

## WHY DO WE NEED A NATIONAL AVIATION POLICY STATEMENT?

Aircraft noise has the potential to impact on the well-being of members of the community. The following comments from authorities/agencies typifies the lack of genuine understanding and response leaving the potential impacts and any possible solutions unresolved.

*'I suppose with all complaints they take them into consideration that's not to say that will bring about change'.*

[Aircraft Noise Complaint Hotline,  
<http://www.youtube.com/watch?v=DAygCwMvhqk>]

*"Dear Ms McKay,*

*Thank you for your email complaints of May 22 and 27, about a light jet flying from the Illawarra Regional Airport. Council does not prohibit licensed aircraft from landing or taking off from this public airport, unless airport management perceives an issue with aircraft weight and the safety of the aircraft or damage to the tarmac. As previously advised ,the behaviour and performance of licensed aircraft in the air is regulated by CASA'...*

*'Whilst you have been invited to repeat your concerns to council as you see fit, I would be remiss if I did not advise you that council's responses to your typical complaints cannot change. The Illawarra regional Airport will continue to operate as the regional, licensed, public airport and as such, will permit the arrival and departure of licensed aircraft. I wish respectfully to point out that the concerns you have described in an enormous volume of correspondence and at the last Council meeting, might in the long term be best remedied by you relocating your place of residence, to a location suitable to your needs and a suitable distance away from any operational airport.'*

[Email from Tony Gearon, Group Manager Corporate Services, Shellharbour City Council, 2 June 2009]

*'Dear Ms McKay*

*Your complaint has been recorded as Number 216869. We do not have any arrangement to pass on such complaints to the airport owner or operator for this particular airport.*

*There is no noise monitoring system in your area.*

*If you wish to discuss this matter further please call this office on 1800 802 584.*

*Regards'*

[Viv, Noise Enquiry Unit, Airservices Australia, 8 May 2009]

**See: <http://www.epaust.info/wacef/aviationpolicystatement.html>**

Contains Reports/Papers/and Videos concerning Bankstown and Wollongong Airports.

**RE: National Aviation Policy Green Paper**

## **SUMMARY**

### **1.1 DEALING WITH PLANNING ISSUES AROUND AIRPORTS IN AN INTEGRATED, CONSIDERED WAY**

Aircraft safety and environmental protection for/from aircraft in flight are promoted as the jurisdiction of the Federal Government sector (Airservices Act) but when it comes to onsite development at airports there appears in New South Wales to be two complex systems. There are core airports, for instance, that are regulated by Federal Government provisions (Airports Act) and then there are other airports that are dealt with under State Government provisions (Environmental Planning and Assessment Act). Both provisions have not acted to deal with planning issues around airports in an integrated and considered way.

#### **HOW TO AVOID ENVIRONMENTAL IMPACT STATEMENTS**

The Federal government abolished the Environment Protection (Impact of Proposals) Act, otherwise identified as the EPIP Act, and replaced it with the Environment Protection and Biodiversity Conservation Act or what is identified as the EPBC Act which watered down assessment procedures for airports. Prior to the new EPBC Act runway upgrades did not undergo an Environmental Impact Statement (EIS) process that was possible under the EPIP Act. The new legislation (EPBC Act) was not interpreted to improve this problem.

At the State level provisions do exist for Environmental Impact Statements under the Environmental Planning and Assessment Act, identified as the EPA Act, under Part 4 (proposals requiring consent) and Part 5 (proposals not requiring consent). Part 4 proposals activate schedule 3 of the regulations which identifies proposals requiring an EIS. This includes Aircraft Facilities. Shellharbour Council have on multiple occasions deemed it as relevant consideration and yet consistently avoided it through utilising clause 35 of the same schedule. Clause 35 has in turn has been continuously used, without considering the factors in clause 36 (as council's are obligated to do) in forming an opinion not to undertake an EIS. It is unclear why council's major independent auditor (a real estate business who has acted as a proponent for a proposal at the airport on behalf of an aviation business) has not outlined this administrative concern. Shellharbour Council have also taken proposals and segregated them into parts and then focused only on specified aspects. This has meant that aircraft noise and pollution have not been on the whole addressed despite aircraft operations aiding the triggering of an EIS. When a decision is questioned council utilise 'existing use' rights provisions for the airport as a whole. Even existing use rights, however, require consent for an intensification of a use.

Shellharbour Council are now deeming submissions/objections as invalid and therefore not identifying arguments for an EIS as valid even when it appears clear that threshold requirements are exceeded to initiate such processes. This appeared to be the case for [REDACTED]. The proponents even applied for an environmental protection licence that had provisions that meant that the EIS thresholds were exceeded. In addition to this inadequate information, particularly during exhibition periods, is making an assessment of whether or not an EIS is required for a proposal difficult for the community. Despite requests for further information, at no stage did council advise that [REDACTED] had a Statement of Environmental Effects

which would have allowed for at least some basis of understanding regarding whether or not an EIS was required. It would have also helped with a constructive submission towards a development application.

In addition to this council allowed hangers that didn't provide for their use, even though this is needed to determine whether or not an EIS is required.

The Wollongong Airport runway upgrade proposed in 2001 under a development application process was misleadingly advertised as runway maintenance (a council report suggested that the runway was in good condition) despite elements of the upper echelons of council understanding it was an upgrade. This was significant since other elements in council noted that if it was an upgrade then the issue of an EIS would need to be looked into. Despite an independent audit indicating that the runway proposal was generally in accordance with legal provisions council tried a second time to upgrade the runway without a development application process, thereby avoiding prescribed designated developments that require an EIS.

The environmental assessments that have been taking place in the form of Statement of Environmental Effects were woefully inadequate, particular when they are only 1 or 2 pages (this includes HARS, as well as Shellharbour Council's runway upgrade document that was not even headed as a Statement of Environmental Effects). Most Statement of Environmental Effects avoid direct assessments relating to proposed aircraft. In the case of [REDACTED] proposed ex-military jet joyflights, although an assessment was undertaken for the proposed aircraft to be used, the Statement of Environmental Effects was flawed.

Shellharbour Council have to date not been known to provide Statement of Environmental Effects on their new electronic notification internet system, despite being able to be obtained under s.12. On multiple occasions Information during exhibition periods was woeful particularly the continued occasions where only construction plans were provided without providing any understanding as to the reason for the construction plans.

#### **AIRPORT ENVIRONMENT STRATEGIES DONT INCLUDE AIRCRAFT OPERATIONS**

In addition to this the Environment Strategies for both Bankstown and Sydney Airports did not include aircraft noise/pollution regarding aircraft in flight. The Federal government also held a Federal Inquiry into Sydney Airport just before they changed relevant environmental legislation which appeared to lessen protection for communities surrounding airports.

#### **1.2 PLANNING FOR ISSUES ARISING FROM THE GROWTH OF LOW COST CARRIERS**

Past experience has shown that planning issues are not adequately addressed regardless of processes allowing this to occur. Even when those processes are provided it has been avoided both in the case of Bankstown and Wollongong Airport. Runway upgrades occurred without Environmental Impact Statements at both airports.

It is also clear from past experience, and the attitude of Shellharbour Council, that they do not wish to adequately assess aircraft noise impacts caused by airport development and airline growth. The introduction of Qantaslink at the airport did not even have a formal development application process. Provisions have been utilised in inconsistent and irregular ways. Shellharbour Council do not supply sufficient exhibition material for a constructive submission, then keep to excessively stringent deadlines, even when an extension of time for a deadline has been provided and accepted in good faith elements of council do not consider the late submissions. One reason council provided for not accepting an objection as a valid submission related to the lack of genuine argument despite the fact that council did not provide adequate information. Issues with Shellharbour Council and Wollongong Airport has reached the stage where council have on multiple occasions deemed objections/submissions as invalid even when substantial information was provided. It was also a concern that the use for a hanger was deleted in the last stages of a development application process since this affected the validity of submissions. Council's continued argument regarding inadequate assessments of

aircraft operations during the development application process has focuses on council not being able to stop aircraft from utilising the airport. Council at the same time then make decisions on those development applications that provide for the infrastructure that allows such operations to grow.

Based on past experience it is feared that further runway upgrades will occur to provide for low cost carriers, without any EIS.

### **1.3 DIALOGUE BETWEEN AIRPORT AND COMMUNITIES**

Dialogue between Bankstown/Wollongong Airports and the Community has not been productive or transparent. In both instances concerns regarding the composition of the airport committee existed, denials regarding runway upgrades occurred, and environmental provisions were ignored.

#### **CONFLICT OF INTEREST (BANKSTOWN & CORE AIRPORTS)**

It is a concern that perceptions of conflict of interest and a lack of genuine assessment over planning issues are not isolated to a specific government sector. Nor is the treatment of vocal community members in non-beneficial ways, as a result of their critical attitude towards the processes dealing with huge investments.

An example regarding concerns over planning, processes and actions relate to the Federal Government and its dealings with Sydney basin airports. This included the only community representative on Bankstown Airports consultative committee years ago being involved in the aviation industry. This was the case even though there was already a representative for the aviation industry on the committee. A perceived conflict of interest was felt when the community representative lodged a submission to a state government inquiry under their aviation business rather than as a community representative. At a local government level 'conflict of interests' criteria were increased for community nominees applying for a position on Wollongong Airport's airport committee while the recommended council convenor has pecuniary interest that include co-piloting aircraft with an operator at Wollongong Airport.

From memory, two Senior Advisors to the Prime Minister and Transport Minister ended up working for the Sydney Airport Corporation Limited (SACL). One as the CEO (Moore-Wilton) then chairman of SACL and one as public relations personnel. Mr Wilton is also suggested to be chairman of Macquarie Bank Airports and the President of Airport Council International. Moore-Wilton was previously the Secretary/Head of the Australian Department of the Prime Minister and Cabinet': see <http://www.cph.dk/CPH/UK/INVESTOR/Announcements/Stock+Exchange+Releases/2008/13-03-08.htm>.

#### **CONFLICT OF INTEREST (WOLLONGONG AIRPORT)**

It is a concern that Shellharbour Council's specific development objectives for Wollongong Airport are:

- *'To maximise the airport's long-term sustainable revenue from its resources while meeting the overall strategies of the Council – including construction of a Light Aeronautics Industry Cluster, lease of land to the Historic Aircraft Restoration Society, commencement of regular passenger transport (RPT) services, and the upgrade of the runway;*
- *To work with regional stakeholders (business and government) to ensure the airport becomes an integral part of the infrastructure and economy of the Illawarra Region;*
- *To manage the development of the employment lands within the area of the airport to ensure they are compatible with the long-term objectives for the airport.'*

No mention is made of Ecological Sustainable Development (ESD) which is meant to be an objective of the Environmental Planning and Assessment Act. In addition to this the airport's website states that:

*'The success of the Illawarra Regional Airport is the culmination of many years of determined negotiations, flexible planning processes and above all a commitment to the development of the airport as a facility to benefit the entire Illawarra Region.'*

Such determined negotiations and flexible planning processes have not been extended to members of the community, both currently or potentially, impacted on by the airport.

In addition to this elements of Shellharbour Council appear to have manipulated the composition of the airport committee. The committee was restructured after complaints (including those from the author of this paper) were made, including concerns that a long time friend of the airport manager (working for council) was the only airport operator to be represented on it. When the restructure occurred there were eventually two committees. The one consisting of airport operators and only two community representatives became discriminatory against community nominees who were beyond a ludicrous minimal distance (a meagre 500m) away from the airports boundary. Then conflict of interest criteria was introduced against community nominees while when the council convenor of the airport committee co-piloted aircraft with an airport operator who appeared to be as much entrenched in the airport upgrades that took place as the airport manager was.

#### **AIRSERVICES NOISE COMPLAINT HOTLINE**

Examples of responses to complainants on the noise complaints hotline can be found at <http://www.youtube.com/watch?v=DAygCwMvhqk>. Passing the buck on aircraft noise complaints for Bankstown Airport occurred while their noise complaint forms initially focused on Sydney Airport.

One operator suggested that:

*'I suppose with all complaints they take them into consideration that's not to say that will bring about change'.* [Aircraft Noise Complaint Hotline, <http://www.youtube.com/watch?v=DAygCwMvhqk>]

Post having a distressing phone call to the Federal agency (Airservices Australia) dealing with aircraft noise complaints they directed police to arrive at the doorsteps under the alleged concern of possible self harm. The timing of the arrival, however, would have been too late and the suggestion that it was policy had to be retracted after it was queried. It was also noted by some activist that they had requested and acquired files on themselves undertaken by the government sector.

#### **INTIMIDATION**

In Shellharbour participation in the planning process can also lead to community members: feeling discriminated against; being labelled with statements that they should not always be believed; having repeated public comments that they have no credibility; being accused of being vexatious even though community members have been later cleared of this; and having false information about them publicly published. Further concerns relate to the dossier undertaken of community activists in the area and the Prime Minister's visit where threats of arrests occurred regardless of compliance.

A lengthy Bankstown Airport report can be viewed at <http://www.epaust.info/wacef/aviationpolicystatement.html>, along with in the near future a DVD that includes interviews and evidence to show concerns over the airport were real and that eventual concerns over Wollongong Airport by the author should not have so readily been seen as vexatious or not to be believed. Instead, Shellharbour Council should have genuinely accepted the authors input particularly when the following internet site link ([http://www.youtube.com/watch?v=lw\\_x-a53RP4](http://www.youtube.com/watch?v=lw_x-a53RP4)) indicates just a portion of aircraft affecting Ms McKay's residence in the Shellharbour jurisdiction. Concerns and experience with Bankstown Airport should have also been seen as relevant to Shellharbour particularly when council's reports

revealed that changes to Bankstown Airport (eg. privatisation) would provide an increased attractiveness for businesses to relocate to Wollongong Airport: Airport feasibility study in the minutes to Airport Advisory Committee. Shellharbour Council should have therefore genuinely listened to community concerns over Wollongong Airport expansion and addressed them in the same way, especially when a member community had already been so involved in community concerns over an expanded airport in Sydney.

### **PUBLIC PARTICIPATION**

The more concerns and questions posed to Shellharbour Council the more restrictive public participation came. Council first decreased the amount of people addressing them at the council meetings to 'two for' and 'two against'. Public participation rules then evolved into total restriction on addresses and when re-introduced didn't allow councillors to ask addressees questions as they were previously able to while addresses decreased from 5 minutes with an extension of time to 3 minutes with summary time. People who had a political association were unable to address council on a development application despite being impacted on by a proposal. Although the rules underwent revision post the inclusion of an Administrator at Shellharbour Council this rule remains. In addition to this an increased amount of developments at the airport are now being decided under delegated authority and are not proceeding to a council meeting to be decided on by the Administrator and through the new Code of Meeting Practice. This has been occurring despite a policy to proceed to a council meeting if objections are obtained. Notification has also been woeful and appears to be in contravention to council's policies that suggest as a general rule those who in the opinion of council will be impacted on will be notified. A reasonable person would understand that those closest to the airport would be impacted on by airport expansion/increased operations.

The airport committee that is meant to analyse noise complaints discriminates against a certain type of community representative nominee, on consistent occasions allowing council to oust their most vocal complainant from being able to be considered for a position.

### **SHELLHARBOUR COUNCIL INQUIRY**

After years of concerns, complaints, and correspondence over Shellharbour Council operations it is somewhat of a concern that an inquiry occurred months out of a pending election. For years state bodies continued to suggest that Shellharbour Council was an autonomous body and complaints about it should be directed to it. It was further suggested that some complaints go to the Code of Conduct committee but such complaints related to those on the committee themselves. Some government bodies even noted confidence in council's processes. Other bodies did not feel it was appropriate to comment since the Land and Environment Court was an avenue of appeal. It is personally felt, however, that state government bodies had sufficient information to initiate an inquiry in 2005. It would be beneficial to investigate as to why an earlier inquiry did not occur particularly to avoid the cost of a Land and Environment Court case by Shellharbour Council that doesn't appear to have solved the issues for which it was initiated.

Over the years ICAC and the Department of Local Government have also either had concerns or made recommendations (Letter from Garry Payne, Director General, to Brian Weir, General Manager, Shellharbour City Council fax date 26/5/05 and Letter from Lyn Atkinson, Manager, Research and Prevention, ICAC, to Ms McKay at July 2004 at <http://www.epaust.info/wacef/dlg.htm>, <http://www.epaust.info/wacef/icac.htm>) to Shellharbour Council to no avail due to their suggested lack of jurisdiction to actually transform their concerns/recommendations into action: SEE Letter Section under ICAC letter to Ms McKay July 2004, Dlg letter to Brian Weir fax date 26 May 2005.

Although Shellharbour Councillors have been dismissed it feels as if the symptom has been deleted but the primary cause not addressed. Until a genuine investigation occurs into the upper echelons of Shellharbour Council issues relating to Wollongong Airport will not only continue, they will increase.

#### **1.4 ADDRESSING CLIMATE CHANGE**

The statistics regarding climate change appear to be dire. Stern had stated that CO<sub>2</sub> concentrations in the atmosphere was up to 430 parts per million. Many were hoping to cap the CO<sub>2</sub> concentration in the atmosphere to 450 parts per million. Further increases on CO<sub>2</sub> concentration appear to be part of a logarithmic graph leading to a shorter time span for smaller increases in concentration. If 'Business as Usual' continues therefore the world will reach higher concentrations quicker.

The aviation industry has been reported as one of the fastest growth areas. In addition to this there is concern that aircraft flights impacts hit at the most vulnerable part of the atmosphere. Further deregulation, flexibility, or growth in the aviation industry will serve to exacerbate CO<sub>2</sub> concentrations, aiding in the cumulative consequence of a climate change tipping point of no return. This needs to be seriously addressed.

## RECOMMENDATIONS

Provide a national integrated system that is less complex but more determined to genuinely assess aircraft noise due to their potential impacts.

Ensure adequate buffer zones around airports.

In the interim

1. Provide education for councillors, council staff, state and federal authorities.
2. Provide a body that can actually act on noise complaints.
3. Provide a body that can discuss matters in an educated way with authorities.
4. Provide a genuine investigation over Shellharbour Council and Wollongong Airport developments.
5. Provide neighbourhood and airport committees with community, councillor, state and federal government involvement that would allow the distribution of information and discussion of airport developments/operations.
6. Provide panels and IHAPs that allow for an independent body (that have legal expertise) to oversee the processes of a development that particularly contains the perception of a conflict of interest. This should be more than an audit that only delves into legislation and not the appropriate nature of the way a decision was made and the actions of council to obtain them.
7. Provide for genuine appeals. Allow greater ability for objectors to appeal particularly significant and/or controversial decisions.. Have a low cost tribunal system to allow for appeals by objectors particularly for significant and/or controversial decisions.
8. Provide for a electronic internet system for proposed developments that is readily assessable.
9. Provide an enforcement agency that has teeth.

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