

# Austcorp Group Limited

18 July 2008

Our reference: B K Martin

The Department of Infrastructure,  
Transport, Regional Development and Local Government  
GPO Box 594  
CANBERRA, ACT 2601

Dear Sir/Madam,

## **RE: AIRPORTS & VERY TALL BUILDINGS IN MAJOR CITY CENTRES – SUBMISSION IN RESPONSE TO THE NATIONAL AVIATION POLICY STATEMENT ISSUES PAPER**

Austcorp Group Limited commends the Department of Infrastructure, Transport, Regional Development and Local Government ('the Department') on providing opportunities for stakeholders to comment on the development of a National Aviation Policy Statement. Please accept this as a submission in response to the 'Issues Paper' dated April 2008, entitled *Towards a National Aviation Policy Statement*.

We understand that this submission is made beyond the Department's nominated timeframe for submissions in response to the Issues Paper, and apologise for this.

Our comments focus upon concerns raised in the paper regarding the development of very tall buildings outside airport land, and the challenges associated with successfully integrating the safe and efficient operation of airports with strategic planning objectives for the development of major city centres, and specifically, Brisbane's Central Business District (CBD).

As the Department is aware, Austcorp currently has a planning approval for the development of a 79 storey, 287m high mixed use tower within the Brisbane CBD. The project is known as "Vision".

Austcorp have not yet obtained Federal approval to intrude into prescribed airspace to this height pursuant to the *Airports Act 1996* ('Airports Act') and *Airports (Protection of Airspace) Regulations 1996* ('Airports Regulations'), however, are aware of their obligations to do so (as was the local authority when the planning approval was given).

The following comments draw on our experiences in Brisbane with regard to seeking approval under the Airports Act and Airports Regulations and matters of concern that have become apparent during that process.

Section 2.1 of the Issues Paper identifies that "development outside the airport site can impact on the safety and efficiency of operations at the airport" (page 10). In relation to "Safeguarding" Australia's key airport infrastructure, also under Section 2.1, the paper poses the following question:

*"How can we better ensure off-airport developments subject to state and local government planning schemes, such as tall buildings, do not compromise the safe and effective use of aviation infrastructure?"*

The paper also notes that:

*"There are a growing number of proposals for very tall buildings in the vicinity of flight paths, just outside major airports. These developments are being promoted with little regard to their*

*possible impact on safe aircraft operations. When challenged on such issues, developers are often unaware of the problem or the existence of Commonwealth regulations. To compound this problem, local planning provisions to protect flight-paths and aircraft operations are rare."*

In the first instance, Austcorp concurs with the Department that suitable mechanisms must be in place to ensure that development outside airport land does not compromise the safe operation of aircraft.

Whilst we agree that safety is not to be compromised, measuring the impact of efficiency and regularity of airport operations is unclear at best.

Of most significance, the Issues Paper does not acknowledge that in the planning of airport's operational airspace and flight paths, airports need to give due consideration to the City Centre as a significant piece of infrastructure.

The following explores this issue in relation to Austcorp's current project, the landmark Vision tower, to be located in Brisbane's CBD, and issues pertaining to Brisbane and its resident airport.

### ***The Issue***

Austcorp are concerned that the Issues Paper pre-supposes that off-airport developments, such as Vision, have the capacity to compromise the safe and efficient use of aviation infrastructure. The Airports Act and Airports Regulations provides a mechanism to ensure that development does not encroach into prescribed airspace without prior approval from the Department; however, in our experience in Brisbane, that mechanism is not appropriately linked to airport, State Government and local authority processes.

Austcorp, its consultant team, and the local authority are very much aware that notwithstanding a planning approval being in place, the provisions of the Airports Act and Airports Regulations require a separate approvals process to be undertaken by Austcorp in order to construct the Vision tower into prescribed airspace, which in the case of Brisbane's CBD is currently 152.5m AHD.

Austcorp do understand however that not all projects intruding into prescribed airspace may be as well informed as the Austcorp team and that the impact and complexity of the issue may well differ from State to State.

We are concerned that the Issues Paper applies a broad brush approach to an emerging issue that is highly complex and technical from an airport's perspective, whilst also necessitates an understanding of the urban planning imperatives, which in itself, is complicated.

The issues currently faced by the Brisbane's development community in regard to the development of very tall buildings such as Vision in Brisbane's CBD and surrounding major development areas is a case in point.

### ***Strategic Planning Objectives***

In Brisbane, there is a current disconnect between the ongoing development and operation of the airport, and the urban planning issues fundamental to the development of this major CBD.

Brisbane's Airport and CBD are *both* significant economic and social assets which naturally follow, and are vital for, the ongoing development of Brisbane as Queensland's capital. Continued rapid growth of Brisbane has witnessed the transformation of the CBD's skyline with new, taller buildings dominating the City, as well as many proposals for tall buildings in Brisbane's CBD currently in the planning stage. Given the pace of this growth, regional planning requirements and limitations to the CBD development through the expansion of its boundaries (the Brisbane CBD is constrained by the Brisbane River and Spring Hill, in the

main), Brisbane City Council have promoted taller built form to respond to broad strategic objectives.

Therefore, Brisbane, through its urban planning community, seek to promote a tall, compact city centre which aims to reduce urban sprawl, promote transit-oriented development, ensure investment in City Centre infrastructure is not compromised and ultimately represents a more sustainable pattern of urban development. The Issues Paper, as with current airport considerations in Brisbane, presents significant and fundamental challenges in achieving these desired planning outcomes. There is a need to ensure Brisbane's strategic vision for a tall, compact city centre can be achieved whilst accommodating the operational and future development objectives governing Brisbane's Airport.

### ***The Vision Project***

In Austcorp's experience with the Vision project, which is anticipated to become one of Brisbane's most significant urban developments, it has become apparent that key airspace stakeholders such as the Brisbane Airport Corporation are reluctant to support development that exceeds the heights of the current tallest buildings in Brisbane's CBD, which are in the order of 250m AHD.

The extent and exact nature of this rationale continues to remain unclear, particularly when the Vision proposal appears to correspond with BAC's relevant document, namely the *BAC Master Plan 2003*, which appears to indicate scope for building heights beyond 250m AHD. Unfortunately, the Brisbane Airport Corporation refuses to meet with Austcorp and its consultants to discuss these concerns.

Recent media articles circulated in Brisbane have stated that the Civil Aviation Safety Authority (CASA) has called on the Department to "veto approval of the Vision building... saying it would intrude into the air corridor and cause a radar shadow at Brisbane Airport" (notwithstanding Austcorp had previously obtained advice from CASA recognising that the proposal did not represent a safety hazard subject to the construction of safety lights to mitigate aviation safety hazard). The same article goes on to point out that "Brisbane Airport Corporation also condemned the project, saying... the building posed a risk in the event of an 'engine out' scenario"<sup>1</sup>.

However, there is no documentation to indicate that development above 250m AHD (but below the PANS-OPS umbrella) in Brisbane's CBD is unsafe. In fact in our experience, it appears that it is not aircraft safety that has caused these concerns, but the commercial interests of the airport.

The question that inevitably flows from this position is, *what consideration needs to be given to the commercial interests and economic impact on the City?*

The Brisbane CBD is a significant piece of infrastructure that should be considered in the ongoing development of the airport. The airport and the City are inextricably linked, their success reciprocal.

It would be an interesting exercise to calculate the economic loss to the City of Brisbane if building heights were limited because the airport is unwilling to consider their flight paths in conjunction with the future development of the City Centre. A recent ruling in the Nevada Supreme Court (July 2006), for instance, saw a developer awarded \$16 million in compensation as a result of the loss of development rights in Las Vegas, USA, for a single development, when development potential was restricted due to its proximate location to the airport<sup>2</sup> (*McCarran International Airport v. Sisolak*).

In regard to another topical issue – environmental sustainability – recent correspondence we have obtained in relation to the Vision project reveals that airports are concerned for the

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<sup>1</sup> The Courier Mail, Friday, June 27, 2008

<sup>2</sup> The Magazine of the American Planning Association PLANNING, American Planning Association, Vol.74, No.2, February 2008

environmental consequences of modifying flight paths to accommodate CBD development. Once again the question that immediately arises is, *what consideration is given to the environmental impacts on the CBD and surrounds?*

The imperative behind the rationale to increase urban densities in the CBD is to respond to environmental issues on a macro-urban level. Proximity to transport and work, existing infrastructure, reduction of urban sprawl and transit-oriented development are some of the key factors that contribute to the promotion of increased densities – and consequently increased height – as an unavoidable and desirable solution.

There are many international examples that demonstrate how city centres and airports can evolve together. In comparison to other situations, the Brisbane CBD is located a significant distance from the airport, a distance of some 11 kilometres.

It is cases such as the Vision project (and the growth of Brisbane City in general) that emphasise the importance of ensuring the National Aviation Policy Statement promotes a carefully thought out approach that balances good urban planning outcomes whilst ensuring the safe and efficient use of aviation infrastructure, that will ultimately accommodate the development of tall buildings in strategic locations, such as in Brisbane's CBD.

Whilst our emphasis remains concentrated on highlighting our concern relating to the disregard to the development of the CBD, we also take this opportunity to raise further, related concerns to the Department's attention.

### ***Issues for Consideration in the development of a National Aviation Policy Statement***

#### **A Balanced Approach**

If there is scope to manage aircraft operations to accommodate the growth of the major city centres (i.e. capital cities), especially as airport technology evolves and improves, then this should be explored in consultation with affected stakeholders.

*How can the interests of the airport and urban planning imperatives for cities be balanced?*

#### **Role of the Statutory Planning Framework**

The Local Authority should not be required to regulate airspace requirements which are set out under separate legislation and involve knowledge of detailed and complex airspace systems. It is not beneficial to enforce local authorities (through the State government as is the case in Queensland) to protect airspace through the assessment of development applications. Local governments have not the time, resources nor ability to efficiently and adequately address what is ultimately the decision of the Federal government. It is a duplication of process which leads to confusion and uncertainty.

Rather, the mechanism to assess these proposals should be triggered by the planning process to the appropriate agencies (the Department, CASA, the airport-operator, ASA etc) at an appropriate time.

*Can awareness of proponent's obligations to the Airports Act and Airports Regulations be strengthened by ensuring efficient referral to the Department via the relevant airport-operator without forcing local authorities and State Government to include needless codes, maps and policies on airspace safety in which they have little knowledge and ultimately no responsibility for nor control over?*

#### **Awareness and Transparency of Process**

The current airspace approvals process is ambiguous, unclear and provides little or no scope for proponent involvement.

*Specifically in regard to the statements made in the issues paper that are extracted on page 1 of this submission regarding “very tall buildings... just outside major airports”, we seek clarification on what represents development just outside the airport given the Brisbane CBD is located some 11 kilometres from the airport?*

*There appears to be no definition on what determines “interfering with the airports efficiency and regularity”? To what extent should the city centre be restricted in growth in the interests of maintaining the efficiency and regularity of airport operations, and how can these restrictions be balanced with other urban planning factors we have raised in this submission?*

*The current airspace approvals process does not provide the proponent to be actively involved. In relation to specific proposals, why can't the findings of CASA and Airservices Australia be made available to the proponent?*

### ***In Conclusion***

The Brisbane CBD (as with other all other capital cities in Australia), is a significant economic and social asset vital for the ongoing functioning and growth of Brisbane as Queensland's capital and should be given due consideration by airports in the ongoing planning and development of airport operations.

We bring this matter to the Department's attention and seek that this be addressed in the development of the National Aviation Policy Statement.

Thank you for taking the time to consider this submission. Please contact the writer on 07 32590688 if you have any queries. We would be happy to meet and discuss our concerns.

Yours faithfully,

Brian K. Martin,

Senior Development Manager

**Austcorp Group Limited**