

2 June 2022

Attention: Director, Airport Reform, Sunsetting and IFAM Section

Airports Branch
GPO Box 594
CANBERRA ACT 2601

By email: aviationreform@infrastructure.gov.au

Dear Sir/Madam

Sunsetting of Airports Regulations Stage 1b: Act Amendments on Airport Sites and Infringement Notices

We refer to the Sunsetting Airports Regulations Stage 1b: Act Amendments on Airport Sites and Infringement Notices Regulatory Impact Statements, both dated April 2022 (**RIS**).

Adelaide and Parafield Airports (together **AAL**) welcome this opportunity to be part of the consultation process designed to modernise the regulatory framework applicable to leased federal airports.

Summary

We note that the RIS relates to the definition of an 'Airport Site' under the *Airports Regulations 1997* (**Airport Regulations**) and to infringement notices under Part 5 of the *Airports (Building Control) Regulations 1996* (**Building Control Regulations**), Part 7 of the *Airports (Control of On-Airport Activities) Regulations 1997* (**On-Airport Activities Regulations**) and Part 8 of the *Airports (Environmental Protection) Regulations 1997* (**Environmental Protection Regulations**) (together, **Infringement Notice Regulations**).

AAL is supportive of 'Option 3', which involves remaking of the relevant regulatory provisions as described in the RIS. However, as set out in this letter, the current application of the definition of an 'Airport Site' and the application of the Infringement Notice Regulations has limited impact on AAL as airport operator. Despite this, AAL is supportive of the initiative to improve and modernise the Airport Regulations and the Infringement Notice Regulations as well as the Department's proactive approach in this regard.

In summary, AAL is of the view that, while there is a scope for some improvement, the Airport Regulations have been implemented and administered in a manner that is generally fit-for-purpose. There are, in AAL's view, some changes that would assist in modernising and improving the regulatory framework under the Infringement Notice Regulations, but in principle the Commonwealth should maintain its regulatory oversight at a level reflected in the current standards. The relevant reasons which influence AAL's position are outlined below.

Definition of an 'Airport Site'

AAL has not experienced to date frequent updates to the certificates of title which are used for the purposes of defining an 'Airport Site' under Schedule 1 of the Airport Regulations. The title structure for both Adelaide Airport and Parafield Airport is not complex. (There are 5 certificates of title for Adelaide Airport and 2 certificates of title for Parafield Airport. As a comparison, Schedule 1 lists 179 separate titles for Sydney Airport and 155 titles for Perth Airport).



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Despite not having any firsthand experience of the regulatory burden, as described in RIS, AAL supports the view that the process of defining airport sites should be streamlined and improved. For example, South Australian lands titles office offers comprehensive services which are delivered electronically. Other jurisdictions are also embracing fully electronic title registries. Electronic land registry data should be used to allow electronic updates to the definition of airport sites. Considering the availability of up-to-date certificate of title information electronically, the information included in Schedule 1 of the Airport Regulations may be delivered more efficiently through a database.

Infringement Notices – Car Parking

AAL has no experience of relying on the infringement notice regime with respect to landside vehicle management under the Infringement Notice Regulations. In particular, the On-Airport Activities Regulations do not apply to AAL by virtue of Adelaide Airport (and Parafield Airport) not being the listed airports to which Division 2 of Part 4 – Landside vehicle parking applies. AAL relies on and implements state laws and the framework governed by the local councils with respect to landside vehicle management. Over the years, AAL developed a good working relationship with the local councils under which AAL manages traffic on the airport land.

State law framework

Under the current framework, AAL (through its staff in their capacity authorised parking infringement officers) monitors traffic and parking, provides advice to motorists of implications of illegal parking and issues infringement notices in case of non-compliance with the parking rules on the airport land. The remaining enforcement powers (including collection of fines) are the responsibility of the local council. The benefits of this current framework include consistency of traffic management ‘on airport’ and ‘off airport’. (In simple terms, the fact that parking infringement notices on the airport land are issued and enforced in the same fashion as the surrounding suburbs improves compliance by the motorists with the parking and traffic rules in general). The local councils are also well equipped to handle legal review and complaints about the framework. The only drawback of this framework for AAL is the fact that all revenue derived from the parking infringement notices is collected and retained by the local council. However, this is acceptable to AAL from the business perspective considering the limited role AAL plays in enforcing the scheme (AAL’s involvement in enforcement ends at the point of the parking ticket being issued).

AAL is satisfied with the current status quo with respect to the parking infringement notices on the airport land. The current, state law based, framework provides benefits for all involved. On this basis, for the purposes of landside traffic management, AAL is satisfied to remain outside the application of the On-Airport Activities Regulations. If the On-Airport Activities Regulations were to be redrafted to incorporate a modern and efficient scheme for enforcement of infringement notices, AAL would like to have the choice of opting out and maintaining the current framework and relationship with the local council.

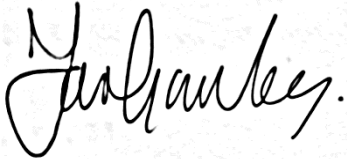
Infringement Notices – Environmental and Building Control Regulations

AAL does not currently rely on the Infringement Notice Regulations for the purpose of issuing infringement notices with respect to environmental compliance or building and planning controls. In AAL’s experience, the relevant provisions are outdated and do not represent the current best practice. Based on the legal advice that AAL received in the past, the infringement notice scheme under the On-Airport Activities Regulations is not fully consistent with A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers (**Guide**). However, updating the infringement notice scheme and enforcement powers can impose additional burden on airport operators. For example, under the Guide, authorised officers are required to have the same level of accountability as an Australian public servant, including the public service code of conduct, and the provisions of the *Archives Act 1983*, the *Privacy Act 1988* and the *Ombudsman Act 1976*.

AAL supports the view that the new scheme should be a bespoke modern framework focused on imposing minimum regulatory burden on airport operators. Creation of such new framework should involve an extensive consultation process as well as opportunity for each airport operator to fully consider and understand the scope of regulatory burden imposed under the new scheme.

We appreciate the Department's ongoing consultation on this process and would be happy to discuss any of the above in further detail.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tom Ganley', is written over a light grey grid background.

Tom Ganley

Executive General Manager Corporate Affairs