

27 February 2009.

Aviation Green Paper  
Department of Infrastructure, Transport, Regional Development and Local Government  
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Dear Sir

**Re: Aviation Policy Green Paper December 2008**

I thank you for the opportunity to comment on the Aviation Policy Green Paper-December 2008.

The Green Paper addresses many concerns that the growth of the Australian Aviation Industry will impose on the community. It goes some way to monitor and manage the growth of local airports and their affect to surrounding communities.

In particular, I note the simultaneous release of the Canberra Airport Master Plan Preliminary Draft February 2009. I am concerned that the release of such an Airport Master Plan (as advocated within the Green Paper) during the consultative period could be construed as an attempt to circumvent any improvements or restrictions that may be the eventual outcome of such a Green Paper.

The misalignment of these processes may result in the Canberra Airport Master Plan Preliminary Draft February 2009 circumventing the rights of the local community, which must be considered, as stipulated within the Green Paper. The Master Plan as proposed could fail to meet the basic objectives and principles of the Green Paper.

I request that consideration be given that any Draft Master Plan being contemplated during such an issuing of a strategic important Green Paper by the Government be suspended or rejected and that no Draft Master Plan be published until the outcomes the Green Paper are ratified.

The Aviation Policy Green Paper was published in December 2008. The Canberra Airport published their Master Plan in February 2009. This Master Plan cannot consider any improvements that may be advocated within the Green Paper and I believe, is an attempt to circumvent that process and pre-empt and prevent the occurrence of any outcome that may be to their detriment while at the benefit of the community.

I draw particular reference to a number of important issues as expressed within the Aviation Policy Green Paper-December 2008 that could be in direct conflict with those as advocated within the Canberra Airport Master Plan Preliminary Draft February 2009. The principle areas of concern or possible conflict are associated with the clearly stated objectives of the Paper to:

- **Promoting** a proper dialogue between airports and the communities around them on issues such as the impact of aircraft noise;
- **Addressing** climate change, a focal point of transport policy for this and future generations.

Particular concern is expanded in the following attachments listing stated objectives and the consequential Proposed Government Policy Initiatives and the lack of process and alignment that is apparent within the current Canberra Airport Master Plan Preliminary Draft February 2009.

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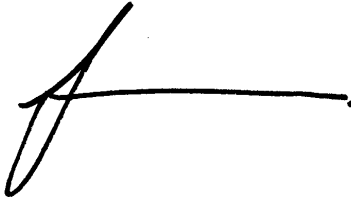
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I reiterate my request that during the period of deliberation and public consultation brought forward by the Aviation Policy Green Paper December 2008, that in particular that the Canberra Airport Master Plan (February 2009) be suspended and withdrawn until the outcomes of the Aviation Policy Green Paper deliberation and public consultation period are finalised. . It is unacceptable that consideration to an Airport Draft Master Plan would be given whilst the overarching framework is being questioned and reviewed.

Your consideration of this request is urged and that the Australian Government suspends any applications for Airport Master Plans that have been issued after the issuing of a Green Paper and until such policy is determined.

Actions as requested will ensure that the intent and objectives of the Aviation Green Paper can be fully realised by the Australian Public and that the economic and commercial interests of a select few are not considered above the due process of the Australian Government.

Regards

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line that ends in a small dot.

Antony Mikulic  
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**Responses to the Aviation Policy Green Paper-December 2008**

Ref: Section 8. Airport investment – planning for responsible growth

*..... concerns have grown about the impacts of airport development on surrounding communities. With the growth of Australian cities, more residents are affected by airport operations.*

*The Government recognises the importance of continued investment in aeronautical infrastructure at airports, and is committed to ensuring infrastructure development is responsible. The Government will ensure planning for leased federal airport sites is more integrated with planning for the surrounding areas, and the interests of communities are given proper consideration in planning and development processes.*

...

*A new level of cooperation is required between federal, state and local government on airport planning and development, with clear consultation and decision-making processes. For airport operators, it is essential that local planning schemes support the development of the airport and prevent development which would impact on current and future operations. In turn, planning authorities are seeking more effective input to airport development processes. The Government proposes to work with state governments to refine proposals for effective working arrangements, including the key initiatives outlined below:*

- *establishment of Airport Planning Advisory Panels, drawn from industry, community and government, for each of the major airports, to provide independent expert analysis and advice to the Minister;*
- *examining the impact of airport development on surrounding transport and community infrastructure and how the leased federal airports might contribute to this infrastructure;*
- *strengthening of the airport Master Planning process to provide greater transparency and certainty about future land uses at the airports;*
- *providing a power for the Minister to call for additional detail in precinct plans for areas which have been proposed for non-aeronautical development;*
- *a review of triggers for the airport major development process to ensure those developments of most interest to the community are subject to proper consultation;*
- *establishment of community consultation groups at each airport to foster effective community engagement in airport planning issues; and*
- *establishment of a clear policy on the definition of public safety zone areas around airports, which can be taken into account in local planning.*

**RESPONSE:**

Consultative and communal discussion of any airport growth is necessary, especially if the negative aspects are to be avoided.

The proposal that community consultation groups be established is supported.

This proposal further reinforces the need that Master Plans take into account findings of the Aviation Green Paper once consultation and deliberation has concluded. Any attempt to pass through a Master Plan before such a time could be construed as an attempt to circumvent this process improvement. The case in point is the recently published Canberra Airport Master plan (published February 2009) which has been prepared without consultation with the community in establishing their proposals.

The Canberra Airport Master Plan proposes radical changes to its operations (a 24 hour freight hub), citing benefit to the community, however there is no evidence of consultation having taken part with groups that would be affected (principally those that would be affected by night time flights)...

The Master Plan recognises noise issues and proposes measures that are founded on incorrect assumptions yet which are presented as fact.

A key issue of the Canberra Airport Plan is the establishment of high noise corridors predicated on the statement of preserving the Greenfield areas contained within the noise corridors claimed as being existing and that these corridors should be maintained through excluding residential development. This is contrary to fact that residential development predated the imposition of the corridors by the Airport operators.

The Canberra Airport notes that changes in air routes have been established following community consultation and that the proposed changes within the master plan are consistent. No consultation has taken place in the communities of Royalla, Bulla, and Gooong.

The establishment of formal Community engagement groups would address concerns as to date the claims made by the Canberra Airport are not correct:

Areas as claimed residential free within the Noise Corridors are not fact. The NSW Government has zoned these areas as residential prior to 1995 (eg Royalla / Little Burra). This can be evidenced with local Councils continuing approving such developments consistent with that Zoning.

There has been no community consultation with residents in the affected areas. Long term residents have never been approached by the Airport for planning discussions.

Long term growth must be an open and transparent dialogue founded in fact if the objective of this Green Paper can be met. As demonstrated above, there appears to be an absence of such consultation with those residences under the current area designated by the airport as a high noise corridor. The airport is listing this high noise corridor as a Greenfield site with no residences underneath. This is not the case.

Furthermore, the oversight of all planning cannot be left up to the Airport lessees. Operators will inevitably deliver proposals that are to the benefit of their shareowners and no one else.. The separation of the planning regimes where one is community based, the other commercial based have been evidenced with the establishment of Business Parks at Airports that are not supported with the planned growth of cities, resulting in the dilution of employment bases in existing infrastructure. This has occurred at a number of Federal Leased Airports.

The notion of promulgating a business opportunity within an airport which is not founded through consultation with the community can be clouded through propaganda and scaremongering as evident within the recently published Canberra Airport Master Plan. The lessees are promoting the establishment of a 24 hour Freight Hub which in their view will benefit the community, yet this has not been established with consultation to ascertain whether that is what Canberra wants. This aspect is inconsistent with the future Green House aspirations of the ACT Community (resultant increase in emissions will negate any gains made by the community to date), and is an attempt at creating an industry that has not existed and is not appropriate for the Nation's Capital City.

Greater formal Community consultation is necessary.

## **Section 10. Noise impacts**

Key points of the Aviation Green Paper

- Noise complaints are no longer limited to those living close to major urban airports. .
- A more balanced approach to aircraft noise management is required to ensure quality of life for communities, to control noise sensitive developments including homes, schools and hospitals, and to avoid unreasonable constraints on future airport development.
- To retain existing curfew arrangements at Sydney, Gold Coast, Adelaide and Essendon airports.

- recognises the importance of maintaining a north-south and east-west overnight freight network. Airports such as Brisbane, Cairns, Canberra, Melbourne and Perth are integral to this network.
- The Government expects industry to develop appropriate arrangements to minimise the noise impacts of night-time operations.

**RESPONSE:**

The Green paper recognises the impacts of airport noise and the effects upon the community.

The paper advocates the retention of the existing curfew arrangements at Sydney, Gold Coast, Adelaide and Essendon airports.

Recognition that airports at Brisbane, Cairns, Canberra, Melbourne and Perth are integral to maintaining the north south and east west freight network and that through this assertion, It Is implied that a curfew is not considered for these airports.

The establishment of this aspect fails to recognise the urban context of airports. The airports that currently have curfews are principally located within highly urbanised environments to protect those residents that surround them, whereas others are excluded from this protection are assumed free from such implications. This is incorrect for Canberra. The recently published Canberra Airport Master plan advocates that the existing absence of a curfew at Canberra is vital for their aspirations in creating their own economic gains. Consultation with the community would reveal very little support for their proposal. Examination of the facts would also reveal that Canberra Airport is indeed somewhat devoid of clear Greenfields.

Canberra Airport is in fact a highly urbanised airport, bound essentially on three sides (the North East being relatively free) by varying population densities. The airport maintains that in order to attain its own economic desires, It requires to be free of a curfew and that it can deal with the current residential communities by providing voluntary noise abatement areas, and that the after hour flights will be concentrated within high noise corridors where there are no residences. A simple check of Census data would reveal that the Canberra Airport has based their aspirations on false data. The areas that it claims are residential free are in fact home to thousands of people (Communities of Royalla, Little Burra, Burra and Googong,). There has been no consultation with these affected communities..

Those residents (Royalla, Little Burra, Burra and Googong) are entitled to the same provisions that have been afforded residents near airports that have curfews. The current high noise corridor, Implemented without demonstrated public consultation, that has been enforced by the airport on these communities has to be removed. The current establishment of the high noise corridor enables an unfounded precedence in the Canberra airport's Master Plan that has not been based on fact. The Canberra Airport is of the belief that the high noise corridor is above a greenfield site, and has no adverse affects on the community. Current census statistics reveal almost two thousand people live under the high noise corridor.

The Green Paper needs to consider that curfews are not a fixed commodity and that the extension needs to be considered in order to recognise the social requirements of airports is equally if not more important than the economic interests of commercial operators. It is the responsibility of Government to represent the public interests of many and not financial interests of a few.

The Green paper must support regular review of curfews and consider the operational limitations that the locations and existing communities will entail.

**Aviation Green Paper:- Principles**

*"The Government proposes a range of initiatives for short, medium and long-term policy and regulatory reform and direction. The initiatives follow four key principles:*

1. *Safety is the number one priority for the Australian aviation industry and the Government.*
2. *The aviation industry is a key driver of broader economic prosperity and a strategic approach based on properly-functioning, competitive markets is required to secure the*

*industry's future and promote the best interests of the travelling public and businesses that rely on the aviation sector.*

3. *A coordinated approach to airport infrastructure investment is required to allow the industry to reach its potential.*
4. *A responsible approach is required to managing the impacts of aviation, including emissions and noise, and the environmental impacts of airport developments.*

**RESPONSE:**

Each principal is supported and expanded on within the needs of community consultation, facts and recognition of the present and planned developments that occur.

The Aviation Green paper predicates the need for a sustainable aviation industry that is balanced with the needs of the Australian Community. The principles and aspirations are to be supported and built upon. Recognition of airports and the integration within communities needs to be supported with consultation and fact.

**Principal 3**

- Better integration with state and territory and local government planning
- Community engagement
- Improved planning processes

**RESPONSE:**

The proposal of the Aviation Green Paper in continuing with the Commonwealth Minister retaining final decision-making authority for land use planning and development for airports is supported. The enhancement of this process by a formal community engagement is highly beneficial.

The proposal is that this be established at each major airport to foster effective community engagement in airport planning and operations issues. *It is envisaged the groups would:*

- *have an independent Chair;*
- *include airport and government representatives, as well as representatives from local communities and users;*
- *be funded by airport lease holders;*
- *have scope to address ongoing and current planning and development issues and other key areas of airport activity that impact significantly on the community, e.g. aircraft noise; and*
- *monitor community complaints relating to the airport and their handling.*

The application of such process would enhance the integration of airport operations undeniably with the community.

This process is not currently in place and is further evidence that airports lodging their Master Plans (eg Canberra Airport) during the consultative process of the Aviation Green Paper are seen as an attempt to establish principles prior to having such a consultative framework imposed on them!

Planned expansions of airports as being advocated currently within Airport Master Plans without appropriate community integration in that process. The withdrawal of all such Master Plans should be required until the framework is established.

Furthermore, the Aviation Green Paper advocates the formal community panel be responsible to monitor community complaints, and further notes this is integral for the success of achieving the goal of equitable and sustainable developments. The current process of referring community concerns regarding operations

and master planning direct to the contributor (the airport) results in biased and unrepresentative actions by the airport lessee's.

The advocated principle within the Aviation Green paper to ensure that planned development of the Airport be considerate of:

- *examining the impact of airport development on surrounding transport and community infrastructure;*
- *strengthening the airport master plan process to provide greater transparency and certainty about future land uses at airports;*
- *reviewing the triggers for the major development plan process to ensure that those developments of most interest to the community are subjected to proper consultation processes; and*
- *a prohibition on future non-aeronautical facilities or uses that are likely to be incompatible with the effective and efficient operations of the airports including residential use, aged care facilities, schools, hospitals, and child care facilities (other than those designed principally for staff working on the airport site).*

The above propositions are fully supported, and again bring merit to the suggestion and request that Airport Master Plans that have been submitted since the publication of the Green Paper are withdrawn and only be resubmitted following the legislative process of formalising the Green Paper.

It could be motioned that the recent submission of the Canberra Airport Draft Master Plan is an attempt to circumvent the processes that would be advocated above. The Master Plan in question is inadequate in transparency, debate and fact.

#### **ENVIRONMENTAL IMPACTS**

The Aviation Green Paper has addressed environmental issues adequately, requiring a number of measures to be implemented such as:

The requirements of Airport Lessees to;

- Undertake assessments through the EPBC Act;
- Engage formally through the community; and
- Monitoring and management of the Environment

It is also noted that the paper recognises that the Government is committed to working with the State and Territory governments to develop the following initiatives:

- *national airspace protection legislation that protects approaches to major airports to prevent intrusion into airspace by buildings approved at state and local government level;*
- *developing a clear policy on the definition of public safety zones around airports which can be taken into account in local planning with a view to ensuring that the community is not exposed to any undue level of risk from aircraft operations; and*
- *developing strategies and plans to address other airport related issues, such as aircraft noise, traffic linkages, and best practice community consultation models.*

The paper should recognise that in many instances such issues as landholders on approaches to airports already exist and the need to protect their rights be recognised within Master Plans.

An example can be seen with the recent publication of the Canberra Airport Master Plan (February 2009) which cites the need to ensure and protect approaches to the airport and the need to work with surrounding local and state governments to ensure that these approaches remain free from development.

Such statements are incorrect and misrepresent the situation. The NSW Government has already approved residential development in these areas, either before 1995 or since and it is the airport (who purchased the lease In 1998) which does not recognise this yet predicates its expansion ideals on an apparent lack of a

population. Furthermore, it even goes to say that the benefit of a majority can be at the cost to a minority. Such bold statements are incomprehensible, unacceptable and essentially defamatory in a democratic society. The current process used by Canberra Airport is devoid of the formal public consultation and environmental responsibilities that are advocated within the Green Paper!

The Master Plan (sic Canberra Airport) does not attempt to address the Environmental effects of their proposals on the communities that it believes do not exist (ABS Census confirm almost two thousand people in the direct fallout of the Master Plan) yet under the current framework, the authors and proponents of the Master Plan have published a proposal that would be otherwise subject to scrutiny under the principles of the Aviation Green Paper when legislated..

### **Noise Impacts**

The Aviation Green Paper has advocated

- *Strategies and government policies for reducing the impact of aircraft noise on communities*
- *Improving or supplementing the Australian Noise Exposure Forecasts (ANEF) system to better inform the public on the impact of noise*
- *The role of airports and state and local governments in aircraft noise management*
- *The role of locally-negotiated agreements between the airport and local community*
- *Improving the availability and quality of the information being supplied to potential property purchasers and others affected by aircraft noise*
- *The conditions under which certain airports remain curfew-free, and managing operations at those airports to ensure the community is protected, while providing night-time access for freight operations*
- *Assessing the current noise enquiry and noise complaint services, and investigating more effective ways to deal with noise complaints*

### **RESPONSE:**

The proposals in the Paper regarding Impact of noise pollution from Airports is clear in establishing that a better framework for understanding and managing Noise Impacts is required.

The issues as developed within the Green Paper highlight deficiencies and consequences of the current methodology and the inherent benefits that the community will enjoy by improving on current practices.

Such a discourse confirms that attempts by Airports in submitting Master Plans following the publishing of the Green Paper could be considered as an attempt to circumvent the introduction of better scrutiny that may result as an outcome of the process of the Green Paper. Master Plans should be withdrawn and only resubmitted WHEN the outcomes of the Green Paper are understood to allow the consideration of the concerns as realised to be incorporated into future planning.

An example of such is again captured within the recent (February 2009) publication of the Canberra Airport Draft Master Plan.

The proposals in the Master Plan are predicated on Australian Noise Exposure Forecasts (ANEF's) that are lacking detail, transparency and substance to the community. The proposed (and existing) High Noise corridor is flawed in its lack of detail and especially lack of community consultation to those directly affected. There is some conjecture as to the validity of the ANEF in the first place and the detail of what the plans were based on.

The Canberra Airport maintains that the ANEF is a sound instrument for planning, without recognition that the Commonwealth is cautious of its applications (The 1995 Senate Select Committee on Aircraft Noise in Sydney identified many deficiencies in the way in which aircraft noise information had been conveyed to the public through the reliance on the Australian Noise Exposure Forecast (ANEF) System).

An example of need to better manage noise intrusion of airports can be seen with the way the Canberra Airport has based their expansion ideals on the communities through their interpretation of the ANEF. It is not apparent that the ANEF recognises the diversity of the local topography of the noise corridor. The ANEF used may cite that the altitude of over flights is appropriately high as demonstrated through Webtrack (approximately 1400m), whereas this fails to account for the high altitude of the residences that reside directly under those flight paths with their location being up to 990m, ie only 400 odd metres being the distance between residences and the planes flying over.

The datum of the airport, the airports reported flight altitude and the directly affected topography may be overlooked by the Master Plan.

Furthermore, the Master Plan as published by the Airport and its propositions that high noise corridors exist is based on their own understanding. Such corridors were imposed without consultation, either to the existing residents nor to the NSW Government that approved such locations. The lack of transparency and the vague attempts of the Airport in imposing their own management has compromised and disenfranchised those people that legitimately purchased residential land in these areas. Unknowingly these land owners; rights have been circumvented by the Canberra Airport.

This notion of implied rights by the Canberra Airport, especially considering the relationship of the overflights with the topography, planes flying at some 400 - 500 metres above freehold title could be seen as an infringement of common law and the landowner's right to use and enjoy property. Such judiciary views can be traced back to the legal maxim of *Cujus Est Solum ejus est usque ad coelum et ad inferos*. This maxim as founded within the Common Law contemplates that the landowner owns the land surface above and below (*nee* Airspace).

The issue of Noise Impacts as advocated through the Aviation Green Paper however does not recognise the issue of airspace. The transfer of the airspace regulatory function from Airservices to CASA with the Airspace Act 2007 was to remove the perceived conflict of interest for Airservices with dual roles of both airspace regulator and air traffic service provider, and result in better processes and improved transparency in airspace regulation. However the implications of such are not considered within the function of the Green Paper to assert responsibilities of the consequential Noise Impacts. The current application of routes as promulgated by the Airport Lessees are to serve their interests only. Under current lack of transparency and absence of formal community consultation the Airports nominate what they need to operate to CASA. The Green paper whilst recognising the need for consideration, may not in fact integrate a legislative jurisdiction of the regulator.

Through the Airspaces Act 2007, CASA is delegated to define airspace, routes and airways, however that delegation and its consequences to the community is not transparent.

Empowerment of the Community regarding Airspace should be recognised through the Green Paper, that the CASA Airspace Changes Manual as published 2008, allows individuals the right to seek changes of airspace. This process shifts the balance to an equitable ground and should be identified in the Green Paper as available avenues to manage the Impacts of Noise.

Under environmental law, the polluter is always responsible. In this case the polluter is the airlines/airports and they have a responsibility to manage that and cannot be allowed to justify their impacts on desktop studies without full transparency and debate. The Green Paper should strengthen the consultative nature and impact of airports with regards to Noise pollution, possible infringement of common law (through property law) and full disclosure.

Furthermore, Canberra Airport has failed to acknowledge the common law in imposing its desires, no doubt under the immunity that it would be a restriction of their trade, however the Green Paper advocates ways to fully address community concerns.

The Canberra Airports attempt at pushing a Master Plan through whilst a Green Paper is considering individual rights must be acknowledged and questioned.

The Green Papers actions regarding Noise Impacts are supported and should be strengthened to empowerment of all stakeholders.