

Tyabb Airfield Community Liaison Group response to the Aviation Green Paper.

In December 2008 the Federal Government released its Aviation Green Paper.

The paper sought comments from groups and individuals on issues they saw as important to assist the Government formulate a National Aviation Policy.

The Local Council sponsored Tyabb Airfield Community Liaison Group, through The Mornington Peninsula Shire Council (MPSC) in Victoria, made a submission on issues they saw as important to communities involved in aviation through their relationship with small non-regulated airfields.

Whilst the Green Paper addressed issues of noise and amenity in communities surrounding major airports, it failed to recognise that the issues in communities living with many smaller airfields are similar to, and in some cases worse than, those at the large airports. Furthermore, in many cases the issues are irresolvable under the current regulations. The message from the MPSC submission has been heard, but not heeded.

The numbers of those affected in small communities are unknown but significant, according to CASA Industry Complaints Commissioner (ICC) Michael Hart⁽¹⁾. The problem for these communities is that they are never heard collectively or as a significant group. They are only ever heard as a handful of isolated individuals.

The CASA ICC had indicated that CASA were undertaking a program to assist these communities throughout Australia and that a program would be introduced in early to mid-2008⁽²⁾. This has not happened.

If the Australian Government, as stated in its Green Paper Executive Summary, is committed to:

- **Promoting** a proper dialogue between airports and the communities around them on issues such as the impact of aircraft noise;
- **Making** safety the number one priority for Government aviation agencies and the industry, and ensuring safety regulation is robust, effective and efficient;
- **Strengthening** the governance arrangements for the Civil Aviation Safety Authority (CASA) and the Australian Transport Safety Bureau (ATSB) to enhance the quality of their relationships with industry and the community.

then the inclusion of all disaffected communities into the White Paper outcomes is essential.

Footnotes:

(1) Letter from Mr. Michael Hart, Industry Complaints Commissioner, CASA; to Tyabb & District Ratepayers Business & Environment Group. 10th January 2008

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Exclusion of these groups because of their location and apparent lack of numbers would be discriminatory and an anathema to consistent policy.

We therefore seek that policies and initiatives undertaken at the major airports to protect communities, their environment and amenity should be extended to all significant aerodromes in Australia with the lower baseline dependant on annual movements and/or the type of activities undertaken at the aerodrome.

Improved consultation with communities

The Green Papers states:-

Community engagement is an important aspect of noise management. The Government is looking at options for greater community involvement in airport planning through greater consultation with airport operators, as well as improving the availability and quality of information provided on aircraft noise.

The Government believes effective community engagement creates greater understanding of aviation noise issues, situations and solutions; builds relationships and trust to strengthen decision-making; and bridges the gap between airports and their communities and stakeholders. This engagement activity would keep interested parties up-to-date with changes to noise forecasts, development plans and steps airports are taking to minimise the impact of noise on the community.

Where airports have set up active community consultation committees, or employ neighbourly flying policies, they generally have better relations with their communities. (p195 Green Paper)

The Government is committed to improving the dialogue between affected communities and airport operators to better manage the impact of aircraft noise. The Government is also looking for a more even-handed method for distributing the responsibility for managing different measures for minimising noise at Australian airports.

The Government believes that an important element in achieving better noise management is better education and information-sharing, enabling communities to become involved in decisions relating to airport operations. The Government is committed to working with communities, governments and the industry to improve the quality of, and access to, transparent aircraft noise information. (p190 Green Paper)

Using the ANEF as a land-use planning tool does not always meet the needs of airports, planners, developers or the community. The ANEF system is a 'one size fits all' approach that makes no allowance for local conditions or smaller airports. (p195 Green Paper)

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Resolution of local issues

We agree that community engagement is an important aspect of aircraft noise management. We fully support a proposal for mandatory community engagement by airport operators on matters such as aircraft types using the facility, number of movements, aerobatics and formation flying, noise amelioration etc. The Tyabb Airfield on the Mornington Peninsula in Victoria is an example of the need for Federal legislation to ensure that airfield operators engage meaningfully with the community consultation process. Maitland (Rutherford) airfield in NSW is another example.

In July 2005 the Mornington Peninsula Shire Council established a policy for the better management of the Tyabb airfield which included the negotiation of a Fly Neighbourly Agreement and the establishment of a Community Liaison Group.⁽²⁾ The Fly Neighbourly Agreement negotiations failed as the airfield operators declined to sign any agreement. Notwithstanding, in 2006 the Council decided to proceed with the establishment of the Community Liaison Group⁽³⁾. This group was funded by the Shire and an independent Chair appointed. The Liaison Group has met ten times since December 2007 but unfortunately the airfield operators have declined to participate. The whole Council policy for better management of the airfield has, therefore, been undermined by the lack of cooperation from the airfield operators.

This situation is compounded by particular problems with the management and control of smaller aerodromes in Victoria and Queensland where the Federal Government, presently, has no jurisdiction over noise issues due to inconsistencies in State law⁽⁴⁾.

We therefore submit that:-

- The proposed legislated requirement for airport operators to establish community consultation groups should be extended to smaller airports, such as Tyabb. The criteria for inclusion would need to be based on parameters such as number of movements, type of activity, proximity of homes, etc.
- Airport operators should be required to attend and participate in good faith in the community consultation process
- Airport operators should be required to enter into enforceable Fly Neighbourly Agreements for the airport and environs which would consider:
 - a. all operational aspects of the airport that have an impact on the amenity of residents, businesses and other parties in the locality.
 - b. all matters as identified in the Airservices Australia, Airspace & Environment Regulatory Unit Publication 'Fly Neighbourly Agreements – Guidelines for their preparation and use'. 17/06/2005
 - c. specific local amenity issues such as noise and hours of operations; and
- Conformity with the Fly Neighbourly Agreement should be monitored via a confidential, centralised, complaints procedure as part of the community consultation group.

Footnotes:

(2) Mornington Peninsula Shire Council, Minutes of the Special Forward Planning Committee Meeting, 18th July 2005

(3) Mornington Peninsula Shire Council, Minutes of the Special Council Meeting, 18th December 2006.

(4) Letter from Minister of Transport & Regional Service. Mark Vaile to Greg Hunt MP, 4/06/2007

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National Small Airports Body

The “ improved consultation with communities“ statement contained within the Green Paper only works if airport/airfield operators agree with the principle and attend such forums in good faith. Unfortunately our local experience shows that in reality voluntary attendance does not occur. It is the Tyabb experience that airfield operators are not cognisant of their role and responsibility toward, and within, the local community.

There is an urgent need for a National Small Airports Body to be part of the National Aviation Policy.

Nationally unified, formally structured and embedded within the Federal aviation regulatory framework, this body would be a conduit to policy makers and allow developing issues and necessary legislative reform to be regularly brought forward. It would thus enable industry, policy makers and communities to be pro-active in addressing emerging issues. It could seek out and represent the collective views and needs of those communities currently ignored. This would allow communities with uncooperative operators to seek solutions at a legislative or enforcement level. The National Small Airports Body would, ideally, be overseen by one of the aviation policy authorities, such as the Aviation Policy Group, but preferably not the regulator.

Smaller communities have neither a voice or forum and in most cases the airfields within their communities currently operate in a *de facto* regulatory void with all levels of Government and Regulatory Agencies denying responsibility or authority⁽⁵⁾. The recent moves to self-administration at the lower end of aviation means that these communities have no independent body to assist in resolving or raising issues.

The Australian Warbird Association Limited, for example, requires a sworn affidavit⁽⁶⁾ before it will consider complaints against its members. Because of privacy provisions, that requirement effectively prevents third parties, such as local councils, making approaches to that association on behalf of local communities.

We, therefore, support the Government initiative to mandate community consultation, provided it extends to smaller communities.

Footnotes:

(5) Letters from Mark Vaile MP to Greg Hunt MP 19/09/2007. ; M. Hart, CASA to A. Atkins MPSC 24/01/2008. George Tsivolidis, EPA Victoria to Neale Burgess MP 28/11/2007. Alex Atkins – MPSC to D. Chalke, Tyabb Resident 14/01/2008. GA Action Agenda August 2008, page 45.

(6) AWAL Committee meeting 13th February 2008 report http://www.australianwarbirds.com.au/news_detail.asp?id=77

Proliferation of Aircraft Operating With Noise Exemption Certificates.

The recommendations of the International Civil Aviation Organisation's (ICAO) Resolution A33-7, "*The Balanced Approach*" seeks to reduce noise effects on communities through a variety of measures.

The Green Paper and ICAO resolution A33-7 talk at great length about the lessening of noise through various measures and in particular the ICAO resolution gives strong direction in its "balanced approach" framework. A move to limit Chapter 3 and ultimately Chapter 2 noise compliant aircraft is in direct contrast to the current experience at the smaller unlicensed and uncertified - and hence unregulated - airfields around Australia that are home to non-noise compliant aircraft.

Communities around airfields where noise exempt aircraft congregate currently have no forum in which to raise issues. They have little protection from noise limits, noise monitoring, curfews, respite, movement capping or runway sharing as described by ICAO in "*The Balanced Approach*".

1.2 THE BALANCED APPROACH

1.2.1 The Balanced Approach, as envisioned in A33-7, provides ICAO Contracting States with an internationally agreed approach to address aircraft noise problems where they occur — at individual airports — in an environmentally responsive and economically responsible way.

The Balanced Approach gives ICAO Contracting States a flexible way to identify a specific noise problem and remedies that are targeted and tailored to the individual airport situation in a transparent process.

1.2.2 The Balanced Approach encompasses four principal elements: reduction of noise at source, land-use planning and management, noise abatement operational procedures and operating restrictions on aircraft.

1.2.3 ICAO Contracting States acknowledged that it was important to consider equally all of these elements, and they agreed to the principle that operating restrictions should not be applied as a first resort, but only after consideration of the benefits to be gained from other elements in a manner that is consistent with the Balanced Approach.

1.2.4 The process to implement the Balanced Approach would typically consist of an assessment of the noise situation at an individual airport, definition of the objective, provision for consultation, identification of measures available to reduce the noise impact, evaluation of the likely costs and benefits of the various measures available in order to identify the relative cost-effectiveness of the measures, selection of measures, adequate public notification of intended actions, implementation of measures, and a provision for dispute resolution available to stakeholders.

1.2.5 The goal is to address noise problems on an individual airport basis and to identify the noise-related measures that achieve maximum environmental benefit most cost-effectively using objective and measurable criteria.

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The “*Balanced Approach*”, as envisioned in A33-7, provides ICAO Contracting States with an internationally agreed approach to address aircraft noise problems where they occur — at individual airports — in an environmentally and economically responsible manner.

These recommendations are made on the basis of evidence of the deleterious effect that noise has on individuals and the recognition of community expectations and right to peaceful existence. It would be inconsistent to apply these principles to one section of the community, whilst ignoring the requirements of other communities that can only look forward to noise escalation.

A problem for small communities is that non-noise compliant aircraft tend to congregate at airfields that cater for the activities of such aircraft. The issues of noise and amenity in many of these communities have, in the recent past, been perceived as being as bad as those at major airports. This is due to both the noise created by individual aircraft, the numbers of those aircraft operating out of airfields densely populated with these aircraft and the apparent lack of legislation for authorities to mandate operations that are amenity friendly.

Many of these airfields conduct intense flying training and are becoming the home of a majority of light sport aircraft, the fastest growing sector in aviation, and the Warbird fraternity looking for homes away from the increasingly expensive licensed or certified first & second tier airports.

There are no plans contained in the Green Paper to address the ever increasing numbers of non- noise compliant aircraft and, by definition, ever increasing noise nuisance.

Currently all levels of Government and Government Agencies deny responsibility to enforce compliance to accepted standards or guidelines and will not act; each claiming it is the responsibility of someone else. ^{(5) see footnote page 4}

It is of the utmost importance to the community at large that policies invoked in the white paper include all airfields, not just the internationals and major second level airports.

If not, then communities around smaller airfields will be subjected to outcomes diametrically opposite and in direct contrast to the desired outcomes to be legislated at the larger airports.

The Green Paper and ICAO resolution A33-7 give hope to communities that there will be a major effort to reduce noise, ensure adequate respite, and mandate sensible planning aligning with best practice, but noise mitigation policies such as curfews, flight paths, respite periods that are applied as a matter of course at the larger airports are ignored at the smaller end of the scale and any recognition that there are significant noise impacts in smaller communities has not been acknowledged.

It would appear from the Green Paper that airfields below the status of Moorabbin, Archerfield, Jandakot and Parafield will not be involved in white paper outcomes or form part of the National Aviation Policy.

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Permission to operate without a noise certificate

The noise level standards required under the Australian Regulations are those set down by the International Civil Aviation Organization (ICAO) in its Annex 16 Volume I (Environmental Protection - Aircraft Noise).

There are three grounds on which permission to operate an aircraft without a noise certificate may be granted. These are:

- *the extent to which the aircraft exceeds the noise standard is not significant (this ground is not available for jet aircraft); or*
- *the historical significance of the aircraft justifies the permission; or*
- *the aircraft is to be used solely for a purpose that is in the public interest.*

A permit to operate without a noise certificate may include conditions on operation of the aircraft.

(Airspace and Environment Regulatory Unit-The Air Navigation (Aircraft Noise) Regulations – Information paper)

Regulation 9(A)(2)(a)(b)(c) of the Air Navigation Regulations give aircraft that do not comply with ICAO noise certification requirements the right to fly in Australia. These aircraft are growing in ever increasing numbers and congregate in relatively large numbers at airfields that cater for the operations associated with such aircraft ⁽⁷⁾. These aircraft include imported ex-military aircraft such as YAKs & Nanchangs, homebuilts, experimental and historic aircraft. Some aircraft, particularly the louder Warbird types, create noise at residences two to three times louder than that experienced by homes around airports used by ICAO certified aircraft ⁽⁸⁾. There are no plans in the Green Paper to limit, reduce or even monitor noise emissions from the non-noise compliant aircraft. Some historic and adventure flight aircraft with permissions issued post-2003 are renewable annually and are subject to community approval. This only applies to a relatively small percentage of aircraft issued with permissions.

The practical application of issuing noise exemption certificates appears not to comply with the grounds as stated in the AERU information paper ⁽⁹⁾ as in most cases the permissions are issued by what appears to be a paperwork exercise.

Footnotes:

(7) *'Capacity of Aviation Facilities in the Port Phillip Region', Ambidji Group Pty Ltd 2000, for Dept of State & Regional Development & Dept of Infrastructure Victoria.*

(8) *Mornington Peninsula Airfield, Tyabb. Measurement & Assessment of Noise Environment April 2007. Graeme E. Harding & Associates for the Mornington Peninsula Shire Council*

(9) *Airspace and Environment Regulatory Unit (AERU) – The Air Navigation (Aircraft Noise) Regulations –Information Paper.*

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The Regulation that allows exemption on the basis that “the extent to which the aircraft exceeds the noise standard is not significant” requires overhaul as without:

- a. an explicit measure against the ICAO Annex 16 standards; and
- b. proper engineering evaluation and practical measurement of emitted noise

there can be no proper compliance with Air Navigation Regulation 9(A) (2) (a). There does not appear to be any plan or discussion to introduce the principles espoused in ICAO resolution 33-7 to non-noise compliant aircraft.

The Air Navigation (Aircraft Noise) Regulations require a review and overhaul to align them with community expectations and current good practice, let alone best practice.

For smaller airfields there is a need to establish baseline noise levels or enshrine levels currently indicated in AS2021-2000 and subsequent amendments as the minimum standard.

There are currently three categories of noise exemption certificates in use for those subsonic piston powered aircraft that do not comply with ICAO Annex 16 noise requirements. Whilst there are three categories they are split into pre-2003 and post-2003, giving rise to five effective levels which can give rise to confusion & inconsistencies of application.

Pre-2003 certificates were issued in perpetuity and cannot be revoked and all certificates pre and post-2003 are issued regardless of the actual noise created. This gives rise to the perception that these are just paperwork permits issued without regard to the real world effects of the operation of the aircraft concerned.

The irony is that Air Navigation Regulation 9A 2 carries most of the responsibility for allowing noise in excess of 100dB(a) to be regularly unleashed upon communities and stifling Local Government from taking action to bring airfield noise emissions and thus amenity protection, let alone enhancement, in line with community expectations

The contrast with the approval process between imported and home built aircraft and imported or home built cars cannot be starker.

Aircraft = paperwork exercise, no baseline standard and no limit on noise emission.

Motor Vehicles = Full engineering evaluation and actual noise test to meet known environmental standards.

Whilst the general community at Melbourne can expect quieter aircraft with flight paths tailored for adequate respite, the smaller communities can only look forward to an increase in noise and volume due to the intensity of population of warbirds and the sport-type aircraft operating in an apparent regulatory void at many smaller airfields.

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As a minimum, this Regulation requires reviewing with significant input from communities living with aircraft operating under the Air Navigation Regulation REG. 9(A) (2).

An alternative solution, however, may be found in AS2021, (Australian Standard Acoustics—Aircraft noise intrusion—Building siting and construction). Rather than focusing on the absolute aircraft noise levels the focus should be on the effect of such aircraft noise on humans. For example, a regulatory change could be made such that aircraft operating with non-compliant noise certificates may only do so provided that they do not breach the absolute decibel levels described in AS2021 (appendix D, table D1) wherever they operate. This would ensure that those aircraft could continue to operate, but only in locations where their noise impacts were to an acceptable level. Noise monitoring at adjacent residences, schools, businesses, etc. would rapidly establish which particular individual aircraft were acceptable at a given aerodrome and which were not.

Safety

The Green Paper states: -

Safety is the number one priority for the Australian aviation industry and the Government.

The Australian Government will ensure its aviation safety agencies are properly structured and equipped to enable industry to maintain and improve safety through the growth and technological challenges of the twenty-first century

Guiding principles and key initiatives

Safety must underpin everything else in aviation and must be maintained in the face of cost and other pressures in the industry

The Government will affirm that safety will be the first priority of all government agencies involved with aviation, and act now to ... pursue legislative amendments to strengthen CASA's capacity to take necessary safety action

Industry's primary responsibilities for safety

Aviation safety is not just a matter for the regulator; effective safety systems require all stakeholders to take responsibility in ensuring safe outcomes. The aviation industry has a clear responsibility for safety outcomes beyond compliance with the safety regulations. CASA's work with industry to implement Safety Management Systems is a key part of delivering this message.

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The Government will also encourage CASA to continue to examine options to devolve non-regulatory responsibilities to the aviation industry so that certain segments of the industry – such as has occurred with sports aviation – are able to self-administer their activities, thereby delivering cost and time savings to industry participants. This will not involve industry regulating itself. Self-administration will not be contemplated if it leads to a reduction in safety standards and it is likely that CASA's surveillance of these sectors will increase regardless of self-administration in the future.

Safety remains the number one priority

Air travel remains a relatively safe means of transport. There have been no fatal accidents on Australia's high-capacity regular public transport air services since 1968. Fatal accidents in low-capacity regular public transport services are very rare, with three recorded during 1990-2007.

(Green Paper p41)

Requirement for unambiguous safety outcomes for Local Communities.

For local communities that have GA operations around them the stated safety goal of the Government is welcome, but the facts contradict reality.

The following article from the Melbourne Age of the 30th December 2008 highlights the issue.

Light plane deaths up more than 50%

o **Paul Bibby**

DEATHS from light plane crashes increased by more than half this year after a horror run in which 12 people died in three months, figures from the Australian Transport Safety Bureau show.

The figures show that more than half of the deaths involved planes in the category weighing less than 2250 kilograms, including a significant number of Ultralights and other recreational aircraft.

Despite this, there is a push to extend the limited training and maintenance regulations that apply to recreational aircraft to significantly heavier planes.

Concerns have also been raised about RAA's simplified maintenance standards that allow aircraft to be maintained by engineers who are not licensed by CASA.

"What you're going to get is owners maintaining their own aircraft because that's what they're allowed to do with gyros built from an IKEA-style flat-pack," a senior source from the Australian Licensed Aircraft Engineers said.

<http://www.theage.com.au/national/light-plane-deaths-up-more-than-50-20081229-76ty.html?page=-1>

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The ever increasing number of light sport aircraft, with their lower standards in the areas of training, maintenance, and medical requirements and the congregation of these aircraft at small and sometimes privately owned airfields can only lead to outcomes that will fail to meet the Government's safety goal.

The Green Paper statistic noting that there have only been three fatal passenger carrying accidents in the period 1990-2007 bears testimony that intense regulation and surveillance produce good results.

The recent spate of highly publicised fatal GA accidents has given rise to particular concerns which include:

- 31/05/2008, Nanchang NJ6 (Warbird), Moruya NSW. *"..expert ... very experienced pilot"* Canberra Times 2/06/2008
- 31/08/2008, YAK 52 (Warbird), Stradbroke Island QLD. *"One of Australia's flying legends, veteran aerobatic champion ..."* The Australian 4/09/2008
- 25/12/2008, Cessna 172, Woodleigh, VIC. *"...a pilot for at least 30 years and was a member of the Peninsula Aero Club at Tyabb"* The Age 26/12/2006
- 11/01/2009 Bushby Midget Mustang (Homebuilt) Mornington VIC. *"... a safety officer at the club (Peninsula Aero Club) was an experienced pilot with great flying skills"* Sydney Morning Herald/AAP 12/01/2009
- 20/01/2009 Edge 300 (Awaiting CoA Data) Temora NSW. *"A champion aerobatic pilot ... he had more than 1,400 hours experience..."* Sydney Morning Herald 20/01/2009

Each of these incidents and the number of GA accidents in general are matters that are inconsistent with reducing regulation and surveillance.

The irrefutable facts are that accidents involving highly regulated operations with robust surveillance systems are negligible and therefore consistent with the Government White Paper goals.

Accidents involving self regulated low / no surveillance operations are frequent and constantly endanger persons on the ground and these outcomes are inconsistent with the White Paper goals.

Communities on the ground have the rights and expectation that Government will protect them from dangers over which they have no control.

We therefore support the Australian Government's goals to make safety the number one priority, but call on the Government in its White Paper deliberation to commit more resources and effort to the known areas of accidents/incidents and fatalities and involve local communities in the decision making process.

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Planning

The Green Paper states:-

Community engagement

The Government proposes that the Minister be empowered to require airport lessees to establish community consultation groups for 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.*

Our submission agrees entirely with the above proposition as it aligns with the Mornington Peninsula Shire Council's model currently in place. The problems with the voluntary MPSC model is that the airfield operators fail to turn up and it is ratepayer funded. It is, therefore, essential that the policy be mandatory, as part of a national airfield regulatory arrangement, and that it apply nationally to all airfields that have the potential to create nuisance.

The policy framework for community engagement would necessarily include setting and enforcing regulations and guidelines consistent with community expectations, align with the rules, regulations and permits already issued by Federal Government agencies. Policies and guidelines would be consistent with ICAO resolution A33-7.

Policies would encompass the devolvement of powers to state and local authorities to implement and enforce nationally consistent rules and regulations into local law.

They would also give guidance to local authorities through nationally consistent, comprehensive, simplified information packages which would circumvent the current plethora of confusing and often misunderstood information.

In Conclusion

This submission congratulates and supports the Government White Paper initiative but implores the Government to consider a consistency of policy to apply to all communities affected by aviation activities not just RPT activities centered on the major capitol city airports.