

Productivity Commission Major Project Development Assessment Processes Inquiry

Submission prepared by the
Australian Airports Association

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INTRODUCTION

The Australian Airports Association (AAA) is the national industry voice for airports in Australia. The AAA represents the interests of more than 260 airports and aerodromes Australia wide – from local country community landing strips to major international gateway airports. The AAA's members include Adelaide, Brisbane, Cairns, Canberra, Darwin, Gold Coast, Hobart, Perth, Melbourne and Sydney airports. There are a further 100 corporate members who provide goods and services to airports. The Charter of the AAA is to facilitate co-operation among all member airports and their many and varied partners in Australian aviation, whilst maintaining an air transport system that is safe, secure, environmentally responsible and efficient for the benefit of all Australians.

ABOUT THIS SUBMISSION

The AAA welcomes the opportunity to participate in, and comment on, this important and significant inquiry being undertaken by the Productivity Commission in relation to Major Project Development Assessment Processes.

All major and most other airports who realistically might undertake what may be termed a “major development project” are members of the AAA.

This submission focuses only on the issues raised in the Productivity Commission's February 2013 Issues Paper that are of the greatest relevance to these airports. To a considerable degree, it reflects a consensus view of Australian airports insofar as it is capable of application to airports.

However, no two airports are the same, and some airports may also lodge their own individual submissions. At the very least those submissions would be expected to complement this submission by elaborating on the operating environment of the particular airport. However, it may also be that some individual member airports could have a different view on some matters canvassed in this submission. Should that be the case, we would expect that particular airport to raise those issues in their own individual submission, and we ask that those submissions be given full consideration in their own right.

EXECUTIVE SUMMARY

Australia's airports make a unique contribution to the economic and social well-being of Australia and its people. Not only do they generate employment for those who directly work for or at the airport itself, but through facilitating the movement of people and goods they allow the entire economy and community to function more effectively.

The far-reaching economic and social value of Australia's airports is readily demonstrated by two recent publications of the AAA:

- *Connecting Australia – the economic and social contribution of Australia's airports -*, a study conducted for the AAA by Deloitte Access Economics which showed that, in 2011, Australia's airports generated a total economic contribution of around \$17.3 billion – equivalent to around 1.2% of Gross Domestic Product – and estimated that national employment at airports was approximately 115,200 full-time equivalent workers - is available on line at www.airports.asn.au; and
- *Australia's Regional Airports – Facts, Myths and Challenges* - a major research paper that identified the most important of these Australian airports, brought together little known and seldom recognised facts about Australia's regional airports, sought to dispel various myths that circulate about them, and catalogued the serious challenges they face in meeting the future needs of the communities they serve - is available online at www.airports.asn.au

The capacity of Australia's airports to continue to meet the increasing demands placed upon them by the economies and communities they serve is fundamentally dependent upon their being able to secure timely, efficient and sensitive governmental approval for the major development projects that are frequently required to maintain and upgrade their operational infrastructure.

The National Aviation Policy White Paper states the Government policy on airport planning and development as "Improved planning at Australia's airports to facilitate better integration and coordination with off-airport planning and continued investment in Australia's airport infrastructure and land transport links."¹

Now three years on, the expectations placed on airports have increased drastically with pressure from the Government to harness the burgeoning opportunities of the Asian Century while emerging from global economic uncertainty. While it is the clear policy of the Government to encourage private investment in aeronautical assets, the legislative settings have not kept pace with this agenda and continue to obstruct investment in future aviation operations.

Australian airports are subject to two fundamentally different major development project assessment processes:

- Airports regulated under the *Airports Act 1996* (Cth)² are subject to an airport-specific Commonwealth regime for Master Plans and Major Development Plans, to the exclusion of State and Territory planning laws;
- All other airports³ are subject to generally applicable, non-airport-specific State and Territory planning laws.

For Airports Act airports, the AAA believes that it is essential that these remain subject to common and consistent centrally-administered Commonwealth planning laws and not brought under the diverse and locally administered planning laws of the State, Territory or local government area in which the airport happens to be physically located.

At the same time, the AAA submits that the present Airports Act planning regime is not ideal and that a number of amendments (detailed in this submission) should be made to it to enable it to deliver Government policy and to meet best practice.

In 2011 the Productivity Commission summarized leading practices for planning and development assessments⁴ including:

- provide clear guidance in strategic plans but allow for change (with good engagement, transparency and probity provisions)
- engaging the community fully
- broader and simplified land use controls
- rational and transparent allocation rules for infrastructure costs
- risk-based and electronic development assessment

- timeframes for referrals, structure planning and planning scheme amendments
- transparency & accountability for DA assessment paths
- limit anti-competitive objections and appeals
- collect and publish data on land supply, development assessment, rezoning and appeals

with the aim of reducing regulatory duplication across planning and development; applying only necessary time periods for assessments; and focusing on risks in development assessments.

The Airports Act planning regime does not fully align with such practices.

The amendments proposed to it by the AAA in this submission would allow it to better facilitate Australia's economic and social development, assist cities in achieving the Council of Australian Government principles to plan for growth, and facilitate investment in infrastructure priorities.

For all other airports, the AAA supports the need to ensure that State, Territory and local government general planning laws and processes achieve international best practice. The need for timely, efficient and sensitive project assessment processes at airports is as important for airports as it is for any other major development project.

For all airports, there is a pressing need to ensure that their present and potential operations are not prejudiced or denied by State, Territory or local government approvals for what may be either major or non-major development projects in the vicinity of an airport. It is not enough for there to be an efficient assessment process for major development projects on-airport; it is also essential that assessment processes for off-airport developments do not undermine airport viability.

While the National Airports Safeguarding Advisory Group has made some significant progress in developing a National Airports Safeguarding Framework, this is not yet comprehensive or certain in the protection it affords. The Framework needs to be further developed and embodied in nationally consistent laws.

In regard to aircraft noise in particular, the AAA acknowledges as international best practice the International Civil Aviation Organisation 'Four Pillars'⁵:

- Reduce noise at the source;
- Limit incompatible development;
- Apply noise abatement procedures; and
- After these have been applied, only then apply operating restrictions.

ABOUT AUSTRALIA'S AIRPORTS

There are, according to Airservices Australia, over 2000 airports and airfields in Australia.

The AAA recently published a major research paper that identified the most important of these Australian airports. In particular it brought together little known and seldom recognised facts about Australia's regional airports, it sought to dispel various myths that circulate about them, and it catalogued the serious challenges they face in meeting the future needs of the communities they serve. A copy of that paper, *Australia's Regional Airports – Facts, Myths and Challenges*, is available online at www.airports.asn.au.

The AAA also recently published a study conducted for it by Deloitte Access Economics which showed that, in 2011, Australia's airports generated a total economic contribution of around \$17.3 billion – equivalent to around 1.2% of Gross Domestic Product – and estimated that national employment at airports was approximately 115,200 full-time equivalent workers. A copy of that study, *Connecting Australia – the economic and social contribution of Australia's airports*, is available online at www.airports.asn.au.

These documents together readily demonstrate the importance of all Australian airports – both for the vital contributions they individually make to their local communities, and for the contributions they collectively make to Australia's overall economic and social welfare.

But what they also graphically demonstrate is the vast diversity of Australia's airports. Our largest international gateway airports account for the overwhelming majority of airport traffic, and traffic volumes fall dramatically when compared to other less major airports.

This can be readily seen from the following statistics for traffic just at Australia’s ten busiest Regular Public Transport airports:

Passenger Movements 2011-12

	Domestic Airlines	Regional Airlines	Int’l Airlines	Total
Sydney	21,962,732	2,006,762	12,017,305	35,986,799
Melbourne	20,614,457	684,156	6,657,880	27,956,493
Brisbane	14,763,141	1,590,473	4,520,004	20,873,618
Perth	7,963,378	563,658	3,469,758	11,996,794
Adelaide	5,771,730	556,513	618,749	6,946,992
Gold Coast	4,591,303	10,263	725,004	5,326,570
Cairns	3,054,803	383,778	504,200	3,942,781
Canberra	2,640,030	518,655	0	3,158,385
Darwin	1,515,343	172,069	357,210	2,044,622
Hobart	1,813,369	1,268	0	1,814,637

Source: BITRE

By way of contrast, larger regional airports may have RPT passenger numbers of only 1-300,000 per annum, and for smaller regional airports the figure may be well less than 10,000 per annum.

Nevertheless, each airport is of vital importance to the community it serves.

Despite this diversity in passenger numbers, it would be a mistake to assume that “major development projects” (however that term may be defined) would be confined to only the largest airports such as those listed above.

Airport infrastructure such as runways and taxiways necessitate high capital expenditure, and even small rural and remote airports can be under comparatively sudden and urgent pressure to commit to such major developments to support their local economy and community where, for example:

- Local economic development, such as the opening of a new mine, requires that the airport have the capacity to accommodate new traffic comprising larger aircraft regularly carrying a “fly-in/fly-out” workforce; or
- The trend amongst airlines towards the use of larger and heavier aircraft on regional routes requires a regional airport operator to substantially upgrade its infrastructure just to maintain existing levels of passenger and freight traffic.

Accordingly, therefore, while the desire of Australian airports to see enhancement in major development project assessment processes may be most keenly felt at our major capital city and tourism destination airports, this is an issue of concern to effectively all Australian airports.

The recent past has seen major investment in Australia’s key airports to the benefit of airports, airlines and the Australian community. But major future investment is still required and it is essential that the regulatory settings, including especially those related to major development project assessment processes, should not jeopardise the capacity of airport operators to raise the necessary funds or the preparedness to undertake the risks inherent in expending such funds.

Airports are capital intensive businesses. Large investments must be made in assets that have no alternative purposes, exhibit decreasing costs over their useful lives and may be in service for up to one hundred years. Recognising and minimising inefficiencies in relation to these long-term investments is crucial to ensuring the long-term dynamic efficiency of the industry.

The potential costs of getting this wrong in an industry of national importance can be enormous. The long vessel queues that formed off the Port of Newcastle in 2003/04 – due largely to a chronic shortage of port and transport infrastructure – is an obvious illustration of the potential costs of under-investment. The negative impacts upon the Australian economy if similar bottlenecks emerged in the aviation sector

would be equally, if not more wide-reaching. Fortunately, the experience at airports has been altogether different and positive.

Since 2002, airports have continued to invest to cater for growing passenger numbers, to improve the quality of the services offered to customers – passengers and airlines alike – and to enhance the efficiency of their operations. In total, airports have invested more than \$3.5 billion in aeronautical services over the last nine years, growth of almost 50 per cent per annum on average.

In addition, many of the investments that have been undertaken have been of an ‘airport changing’ nature, and have improved markedly the quality of service offered to customers. Some of the more notable examples include:

- (a) the opening of the new airport multi-user terminal at Adelaide Airport, with substantially improved facilities, services and business opportunities;
- (b) the expansion of the international terminal at Brisbane Airport, which also offered significant improvements, and the commencement of new runway works;
- (c) the ongoing investment taking place at Canberra Airport completely redeveloping the Canberra Airport terminal building;
- (d) the extension of the main runway at Gold Coast Airport which allowed the direct introduction of long haul international flights which was originally not possible; the surrender of the Qantas Domestic Terminal Lease and the complete redevelopment and expansion of the main terminal building to accommodate a common user international and domestic terminal;
- (e) the terminal expansion programme and expansion of aero-bridge gate capacity at Melbourne Airport;
- (f) the redevelopment and upgrade of the international terminal at Sydney Airport; and

(g) the \$200M T2 (Domestic Terminal) Redevelopment followed by \$15M + upgrade works for T1 (International Terminal) at Cairns Airport.

However, it is also obvious that substantially more investment is going to be needed over the next ten to twenty years to meet the projected growth in passenger numbers. Indeed, by 2029-30, annual passenger numbers are forecast to exceed 230 million – a 250 per cent increase on current levels. The Hon Anthony Albanese MP has recently estimated that in the order of \$13 billion will need to be invested by airports in the next 10 years alone to keep pace with aviation demand, particularly from Asian nations.⁶

The AAA has no doubt that improving the major development project assessment processes as they apply at Australian airports will be very significant in facilitating this major new investment in a timely and efficient manner.

DEVELOPMENT PROJECT ASSESSMENT AT AUSTRALIA'S AIRPORTS

Depending upon their antecedents rather than other attributes such as location or size, Australian airports are subject to one or other of two very different project assessment regimes:

- Airports regulated under the *Airports Act 1996* (Cth)⁷ are subject to an airport-specific Commonwealth regime for Master Plans and Major Development Plans, to the exclusion of State and Territory planning laws;
- All other airports⁸ are subject to generally applicable, non-airport-specific State and Territory planning laws.

The Airports Act specifically provides⁹ that the planning laws of the States and Territories do not apply to the airports regulated under that Act. This means that, regardless of their location, Airports Act airports are subject to a single, consistent and centrally administered Commonwealth planning regime.

Given their continuing ultimate Commonwealth ownership and the fact that these major airports are often in competition with each other to attract and retain airline customers (including through the provision of new infrastructure), the AAA believes that it is essential that this present situation should continue. It would be a highly retrograde step for Australia's major airports to be brought under the planning laws of the State, Territory or local government area in which they are located.

So far as the non-Airports Act airports are concerned, the AAA accepts that it would be unrealistic to expect that Commonwealth, State, Territory and local governments would agree to implement a common national airport-specific planning regime, no matter how attractive that might be.

Accordingly, it is the hope of non-Airports Act airports that the Commission's review of State, Territory and local government general planning regimes will lead to enhancement of those processes to bring them up to international best practice. The need for timely, efficient and sensitive project assessment processes at airports is as important for airports as it is for any other major development project.

ISSUES WITH DEVELOPMENT PROJECT ASSESSMENT UNDER THE AIRPORTS ACT

While urging the continued application of the Airports Act planning regime to those airports that are subject to that Act, the AAA and its affected members nevertheless wish to stress that they consider the present regime is far from perfect. There are a number of changes that should be made to it to improve its operation. These changes would allow it to better facilitate Australia's economic and social development while still doing so in a manner consistent with processes to properly safeguard broader community concerns and interests.

Under the Airports Act, every five years each airport must prepare, and secure the approval of the Commonwealth Minister for Infrastructure and Transport for, a 20-year Master Plan. The required content of a Master Plan is prescribed in detail in the Act¹⁰. So too are the extensive stakeholder and public consultation processes that must be undertaken by the airport operator in preparing its Master Plan¹¹ or in seeking Ministerial approval for any minor variation of it¹².

Securing approval for a Master Plan does not, however, entitle the airport operator to proceed to undertake any development proposals outlined in the Master Plan, notwithstanding that these may have been detailed extensively in the Plan and been the subject of full consultation with stakeholders and the public in the course of developing and seeking approval of the Master Plan.

Instead, the Act prescribes a group of "major airport developments"¹³ for which a separate Major Development Plan must be prepared and Ministerial approval sought. It is an offence for an airport operator to proceed with a defined major airport development, or allow such a development to proceed, unless that is in accordance with an approved major Development Plan or there is an applicable exemption under the Airports Regulations¹⁴.

Again, the Act prescribes in detail the required content of a Major Development Plan¹⁵ and the extensive stakeholder and public consultation processes that must be undertaken by the airport operator in preparing it¹⁶ or in seeking Ministerial approval to a minor variation of a previously approved major Development Plan¹⁷.

While the Minister is *prima facie* required to approve or refuse approval for a Master Plan or variation of it or a Major Development Plan or variation of it within a prescribed time limit of 50 business days, the

Minister may not only allow himself a further 10 business days¹⁸ but is also able to “stop the clock” by requesting further information from the plan or variation proponent¹⁹.

Airports believe that these processes are unnecessarily protracted, inconsistent with planning and development processes in other jurisdictions and overly prescriptive in a number of respects. The Productivity Commission should apply performance benchmarking criteria to airport planning and development in line with its 2011 benchmarking of planning, zoning and development assessments.²⁰ This is particularly relevant to airport sites because of their positioning within city planning frameworks.

It is submitted that the following changes should be made to them to avoid unwarranted delay, complexity, cost and intrusion into the development processes at airports:

1. The present prescribed period allowed for public and stakeholder comment upon a draft Major Development Plan is *prima facie* 60 business days (ie, 3 months)²¹. While the Act does allow the Minister a discretion to approve a shorter consultation period of no less than 15 business days, this is a constrained discretion²² and seeking exercise of it could take more time than would be saved if it were actually granted. Airports believe that it would be appropriate to reduce the required consultation period to around 21-28 days and the permitted period for Ministerial approval to a similar timeframe, in line with that required in most State and local government approval processes.
2. The definition of “major airport development” in a number of cases triggers the requirement for a Major Development Plan only when the estimated cost of project construction reaches \$20 million²³. While the Act allows a higher figure to be substituted by Regulation, that has not occurred. Airports believe that the \$20 million threshold, which has been in place for some considerable time, is now far too low. It is submitted that, given the significant growth in construction costs over recent years, the threshold should be increased to \$50 million and provision made for automatic annual adjustment by reference to movements in a suitable construction costs index.
3. Amendments to the Act over time have increased the level of detail required in both Master Plans and Major Development Plans. To some extent, these dual requirements involve an unnecessary

duplication of the resource and effort required on the part of the airport operator. Moreover, because the Act provides that the Minister cannot approve a Major Development Plan unless it is consistent with a currently approved Master Plan²⁴, the increased level of detail required in a Master Plan greatly increases the potential for inconsistency to arise, thereby necessitating the further time-consuming requirement for the airport operator to seek Ministerial approval of a minor variation to the airport's Master Plan. It is the view of airports that the detail currently required in a Master Plan should be scaled back so as to limit the duplication of effort required and the risk of inconsistency. Given the requirements for public and stakeholder consultation at the Major Development Plan stage, there would be no adverse effect on affected parties by implementing this recommendation.

4. There should be a capacity for the Minister to waive the requirement for a Major Development Plan where a project falling within the definition of "major airport development" has been described in sufficiently full detail in a Master Plan with the result that there would be nothing to be gained by requiring further and essentially duplicated public and stakeholder consultation during a Major Development Plan process. The Act already includes some discretion for the Minister to waive the Major Development Plan requirement²⁵, but this discretion is too limited. For example, where a new or extended runway has been sufficiently detailed in a Master Plan and subjected to the requisite degree of consultation, there should be no need for that process to be repeated in the course of a major Development Plan process.
5. The Act provides that, unless the Minister otherwise stipulates, a Major Development Plan approval requires that the project in question must be "substantially" completed within a 5 year period specified in the approval. There is no definition of what constitutes "substantial completion", and this can give rise to difficulty for airports and their project financiers in deciding whether or not to proceed with particular projects already approved by the Minister. The AAA considers that there should be no time limit imposed on the completion of a project otherwise considered by the Minister to be suitable to proceed. Alternatively, if there is to remain a requirement for substantial completion within any specified period, it would be appropriate for that term to be meaningfully defined.

6. There is an apparently unnecessary duplication and confusion of regulatory requirements as between the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and the *Airports Act 1996*. The former requires an environmental assessment and approval where a proposed development has, will have or is likely to have a significant impact in the environment, while the latter requires a Major Development Plan where a proposal is of a kind that is likely to have significant environmental or ecological impact. While each process focuses on the same development, the required assessments are somewhat different for no apparent benefit. The AAA recommends that the Airports Act requirement should be deleted, so that only the *Environment Protection and Biodiversity Conservation Act 1999* applies.

CONCERNS WITH OFF-AIRPORT DEVELOPMENT

The capacity of an airport to operate as an airport is fundamentally dependent on what occurs on the land surrounding it. The erection of structures that physically intrude into the flight paths of arriving and departing aircraft can clearly limit or prevent use of the airport. But so too can other developments that are less obvious. For example:

- Insensitive residential developments under flight paths may lead to complaints about aircraft noise and eventually lead to the introduction of curfews or even the closure of an airport;
- Industrial activities that generate smoke or similar hazards may constrain use of an airport;
- Other activities such as agriculture, animal husbandry or wetland developments may attract birds and pose a distinct hazard to aviation.

There is no uniform regime that requires developments around airports to be subjected to scrutiny to assess their potential impact upon an airport.

CASA has some limited capacity under Regulations made under the Civil Aviation Act 1988 to approve or not approve buildings or structures in limited areas around airports, but only in respect of Sydney, Bankstown, Moorabbin, Adelaide, Melbourne and Essendon airports. And the Secretary of the Commonwealth Department of Infrastructure and Transport has some capacity to act to protect airspace around airports under the Airports (Protection of Airspace) Regulations 1996.

But none of this legislation provides any comprehensive protection for Australia's airports.

In its 2009 Aviation White Paper the Commonwealth Government proposed the development of a national land use planning framework that would:

- Improve community amenity by minimising noise-sensitive developments near airports including through the use of additional noise metrics and improved noise-disclosure mechanisms; and

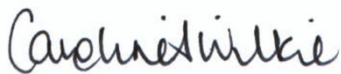
- Improve safety outcomes by ensuring aviation safety requirements are recognised in land use planning decisions through guidelines being adopted by jurisdictions on various safety-related issues.

The subsequently established National Airports Safeguarding Advisory Group (NASAG) comprising of Commonwealth, State and Territory Government planning and transport officials, the Department of Defence, CASA, Airservices Australia and the Australian Local Government Association (ALGA) has made significant progress in developing a National Airports Safeguarding Framework but this is not yet comprehensive or certain in the protection it affords.

The AAA urges that the Commission recommend that the Framework should be further developed and embodied in nationally consistent laws.

Should you have any comments or concerns, please feel free to contact Salomon Kloppers at the AAA on 02 6230 1110.

Regards



Caroline Wilkie
Chief Executive Officer

NOTES

- 1 2009 *National Aviation Policy White Paper* Australian Government
- 2 ACT - Canberra;
NSW – Sydney, Bankstown, Camden;
NT – Darwin, Alice Springs;
Qld – Brisbane, Gold Coast, Townsville, Cairns, Mackay, Archerfield;
SA – Adelaide, Parafield;
Tas – Hobart, Launceston;
Vic – Melbourne, Essendon, Moorabbin;
WA – Perth, Jandakot.
- 3 Except Cairns Airport, which is subject to an airport-specific regime under Queensland legislation that is based on, but not identical to, corresponding provisions of the *Airports Act 1996 (Cth)*
- 4 Coghlan, P., Bell, Rosalyn. 2011 *Performance Benchmarking of: Planning, Zoning and Development Assessments* Productivity Commission
- 5 ICAO A33-7 A *Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection* page 11.
- 6 25 February 2013 *Airports Need Almost \$13billion: Albanese* The Australian
- 7 ACT - Canberra;
NSW – Sydney, Bankstown, Camden;
NT – Darwin, Alice Springs;
Qld – Brisbane, Gold Coast, Townsville, Cairns, Mackay, Archerfield;
SA – Adelaide, Parafield;
Tas – Hobart, Launceston;
Vic – Melbourne, Essendon, Moorabbin;
WA – Perth, Jandakot.
- 8 Except Cairns Airport, which is subject to an airport-specific regime under Queensland legislation that is based on, but not identical to, corresponding provisions of the *Airports Act 1996 (Cth)*.
- 9 In sections 112 and 112A.
- 10 Section 71
- 11 Sections 79 and 80
- 12 Section 84A
- 13 Defined in section 89

- 14 Section 90
- 15 Section 91
- 16 Sections 92 and 93
- 17 Section 95A
- 18 Sections 81(5), 84(2), 94(6) and 96(3)
- 19 Sections 80A and 93A
- 20 Coghlan, P., Bell, R. 2011 *Performance Benchmarking of: Planning, Zoning and Development Assessments* Productivity Commission.
- 21 Section 92(2A)
- 22 Section 92(2B)
- 23 Sections 89(1)(e) (non-passenger terminal building); 89(21)(f) (new taxiway); 89(1)(g) (taxiway extension); 89(i)(h) (new road); 89(1)(j) (road extension); 89(1)(k) (new railway); and 89(1)(l) (railway extension)
- 24 Section 94(5)
- 25 Section 89(5)