

31 July 2009

Nicholas Dowie
Planning Policy and Environment Section
Airports Branch
Department of Infrastructure, Transport,
Regional Development and Local Government
GPO Box 594
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Email: safeguarding@infrastructure.gov.au

Dear Mr Dowie,

Re: Safeguards for airports and the communities around them – Discussion Paper

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with both government and the community.

The Urban Taskforce has previously provided comment to the Department of Infrastructure, Transport, Regional Development and Local Government on the Government's paper - *Development of a National Aviation Policy Statement and National Aviation Policy Green Paper*. We are now pleased to provide further comment on the *Safeguards for airports and the communities around them – Discussion Paper*.

It is worth noting that many of the Urban Taskforce concerns raised during the earlier consultation process have been acknowledged in this green paper. In particular, it is encouraging to see that the Government recognises the challenges faced by the development industry and planning authorities in the vicinity of Commonwealth owned airport sites. Be that as it may, consultation and collaboration on planning matters is not a sufficiently definitive solution to complex airport infrastructure and land-use issues.

Because the Urban Taskforce represents property developers, our interest and comments will focus on land-use planning and development issues raised in the discussion paper. The discussion paper poses a number of land-use planning questions worthy of consideration. These are replicated below followed by comments from the Urban Taskforce.

1. The ANEF system provides certainty

1. Does the ANEF system provide an effective basis for planning in noise affected areas?
2. How effective is the ANEF system as a land use planning standard for greenfield developments around airports?

The Australian Noise Exposure Forecast (ANEF) system can be an effective planning tool when considering land use in the vicinity of airports. If we are able to look beyond the questionable assumptions upon which the ANEF is generated, the ANEF system does provide clarity and certainty for developers.

A developer may use the ANEF system to consider the need for specialised building elements to meet acoustic standards. With this clear knowledge the decision to invest and potential return on investment can be determined.

The current system is clear. Lines are drawn on a map and appropriate land-uses permitted. The Australian Standard clearly specifies if specialised building elements are required to meet acceptable internal noise criteria for a particular land-use. Therefore, the answer to the above questions is obvious, the current system is an effective basis for planning in existing noise affected areas and greenfield areas.

Should an alternative planning system be considered, it must provide an equivalent level of clarity and certainty as that provided by the ANEF system.

The Government does not necessarily need to abandon the ANEF system to improve planning in the vicinity of airports. It is the way that the ANEF contours are establishment that requires the attention of Government.

Questionable methodology employed by some airport operators, has received attention in the Federal Court of Australia.¹ It is apparent that the assumptions used as the major inputs for the generation of the ANEF contours are not only variable, but also not checked by Airservices Australia, as part of their endorsement process. That is, Airservices Australia's role is one that focuses on the checking of the mathematical translation of assumptions into contours. However, whether the assumptions used are valid is not the role of Airservices Australia when determining if an ANEF for an airport, should be endorsed.

It is of great concern that the practice of Airservices Australia, when determining whether an ANEF may be endorsed, "is not to assess any of the data in a qualitative way, or to seek to determine the likelihood of the assumptions behind the relevant data actually occurring".²

ANEF contour maps have the capacity to dramatically impact on the development potential of land in the vicinity of an airport and we do not think that it is appropriate that the maps be prepared by the operator of the airport alone. An operator should not be entitled to make their own forecasts of a possible future operating environment without extensive testing of assumptions and validation of predictions.

For example, operators of Canberra Airport, when revising their master plan, made the assumption that Canberra airport will have the same ultimate aircraft movements as Sydney's Kingsford Smith Airport. Furthermore, heavier aircraft movements, at noise sensitive times, were factored into the assumptions. This overestimation of aircraft movements and bias to noisier aircraft at sensitive times, multiplies the impacts on the ANEF charts. Essentially, unrealistic assumptions, have the affect of over estimation of impact and hence land-use restriction.

Surely it is clear that it is in the interest of an airport operator to overstate the future operating environment of their airport as a means of creating artificially expanded exclusion zones in their vicinity. This is a position for an airport operator to take (from its selfish interest) to minimise its own commercial risk, given that the social and economic costs of a overly wide buffer zone are borne by others, not the operator itself.

The preparation and finalisation of ANEF contours, including the formulation of the underlying assumptions, should not be handled by the airport operator.

Aircraft noise must be properly considered and appropriate planning must be undertaken, to permit development that is suited to local environmental conditions. Appropriate planning does not require the abolition of the ANEF system. It certainly does not require that valuable land in the vicinity of airports should have its development potential restricted by the inappropriate use of the ANEF.

ANEF and building regulation in the vicinity of airports (existing and future) should not focus on the exclusion of certain land-uses. Building regulation should consider the desired internal acoustic environment for differing land-uses in the vicinity of airports and then provide acceptable standards of construction to meet these requirements and/or the opportunity for the formulation of design solutions to meet acoustic goals for the desired land-use. Essentially,

¹ *The Village Building Co Limited v Airservices Australia* (2007) FCA 1242.

² *Ibid.*

no land-use would be prohibited, instead, building regulation would seek to ensure that design and construction is appropriate for differing end uses.

In fact, areas in the vicinity of airports and good supporting ground infrastructure, should be viewed as an area of opportunity and commerce. This should be a district where intense, high quality industry and business activity is permitted. Within this area, appropriately designed and constructed residential development should also be permitted.

Growth, commerce and industry must not be unrealistically restricted near airports and it is the role of planning to facilitate the right type of development in key locations.

2. **Airport Planning must integrate consideration of on-site land-use with off-site environmental impact to meet community expectation.**

4. How can the current planning arrangement to address developments in noise-affected areas around airports and under flight paths be improved to take account of community expectations, while also providing for the reasonable growth of aviation activity at airports?

To be of any real value, planning in the vicinity of airport must consider on-site airport development in the context of the locality. The consideration of airport land-use in isolation does not encourage good planning outcomes for the people residing, working and schooling in the area. Other factors such as the changing commercial and social environment brought about by additional expansion at the airport can also be easily overlooked. The current system that separates the approval functions for airports on Commonwealth land does not encourage a holistic land-use planning approach.

In the case of Commonwealth land, approval for on-site airport development is divorced from the impact on communities in the vicinity of the airport. Two levels of government are involved in the planning process, which is often the cause of conflict between the different levels of government and the community.

It is inappropriate that those who will experience the greatest level of impact, due to airport land-use, do not have an approval role. That is, the Commonwealth can approve development on an airport site including the expansion of airport operations, leaving the state planning authorities to manage off-site impacts.

It must be noted that investment in airport and supporting infrastructure is significant and we should ensure that the opportunity that this provides is maximised. **The presence of an airport and the additional infrastructure that it attracts must be acknowledged and land-use planning must be encouraged to value and leverage off these advantages.**

3. **Additional red-tape is not the solution**

5. For developments around the major capital city and freight airports, should state governments have to refer residential development within a defined buffer zone to the Commonwealth Transport Minister or Secretary for approval?

The Urban Taskforce agrees that there is a need to improve the planning system to better consider land-use and development in the vicinity of airports. The Green Paper made it very clear that the Commonwealth will have the final say on airport development in relation to Commonwealth land, but, as a consolation to state and local planning authorities, offers the possibility of better "cooperation" and "refined working arrangements" between all levels of government. It is assumed that this discussion paper is suggesting that the means to achieve this is to introduce a new development referral requirement. If this is the case, and the Commonwealth is suggesting that applications for residential development around major

capital city and freight airports be referred to the Commonwealth Transport Minister or Secretary for approval, then the Urban Taskforce expresses grave concern at such a suggestion.

The Urban Taskforce strongly supports efforts to properly plan development. However, we also argue for the elimination of bureaucratic duplication and red tape. Australia needs a more efficient approvals process for urban development if our nation is to get the housing, commercial, retail and industrial development it needs. The suggestion that a duplicate approval process be introduced will certainly be met with strong opposition from the property development community and quite possibly, state and local planning authorities.

The states already have legislation that can be used to effectively protect airport land-uses while balancing the need for urban development. In New South Wales, the planning legislation allows development to proceed as long as it does not lead to an unacceptable impact on the natural, built, social or economic environments. The Act also enables the Planning Minister to issue directions to ensure that local plans are made, with due regard to local context, including development in the vicinity of airport sites.

There is no doubt that the state legislation is robust and able to ensure airport sustainability in the decision making process.

Duplication in assessment and approval is an inefficient use of resources and adds unnecessary time delay to the approval process and is not a solution.

The more pressing matter worthy of further attention, is who should actually have the final say on airport development, particularly in relation to major airports on Commonwealth land. **In reality, airports are essential and critical points of entry, no different to seaports and like seaports, such developments and development in their vicinity, can be properly assessed and determined by state planning authorities.**

These comments are offered to encourage constructive dialogue between government and the development industry and we ask that you accept these comments as our contribution to this debate.

Yours sincerely

Urban Taskforce Australia

A handwritten signature in black ink that reads "Aaron Gadiel". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Aarón Gadiel
Chief Executive Officer