

## THE FUTURE OF AUSTRALIA'S AVIATION SECTOR

### *FLYING TO RECOVERY* Issues Paper 2020

#### 1. Background

Canberra Airport makes this submission having regard to the following documents:

- The Future of Australia's Aviation Sector – Flying to Recovery Issues Paper 2020
- The Future of Aviation: Flying to Recovery – The Australian Government's Plan
- Framework for National Reopening – October 2020
- The Morrison Government's Deregulation Agenda – Address to the Business Council of Australia by The Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet - 2 October 2020
- Ministerial Statement on Rural and Regional Budget Outcomes
  - The Hon Michael McCormack MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development - 8 October 2020
- The Terms of Reference of the Inquiry by the Rural and Regional Affairs and Transport References Committee into 'The future of Australia's aviation sector, in the context of COVID-19 and conditions post pandemic' - 9 November 2020
- The Future of Australia's Aviation Sector – Virtual consultation series – Capital City Airports
  - Department of Infrastructure, Transport, Regional Development and Communications  
24 November 2020

This submission sets out some key principles, actions and policy initiatives for consideration by the Australian Government.

#### 2. Year 2020 Status

The destructive impact of COVID-19 on Australian and world aviation, amongst other industries, has crystallised in a very positive way, the values held by the wider community with respect to their remarkable appetite for air travel. The community attitude has revived strong narratives and funding in the national interest by governments, acknowledging airports and airlines to be critical economic and social infrastructure. This is because the community experience over many decades around the nation and the world is that aviation provides safe and high speed affordable domestic and international travel which promotes business prosperity, delivers jobs, boosts family face-to-face connections and revitalises lifestyles.

The Airports Council International confirms:

- Airport costs are largely fixed as they are capital-intensive investments.
- Despite the efforts of airport operators to reduce costs, it is highly likely that net losses incurred by airports will linger for several years into the future creating fundamental long-term challenges in regard to return on capital in the airport sector and thus their investment reputation.

### **3. Key Principles**

- a) The return of passenger confidence and the future growth of passenger demand and airline scheduled supply must be the principal focus of the Australian Government's policy outcomes of *"Flying To Recovery"* over the next five years.
- b) The Australian Government's *"Framework for National Reopening October 2020"* acknowledges aviation at major airports as being *"Critically at Risk from COVID-19 Restrictions"* and a high priority of the Framework is to remedy this, in the national interest.
- c) The National Cabinet must be responsible for endorsing, co-ordinating and monitoring all actions to achieve aviation recovery in Australia, including:
  - i. Adopting a three stage policy agenda and measures to distinguish restart from recovery and from future growth exceeding 2019 passengers.
  - ii. Undertaking an independent review of the Airports Act 1996 and the Airports (Environment Protection) Regulations 1997, consistent with the June 2020 agreement by the National Cabinet that the deregulation agenda be progressed by the Council on Federal Financial Relations (CFFR).
  - iii. Immediately commissioning BITRE to provide ongoing reports to the National Cabinet to identify knowledge gaps and to measure six-monthly, commencing 30 June 2021, the level of recovery of capital cities and primary regional air routes.
  - iv. Adopting rigorous follow-up procedures to the policies and measures adopted to ensure sustainability and to disseminate lessons learnt to improve the resilience of the aviation industry.
- d) Federally Leased Airports require Australian Government policy and initiatives to be managed in a manner consistent with ever-evolving international economic, technological and safety standards and land use planning timeframes aligned with adjacent States or Territories. This means reforms to reduce the regulatory burden in place of 1996 and 1999-era 'set and forget' regulation.
- e) The Australian Government acknowledges its responsibility for the creation of PFAS pollution at Federally Leased Airports and its additional responsibility to reduce such pollution at the source.

- f) The Australian Government should adequately fund its aviation agencies to enable them to carry out their important operations and ensure that the Australian aviation industry is world leading. In achieving this outcome, in part in recognition of the impact of COVID-19 and in part in recognition of the already very significant financial contribution of airport operators, no additional funding obligations should be imposed on airport operators.
- g) Promote an education agenda in collaboration with the aviation industry during the COVID-19 recovery period to upskill and train new entrants into aviation.
- h) Review and improve, in consultation with airports, the investment challenges faced by airports during the COVID-19 recovery period and beyond.
- i) IATA now forecasts a global recovery to 2019 passenger numbers by 2024 - a year later than previously forecast. The performance of the Reopening Framework should be a significant enabler of "Flying to Recovery" to meet or improve upon IATA's forecast.

#### **4. Policies to Assist in the Recovery of Aviation in Australia During and Following COVID-19**

##### ***4.1 The National Cabinet should be responsible for endorsing, coordinating, monitoring and managing all actions to achieve aviation recovery in Australia, including:***

- a) Co-ordinating State and Territory borders to open and remain open in the future, to facilitate free trade, the free passage of people and freight within Australia while remaining consistent with the *Pillars to Support a COVID Normal Australia* as set out in the "Framework for National Reopening October 2020."
- b) Adopting a three stage policy agenda and measures to distinguish restart from recovery and recovery to growth exceeding 2019 passengers.
- c) Co-ordinating with other nations for the opening of international routes, including working with airlines to ensure efficient routes to and from Australia, having regard to ICAO and IATA, evolving COVID-19 principles and practices.
- d) Establishing a set of "Safe Flight" principles, including testing regimes, to ensure borders remain open and to permit the movement of passengers internationally and domestically (if required) without the need for quarantining to the greatest extent possible.
- e) Immediately commissioning BITRE to provide ongoing reports to the National Cabinet to initially identify and bridge knowledge gaps and measure six-monthly, commencing 30 June 2021, the level of recovery in capital cities and primary regional routes and their economies.
- f) Adopting rigorous follow-up procedures to the policies and measures adopted, each three months commencing 31 December 2020, to ensure sustainability and to disseminate lessons learnt to inform performance and to improve resilience within the aviation industry.
- g) Publishing for consultation, a draft of the terms of reference and likely membership of the proposed "Future of Aviation Reference Panel (the FAR Panel)".

- h) Strengthening public confidence in aviation travel through education, marketing and being World leading in Aviation COVID Safety.
- i) Continuing to support financial relief strategies to help the aviation industry – airports, airlines and supporting industries.
- j) Commissioning an independent review of the Airports Act and Regulations to identify inefficient and outdated regulation.

#### **4.2 *Review and Improve, in Consultation with Airports, the Investment Challenges Faced by Airports during the COVID-19 Recovery Period***

- a) Undertake a review of the Airports Act 1996 and the Airports (Environment Protection) Regulations 1997 consistent with the June 2020 National Cabinet adoption of deregulation as a key policy area to support economic recovery.
- b) Amend the Airports Act to remove the constraint to facilitate Federally Leased Airports to be able to exercise their option to extend the lease term by 49 years now, so that the longer term lease will provide certainty to Airport Lessee Companies without a cost to the Australian Government.
- c) Finalise the sunset provisions of the:
  - Airports Regulations 1997
  - Airports (Building Control) Regulations 1996
  - Airports (Control of On-Airport Activities) Regulations 1997
  - Airports (Environment Protection) Regulations 1997
  - Airports (Ownership – Interests in Shares) Regulations 1996
  - Airports (Protection of Airspace) Regulations 1996

The last round of consultation was in 2018. Refer to the attached Canberra Airport submission dated 6 April 2018 made during the last consultation process.

#### **4.3 *Direct Support for Federally Leased Airports***

Aside from the JobKeeper program, there has been no direct support provided by the Australian Government to major Australian airports, despite the enormous damage that COVID-19 and the State and International border closures have done to airport businesses. Direct support provided to airlines to continue to provide essential services has in many cases been detrimental to major airports, often forcing airports to remain operational to service minimal passenger volumes and run at an operational loss – the revenue from minimal services has not met the costs of airports keeping facilities and services open.

Airport security funding provided directly to domestic airlines has either been slow to be paid to airports, or in many cases not paid by airlines, or used as leverage by airlines to achieve commercial outcomes in unrelated areas.

We propose direct Australian Government support to Federally Leased Airports by:

- a) Waiving Airport Building Controller fees for five years, effective 1 March 2020.
- b) Waiving Airport Environment Officer costs for five years, effective 1 March 2020.

#### **4.4 PFAS Clean Up at Federally Leased Airports**

In the context of Federally Leased Airports, the Australian Government must:

- a) Acknowledge that, at least during the period of 1978-2010, the Commonwealth and various Commonwealth agencies used PFAS at these airports. In 2020, the resulting PFAS pollution still significantly exceeds the acceptable environmental levels set out in the PFAS NEMP 2.0 (January 2020) in terms of soil, stormwater and groundwater.
- b) Commission the Department of Agriculture, Water and the Environment (**DAWE**) to:
  - i. Investigate and confirm the level of PFAS pollution created by the Commonwealth and various Commonwealth agencies at each airport.
  - ii. Consult with the Department of Defence on the status of its PFAS research, methods actioned on Defence bases and lessons learnt.
  - iii. In the event that the presence of PFAS pollution is confirmed at a Federally Leased Airport, mandate that the Department of Infrastructure, Transport, Regional Development and Communications (**DITRDC**) and Airservices Australia (**ASA**) apply for an Environment Protection and Biodiversity Conservation Act (**EPBC**) referral for each polluted airport with the EPBC referral to be extensively advertised - made available on the DITRDC and ASA websites in addition to the DAWE website - and DITRDC/ASA to consult widely with all stakeholders and the public
  - iv. Monitor progress and performance of the EPBC referral conditions and timely performance to reduce and remove PFAS at the source e.g. implementing a five year plan to remove PFAS pollution at the source down to acceptable environmental levels consistent with the PFAS NEMP 2.0.
- c) Provide urgent 2021-2026 special Federal Budget funding for actions to reduce PFAS pollution at the source as approved by DAWE in consultation with the relevant airport.
- d) Repay Federally Leased Airports the significant costs incurred since 2017 as a result of DAWE, State and Territory PFAS mandated requirements for airport development. These actions will reverse the current situation where airports are paying for the Australian Government's PFAS legacy.

#### **4.5 CASA and ASA Funding Models**

During the return to pre-COVID 19 domestic and international passenger movements, it is in the public interest for the Australian Government to fund the efficient and effective operations of CASA and ASA.

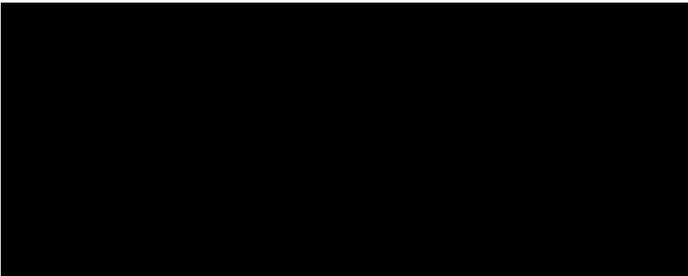
During this period of return to pre-COVID 19 passenger movements, it would be useful for the Australian Government to commission BITRE, in collaboration with the Department of Finance, to review the pre-COVID 19 adequacy of the funding models for CASA and ASA. This should occur in the context of the resilience of these models in aviation downturns and, in particular, the impact on CASA and ASA from paying dividends into consolidated revenue rather than retaining and re-investing those funds to enable their ongoing primary function, which is to protect the safety of the broader community.

**4.6 Skills and Training**

The Australian Government should commission the Department of Education, Skills and Employment (DESE) to undertake a review of existing aviation education and training availability status.

The review should include a gap analysis of the education programs and an age and qualification profile of existing workforce personnel to ensure the Australian aviation industry is fit for purpose and has a skilled, safe, efficient and secure workforce for the next five to ten years and beyond.

DESE should report to the Australian Government with recommendations on pathways for improvement by 30 June 2021.



Managing Director

27 November 2020

6 April 2018

Ms Amy Elleway  
Airports Branch  
Department of Infrastructure, Regional Development & Cities

Via email: Amy.elleway@infrastructure.gov.au

Dear Ms Elleway

### **Sunsetting Regulations – Discussion Papers**

I refer to your email of 7 March 2018 providing a series of draft discussion papers about legislative instruments sunseting in April 2019. We received six draft discussion papers entitled:

1. Airports Regulations;
2. Building Control Regulations;
3. Control of On-Airport Activities Regulations;
4. Environmental Protection Regulations;
5. National Airport Safeguarding Framework; and
6. Ownership – Interest in Shares Regulations.

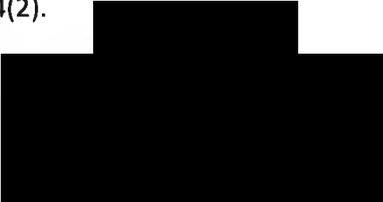
Thank you for meeting with me on 23 March 2018 to go over these draft discussion papers.

#### *Airports Regulations*

I note the Airports Regulations draft discussion paper suggests regulation 2.04 prohibited kinds of subleases, is concerned with “non-constitutional organisations”. I acknowledge this because it has been our concern the Department of Infrastructure, Regional Development and Cities viewed its consideration of prohibited residential subleases under this regulation as an opportunity to apply various views regarding the existence of residential uses on airports.

I reiterate my clarification that the one refused residential sublease application regarding a Canberra Airport facility was denied by the Department not because of its “non-constitutional” nature, indeed all other residential subleases have always been granted, but due to an entirely unrelated issue.

I agree the prohibited sublease process is administratively burdensome and without benefit, and support option 6 as presented in the draft discussion paper, “Remove prohibition on certain kinds of subleases and licences, to significantly reduce the red tape involved in the process and monitor all subleases/licences in the annual lease review.” For clarity, we support the removal from the Airports Regulations of prohibited subleases as listed under sub-regulation 2.04(2).



### *Building Control Regulations*

In earlier submissions to Government, Canberra Airport has proposed a panel of certifiers be established to assess building applications. Accordingly, we support option 1 as presented in the draft discussion paper "Adopt a cost recovery levy, which is applied to an approved group of building approval experts. Under this model, a panel of building certifiers would be established by the Department to provide building approval services in each jurisdiction. Subsequently, the activity being charged for by Government would be the accreditation process for access to the panel. Panel members would be charged for the costs of initial accreditation as well as ongoing compliance monitoring costs (eg spot auditing). Panel members would in turn charge individual proponents a 'fee for service' to approve building applications in accordance with the regulations."

The cost recovery levy for the accreditation process should be no higher than is applied in the Australian Capital Territory.

I look forward to reviewing further details about this option particularly the number of certifiers intended for the panel as well as the intended subsets of expertise.

### *Control of On-Airport Activities Regulations*

This draft discussion paper, in outlining the issue of existing gambling prohibitions on leased federal airports, outlines the reasonable view that airport operators are put at a commercial disadvantage to off airport traders. Our team is focused on the experience of each user group across the various airport precincts including the terminal, our business parks and the Majura Park Shopping Centre. Our concern continues to be that the prohibition on soft gambling at Canberra Airport prevents the provision of a newsagent, as well as other collocated services such as an Australia Post outlet and a dry cleaner for the 12,000 staff located at the Airport, three million passengers, and three million retail shoppers. It is about providing better service to Airport users.

It is also pointed out in the draft discussion paper that there is a "competitive disadvantage" in the current arrangements insofar as they permit gambling at some leased federal airports and not others. While a disadvantage is apparent, perhaps the broader view is the inconsistency between airport sites entirely undermines and calls into question reservations which may have been held about gambling as an appropriate activity on an airport.

We support option 2 as presented in the draft discussion paper, "Amend Regulation to allow all gambling at airport sites." However, and as we discussed when we met in March 2018, I do not support 'hard' gambling activities at the cost of permitting 'soft' gambling on leased federal airports.

### *Environment Protection Regulations*

Our meeting on 23 March 2018 shed more light on the discussion outlined in the Environment Protection Regulations. We discussed there is confusion among all involved regarding the intended day-to-day implementation of the Environment Regulations, and particularly the role of the airport environment officer. In brief I outline below our vision for a better regulatory framework.

Principal One: Retain the Regulations.

Principal Two: Update the Regulations about pollution and noise levels.

Principal Three: Amend the airport environment officer role to one of an auditor, consistent with the existing state / territory framework. It may be appropriate for audits to be undertaken in line with or in response to the annual environment report due in October each year.

Establishing an auditor framework, as is the practice in each state and territory, may permit an airport to redirect resources currently used in funding an environment officer to environmental initiatives such as an independent audit of an environment management system.

#### *National Airports Safeguarding Framework*

We acknowledge your advice that further work is required to outline the Government's intention to roll the National Airports Safeguarding Framework into legislation, and Canberra Airport would welcome discussion about that matter as appropriate. It is important to note the Framework's greatest value is in off-airport development, and therefore any mandate of the Framework should include off-airport local planning jurisdiction.

#### *Ownership – Interest in Shares Regulations*

We agree with the view put forward in this draft discussion paper that ownership reporting requirements are onerous, costly, and ineffectual. Reporting on ownership should be by exception only.

In summary, Canberra Airport supports:

- Removing the prohibition of certain kinds of subleases and licences from the Airports Regulations, particularly as they relate to residential development;
- A panel of certifiers being made available to assess building applications;
- Removing the prohibition of soft gambling on leased federal airport sites from the Control of On-Airport Activity Regulations;
- Amending the environment officer role within the Environment Regulations to one of an auditor, consistent with state and territory frameworks; and
- Amending the Ownership Regulations so that reporting on ownership structure is only required when a change in ownership has occurred.

I recall your expectation draft regulations will be the subject of the next round of consultation, and we look forward to reviewing these in due course. In the interim, it would be helpful if you could forward me the draft discussion paper regarding Sydney Airport demand management.

Yours sincerely,



Director, Planning & Government Relations