



Submission Sydney Airport  
Demand Management Discussion  
Paper

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Members of the Rex Group





## REVIEW OF SYDNEY AIRPORT DEMAND MANAGEMENT

Rex's comments come from two perspectives:

- as a regional operator with a more efficient business model for meeting the needs of regional communities in a way that is more sustainable and affordable than either Qantas or Virgin, and;
- as a new entrant in broader domestic operations offering innovative competition to Qantas and Virgin.

## OVERVIEW

The current slots system for Sydney airport has generally worked well over the 23 years since its inception. Consequently, it is fair to say that the basic principles upon which it was established have proved to be sound.

Those principles established in 1997 aimed to achieve the following outcomes;

1. maximising the number of flights within the movement cap;
2. managing noise impacts on the local community;
3. maximising passengers and freight;
4. guaranteeing access to flights from regional areas;
5. providing certainty of slots for incumbent airlines; and
6. encouraging competition through making slots available for new entrants.

This review provides an opportunity to assess each of these principles to see if the policy outcomes have actually been achieved and to put forward reforms that respond to contemporary circumstances.

### **1. Maximising the number of flights within the movement cap:**

Clearly, this has not been achieved. It was intended that the airport would operate at 80 movements per hour. Instead, because of the 15-minute window period caps, Sydney Airport averages about 75 movements per hour. In relative terms this is a 6.25% reduction in the capacity of the airport.

### **2. Managing noise impacts on the local community:**

This has been achieved. Aircraft noise has been far better managed under the slot scheme and subsequent noise sharing mechanism. In the past decade airport noise complaints have been reasonably muted by comparison with the concerns expressed at the time the slots system was implemented.

### **3. Maximising passengers and freight:**

Due to the failure to achieve an average number of aircraft movements of 80 an hour, it is correct to claim that this objective has not been achieved because of the loss of 6.25% of the airport's capacity for various reasons.

#### **4. Guaranteeing access to flights from regional areas:**

This objective has been achieved. The ring fencing of NSW regional slots has worked extremely well and the policy of ensuring that regional Australians have access to the nation's largest airport, post its privatisation, has been comfortably achieved.

#### **5. Providing certainty of slots for incumbent airlines:**

This has been achieved. It is fair to say that airlines have enjoyed certainty since the inception of the slots system. This has enabled them to set schedules with enough advance notice to plan their operations and market their tickets.

#### **6. Encouraging competition through making slots available for new entrants:**

The slots system was never meant to be a barrier to competition or to new entrants. In fact, the opposite was the case. The *use-it-or-lose-it* policy was designed to stop airlines from squatting on slots and developing a sense of ownership of those slots. The slots were always to be owned by the Commonwealth to be used to the national benefit.

This last area of policy objective is probably the one that has had the least success and, particularly at a time of pandemic, needs the most urgent attention and overhaul.

Over the years the two large domestic operators have developed the skills to game the system by manipulating the 80/20 rule to squat on slots which they do not need. As an illustration, assume that a carrier has sufficient demand for 4 flights between Sydney and Melbourne in the hour. The carrier would then try to obtain historic precedence to 5 slots and schedule 5 flights in the hour between the 2 cities. In order to maintain historic precedence to the slots, the carrier would then rotate the cancellation of one of the flights every day across its 5 scheduled flights such that it still maintains 80% of flying on each of the scheduled flight but effectively only fly 4 flights per day. This practice can be easily verified by looking at historic data of actual slots utilisation compared to slots allocation for each of the carrier.

The recent decisions by the Minister also contributed to decreasing accessibility of new entrants. Under a Direction, the Minister has grandfathered every airline's right to precedence in response to the COVID-19 collapse of air services. The Minister has done this for two seasons in a row, Northern Summer 2020 (NS20) and Northern Winter 2020 (NW20). This has indirectly given airlines a sense that they own the slots at Sydney Airport. As a consequence, they are now seeking to have all their pre-COVID slots granted to them for future seasons, even though they admit they will not use them.

Virgin has terminated Tiger and has halved its fleet yet still seeks all of its pre-COVID Virgin and Tiger slots for NS21. This includes over 6000 Tiger slots that remain active in the NS21 slot pool. These Tiger slots are being used by Virgin to increase slots in the busiest and most sought after periods within the legislated peaks. Qantas admits that its international operations will not return until 2024 and its domestic operations will not return for quite a while, yet it too has filed for its full allocation of slots for Northern Summer (NS21) starting 28 March 2021, knowing full well that it could at best utilise half of the slots requested.

As a result of manipulation of the 80/20 rule and the grandfathering of slots to the benefit of existing operators, the outcome of making sure that slots are available for new entrants (to the domestic/international market) is not being achieved. In fact, the opposite is true; at a time when there is the least need for slots, the incumbent carriers are seeking to lock in all the available slots so there is no possibility of any new entrant at least until October 2022. A case in point is Rex's need



for slots in NS21 to launch its new domestic services is now being placed on a waitlist precisely because the incumbents are trying to squat on slots that they will not need for the next 2 years by filing for all slots available pre-Covid for NS21.

The ACCC identified the risk of anti-competitive conduct in relation to slots in its September 2020 Airline Monitoring Report (see extract from page 11 below).

### **Hoarding of airport slots**

A slot is a permission to take-off and land at a scheduled time on a specified date at an airport. At "level 3" slot-constrained airports, where demand exceeds capacity, slots are allocated on a historical precedence basis. That is, if an airline regularly utilises a slot they can retain that slot in the future.

For reasons including airport curfews and physical limitations on access to runways, a number of Australian airports are slot-constrained. In particular, Sydney Airport, one of Australia's busiest airports and one which plays a pivotal role in the Australian domestic air travel network, is significantly slot-constrained, especially during peak times (early mornings and late afternoons on weekdays).

Competition concerns may arise where airlines schedule flights for the purpose of retaining a slot but with no real intention of operating the flight, and likely cancelling the flight close to its scheduled departure time. Conduct of this nature may raise concerns if it has the purpose, effect or likely effect of substantially lessening competition (that is, by preventing a competitor from accessing those slots).

Where there is a valuable window of opportunity for new entry, it is dangerous to have a scheme that is weak in terms of preventing opportunities for anti-competitive conduct, and just rely on the ACCC using competition law after the event. ACCC enforcement actions can take years, working their way through the courts to a final result, which will be too late to get back the new entry that was shut out. If the Government wants to see new entry occur, the rules of the scheme need to be changed to prevent such anti-competitive conduct occurring in the first place.

The Government should take into account that Virgin and Alliance have now been given interim authorisation by the ACCC, which effectively gives them special advantages in relation to slots previously used by Virgin. It was clear from the authorisation application that the intent was to prevent Rex entering routes Virgin has exited. Rex's 27 November 2020 submission to the ACCC regarding this issue (see pages 4-6 of this submission) can be found at the following link:

<https://www.accc.gov.au/system/files/public-registers/documents/Submission%20by%20Rex%20Airlines%20-%2027.11.20%20-%20PR%20-%20AA1000533%20-%20Virgin%20-Alliance.pdf>

In light of the special advantages that Virgin and Alliance have now secured via interim authorisation, it is especially important that the focus of these reforms should now be on maximising opportunities for new and expanding airlines.

The following are a number of solutions that can overcome the deficiencies of the current system and achieve the original policy intent of the slots system, i.e. that national interest is best served by balancing the needs of the incumbents against fair and transparent access for new comers to enhance competition while preserving regional access to Sydney Airport.



In regards to the technical definition of a new entrant under the slot rules, it is defined as having less than 5 slots per day. By definition Rex is deemed to be a new entrant at Brisbane airport due to historically operating a limited regional schedule of below 5 slots per day, however in Sydney Rex is not classified as a new entrant due to its pool of NSW regional slots. Rex believes that its domestic services should be classified as a new entrant due to Rex being a new entrant in the domestic market.

The definition of a new entrant comes into play under the Worldwide Airport Slot Guidelines (WASG). For example, one of the roles of the slot coordination committee is to consider if there are problems with new entrants accessing slots. This includes a structured process for hearing complains and addressing problems for new entrants. Importantly, there are also slot allocation rules that apply to the allocation of slots for new entrants. Once unchanged historic slots have been allocated the slot coordinator establishes a slot pool which also includes any newly created slots. This includes allocating 50% of the slots contained in the pool at initial slot allocation to new entrants. Additional criteria applies (refer 8.3.3 & 8.3.4 of the WASG) however Rex is drawing attention to the importance of being defined as a new entrant. Rex believes that its new domestic operations should be defined as a new entrant to reflect that Rex is a new entrant in the domestic market.

#### **A. Rules Governing Historical Slot Precedence**

1. The Historical Slots Precedence rule (use-it-or-lose-it provisions) for NS21 should not be waived unless the airlines are willing to accept the following adjustments:
  - All existing incumbent domestic carriers permanently surrender 20% of their historic precedence slots (which includes slots used for domestic as well as international services) in every hour period during the legislated peak period and 20% of their slots in a 2-hour period during non-peak periods. These slots will be available for all new entrants and will be ring-fenced for new entrants for a period of 2 years after which the Worldwide Slot Guidelines (WSG) will be applied for the allocation of these new slots. A new entrant would be defined as a carrier that did not have access to Sydney Airport domestic or international slots before.
  - For the remaining 80%, the incumbent domestic carriers should hand back all slots (both for domestic and international services) they do not intend to use by NS21 handback deadline of 15 January 2021. The carriers will maintain historic precedence to these handed-back slots for NS22.
  - To ensure carriers do not intentionally obstruct the plans of other carriers, slots which are not handed back by the deadline of 15 January 2021 and which are subsequently not going to be used (at least 80% of the time during the period) will no longer be part of the precedence pool for the carrier concerned for the subsequent NS22 scheduling period.
  - Slots belonging to carriers that have ceased operations (e.g. Tiger) should be handed back permanently. However, these slots can form part of the 20% of VA slots that need to be surrendered. Virgin has reduced its fleet to about half its size pre-COVID. It is therefore logical that Virgin does not require its full pre-COVID slots and clearly does not require the Tiger slots. An airline that doesn't exist, by definition does not need slots. An airline that has reduced its fleet by half, by definition should only need half its previous slots.

2. Currently, there is a historical slot precedence waiver applied to the NW20 scheduling season which is applied under a Ministerial Direction. This means that existing carriers have slot precedence rights to the full pre-COVID schedule come NW21. The following adjustments should also be applied in exchange for the part waiver for NS21:
  - The waiver for NW20 should be retracted since it will be meaningless for a new entrant to have services starting in NS21 without certainty that these services could continue into NW21.
  - The above rules for NS21 should also be applied for NW21. However, in order for consistency of schedules, the same slots surrendered for NS21 should also be surrendered for NW21 so the new entrant will be able to have a year-long consistent schedule.
  - The hand back deadline should be extended to 3 months before the start of the scheduling season to give enough time for other operators to apply for the unused slots and still have enough time to operationally plan to pre-sell tickets.
3. As explained above, the current dominant domestic carriers are all engaged in deliberate actions to squat on the slots by gaming the 80/20 rule for slots precedence. The way to overcome this is to have another rule added whereby the number of slots given precedence on the following period is also based on the actual amount of flying (departures) conducted on the current period. So, in our example above, if the carrier is only flying 4 flights in the hour, it should only be allowed precedence on 4 slots at the next season, even though the carrier has satisfied the 80/20 rule for the 5 slots.
4. The current system of historical slot precedence and ring fencing of NSW regional slots (Permanent Regional Slot Series - PRSS) has worked well and should be preserved to protect regional access to Sydney Airport (which was one of the known conditions of sale when the airport was privatised).

However, the rules can be tweaked to allow a bit more flexibility so that regional slots can be better aligned with domestic/international schedules. To achieve this, one could allow:

- The swapping of a carrier's domestic slot for a regional slot if within the same peak hour period in the morning or the afternoon. This will preserve the same number of regional slots within the peak hours while giving scheduling flexibility to the carrier;
  - Sydney – Canberra to be used as a regional/domestic slot, whichever is more expedient since it is essentially serviced by turbo props;
  - Rex does not support non-PRSS slots being permitted to operate as NSW regional services in the peak periods as this would clearly indicate that the holder of the domestic slot does not have a commercially viable domestic/international use which would be a more optimal use of the precious slot resource. This would indicate that the carrier was squatting on the slot and should not be encouraged by allowing alternative sub optimal usage of the slots.
5. Rex does not support a change to the definition of a regional service in the current climate when there is already considerable uncertainty.



## **B. Rules governing usage of slots at Sydney Airport**

Currently there is a hard limit of 80 movements per hour on a rolling 60-minute period, calculated every quarter hour. This has resulted in great inefficiencies as traffic disruptions on the day mean there would be a natural over-demand of movements in some quarters followed by a corresponding under-demand in others.

The need to strictly abide by these hard rules results in aircraft being made to either hold on the ground or in the air until the next slot quarter ticks over, even though the runway is clear, just so the hard limit of 80 movements is not exceeded. In practice, the average number of movements per hour at Sydney Airport ends up at about 75 because of the fifteen-minute window periods. This results in a very inefficient airport operation, loss of income for Sydney, NSW and Australia and increased costs for airlines.

From an airport noise perspective, it makes very little difference if some quarter hourly periods exceed the limit by a few movements followed by a lessening of movements in other quarters. Furthermore, the noise sharing approach adopted by the Air Traffic Control would mean that the flight path is distributed over different geographical sectors so the additional noise created by the extra movements is shared out. Noise sharing has always been one of the keys to minimising the effect of aircraft noise in the community.

The solution is to place the hard limit on the planned (or scheduled) movement to be no greater than 80 for every hour, or rather 20 for every quarter period, instead of on the actual movement on the day of operation. If, on the day itself, there are some overs and unders due to air traffic disruptions, the noise impact would average out over the day.

It is estimated that adopting the above approaches (focusing on scheduled movements instead of actual movements and in the process doing away with the quarter hourly monitoring of movements) would translate to an extra 4 to 5 movements actually achieved during peak hours, or about 30 extra peak movements per day and additionally allows a much faster clearance in times of severe disruptions.

A further initiative would be to exclude turbo prop aircraft from the official movement cap, because they are not the cause of aircraft noise complaints. The purpose of the cap was to minimise noise. The true capacity of Sydney Airport is in excess of 80 movements per hour and could easily accommodate the turbo prop movements on top of the 80 movements for the jets. For example, if the 80 movement cap was applied to jet aircraft (due to noise) then the airport could be left to add on a number of movements of turbo prop aircraft purely in line with its airport infrastructure. The intent of the 80 movement cap would remain unchanged in terms of capping the number of noisier aircraft movements while permitting the airport to achieve its true potential in terms of runway demand management.

The economic benefits of 1 extra international flight a day can be anywhere up to \$400 million annually and can create thousands of jobs. So, the net benefit of the proposed revised scheduling mandate is extremely significant.

The proposed solution will also have the advantage of being able to more quickly clear up disruptions, reducing the waiting time for passengers, as well as reducing the wasted time and cost of aircraft circling in the air.

### **C. Other issues**

The discussion paper asks whether any safeguards are required if implementing the Productivity Commission's recommendation regarding the scope of the Part VIIA price notification regime relating to regional air services currently in place under Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2019 (Question L).

Rex supports in-principle carving out commercial agreements between Sydney Airport and regional airlines, provided the relevant instrument changing or replacing the current Declaration preserves the safety net for regional airlines outside agreed commercial agreements, by making clear that pricing under commercial agreements cannot form a new peak price benchmark for the purposes of section 95Z(1)(d). Specifically, the instrument should make clear that, for the purposes of section 95Z(1)(d) the "highest price at which the person has supplied goods or services of that description in that locality on the same or substantially similar terms and conditions in that period" does not include any price charged under a commercial agreement that has been carved out of this regime.

In response to Question K, Rex does not support any relaxation or other changes to the price cap relating to regional aeronautical charges currently in place under Competition and Consumer (Prices Surveillance–Aeronautical Services to NSW Regional Airlines) Direction 2019.

Subject to the carving out of commercial agreements (with the safeguard identified above), the price notification regime should be continued under replacement instruments when the current Competition and Consumer (Price Notifications–Aeronautical Services to NSW Regional Airlines) Declaration 2019 and Competition and Consumer (Prices Surveillance–Aeronautical Services to NSW Regional Airlines) Direction 2019 expire on 30 June 2022.

### **CONCLUSION**

This review is both timely and urgent as it affects significantly the economic benefits of NSW and other States especially at a time when almost every sector of the economy is suffering so badly still.

Ideally this important review should have occurred prior to the NS21 slot submission process. We have now passed many of the major NS21 slot filing calendar dates and the next significant milestone is the NS21 slot handback deadline on 15 January 2020. It is critical that the industry have some certainty ahead of the slot handback deadline which is a mere 6 weeks out from the commencement of the NS21 scheduling period from 28 March 2021.

We therefore urge the Department to complete and implement the review recommendations prior to 15 Jan 2021.