizen, and that both it and the Department (as a commercial lessor) require further regulation.
20. When one compares the development around Sydney airport with Melbourne airport, its easy to see why Melbournians can't understand why land surrounded by empty paddocks, attracts CBD parking prices. The above explains how this is done.
 - see aerial photographs of Melbourne and Sydney airports

CONCLUSION

21. It is in the public interest that the Commission's “enforcement pyramid” should be strengthened at the base levels (as well as the higher “show-cause” levels) since the “monopoly characteristics” of the Melbourne airport lessee go beyond mere pricing. Even threatening to create a State planning dispute, such as in the McLaughlins case, jeopardises council budgets, which may cause them to yield to excessive demands. Airport lessee's must be made accountable, and no longer able to misuse the Commonwealth's powers or hide behind Commonwealth's jurisdiction. So unless the Commission moves the Government to action, investment in the land surrounding Melbourne airport will continue to fall behind, allowing the lessee to continue to enjoy a largely competition-free zone.
22. Therefore, if it pleases the Commission, I urge it to consider the recommendations in my response (26 September 2011) to the Draft Report, and the submissions of former Victorian

⁴ See [Submission 183](#) of the Australian Senate inquiry into Government Compensation Payments (July 2010)

Ombudsman and Director of Consumer Affairs, Norman Geschke.