

**Hume Residents Airport Action Group
&
Melbourne Airport Community Action
Group**

Submission to the

**Review of Implementation of the
National Airports Safeguarding
Framework (NASF).**

November 2019

Briefing and Background Notes

The Hume Residents Airport Action Group together with the Melbourne Airport Community Action Group represent many thousands of residents living in the suburbs surrounding Melbourne Airport. We welcome the opportunity to make this submission.

Our submission provides a community perspective on the National Airport Safeguarding Framework (NASF) policy with specific reference to the failure of planning policy and land use controls in our region.

The Collins Dictionary aptly describes the meaning of safeguard:

“as a law, rule or measure intended to prevent someone or something from being harmed”.

The principles of the National Airport Safeguarding Framework have been framed to enhance the current and future safety, viability and growth of aviation.

It fails to address the safeguarding of those who suffer the ongoing harm from:

- aircraft noise
- pollution
- risk.

All of these are amplified by the increase of flights. It is people, not airports, who require protection.

People are not a threat to aviation, however when people live in close proximity to airports or flight paths the impacts from aviation are significant. The impact causes stress and discomfort and leads to mental and physical health issues as well as interfering with learning, cognitive function, amenity and life style.

Government Planning Neglect – Historical facts

Melbourne Airport is often described as a model for airport development in Australia. That may have been true in the original planning which began in 1958.

Before Melbourne (Tullamarine) Airport began operations in July 1970, the Memorandum of Understanding between the Department of Civil Aviation (DCA) and the Melbourne and Metropolitan Board of Works (MMBW) was thwarted by the Victorian Minister for Planning. The DCA and MMBW had intended an internal land buffer within the 5,300 acres plus the surrounding land to be in lots of 5 acres remain zoned rural.

In 1966 the Victorian Minister for Planning rezoned this land setting in train the challenges and dilemmas residents and the airport now face. These events are fully documented in the Commonwealth Hansard.

It is worth noting the following extract from Prime Minister John Gorton's, Tullamarine Airport opening speech

"There is no need for an airport not to operate, provided those living around it are not harassed by the noise of such operation, subject in future to just this one qualification the State authorities concerned see that there is not built up around the perimeter of this airport housing settlement which, in the future, might lead to great noise discomfort to those living in them, let us have a buffer zone around it"

Our then Prime Minister John Gorton made it quite clear that Melbourne Airport should operate 24 hours per day, *on the condition that State authorities did not permit residential development around the perimeter of the airport.*

Zoning debacle

A key factor in selecting the Tullamarine site for Melbourne Airport, over other considerations, was that it was located in a rural setting still close to the city. The rural zoning was seen as crucial to the operations of Melbourne Airport as it is totally land-locked in all directions.

Land use restrictions imposed by State legislation in 2007 at the request of the Commonwealth interferes with all aspects of property ownership without compensation.

We are of the view it is the Commonwealth's responsibility to protect airport infrastructure. Therefore entering into a scheme of arrangements with State planning allows the Commonwealth to make laws and regulation over land it does not own, which otherwise would be subject to Section 51 of the Australian Constitution, acquisition of property on just terms.

In 1967 a report was tabled in the Victorian Parliament following an investigation into Stanhill Development Finance Limited and other companies (under Division 4 of Part VI of the Companies Act 1961). This report contained statements which evidenced that State authorities knew of the intention of Stanhill Development to have thousands of acres it owned re-zoned for residential development before Melbourne Airport was constructed. Clearly this action is responsible for the residential encroachment which is now threatening Melbourne Airport's expansion.

Concerns over these matters were raised by the Commonwealth Minister for Aviation and members of Federal parliament.

Mr.R.Swartz (Minister for Civil Aviation), House of Representatives 18 September 1968)

"The Commonwealth acquired 5,308 acres of land at Tullamarine for the development of a new airport for Melbourne. Although this is a large area of land - it is certainly much larger than most other airports in Australia - its development was still dependent upon the zoning of adjoining land that had been acquired to give a reasonable buffer against the noise problem"

in future development. It was the Commonwealth's understanding at the time that that area was zoned for rural purposes. My understanding is that the Melbourne and Metropolitan Board of Works agreed with that zoning and, in fact, indicated that it was so zoned. My belief is that later a developer approached the Victorian Minister for Local Government, and, on appeal, was allowed to go ahead, with plans for the development of a residential area adjoining the aerodrome at the point referred to by the honorable member. The Government and my Department are clearly opposed to the further rezoning of the area. We believe it should still be zoned for rural purposes to provide the buffer which was intended in the first instance, because the area concerned is close to where it is proposed at some future time - in another 10 or 12 years - to develop a new runway. The problem to which the honorable member has drawn attention could arise. The matter is now the subject of correspondence between the Prime Minister and the Premier of Victoria. When some further information is available I will provide it to the honorable member."

Mr.G. Whitlam Former Prime Minister, (House of Representatives 12 November 1968)

"I ask the Minister for Civil Aviation a question. He will have noted that private developers are now going ahead with the sale of land in the immediate vicinity of Tullamarine airport. Whatever delays and failures there may have been in the past in consultations between the Commonwealth and Victoria about Tullamarine, as noted, for instance, by the Public Works Committee, I ask the Minister: What steps will now be taken to anticipate and avoid grounds of complaint about noise and interference by people living near Tullamarine, similar to the complaints the Minister constantly receives about Mascot airport and the Minister for Air receives about Williamstown airport, both of which have some sea approaches whereas the approaches at Tullamarine . are wholly by land."

Hansard clearly records that Commonwealth and State governments were fully aware that residential rezoning at Tullamarine would likely compromise future development of the airport. This prompted the commonwealth to erect large billboards on the airport perimeter showing future airport growth contained within in the 5,300 acres, all this after the rezoning had taken place.

Housing was sold to the unsuspecting public who were not informed of the extent of future airport development, despite the Commonwealth and State governments being aware of the aviation impacts and planned land use restrictions to come. Housing constructed at that time did not include noise insulation or double glazing.

The Age Newspaper, August 1974 publication

In the article "Life in a jet stream" in The Age, August 1974 it was reported that the warnings from The Federal government were ignored by Victorian State authorities. (4)

The then Broadmeadows town clerk Mr. Edgar Smiley stated that the council had no policy on controlling development in noise zones, *"Noise is just something you have to live with"*

He went on to say:

"You only get one chance in this game, you can't go along to all those people living under a flight path and say - Sorry we made a mistake. We're going to pull your house down."

"What the government should be doing is legislating - since obviously voluntary controls don't work - to ban housing in noise zones."

"There are plenty of other compatible land uses, factories, sports grounds, farming. Land is not such a premium, surely that we have to accept the roar of jet planes as the price of owning a home."

Airport Privatisation

In 1988 the Federal Airports Corporation (FAC) took over administration of Australian major airports. By 1994 the FAC completed the privatization of all major airports.

Prior to completing the privatization of Melbourne Airport the FAC drew up a new four runway plan, having two North/South parallel runways and two East/West parallel runways. By that stage residential development was *within less than two kilometers from the airport on the east boundary*. Thousands of homes had been built under the proposed new parallel east/west and north/south runways since 1968. Housing development increased in the areas of Keilor, East Keilor, Keilor Park, Bulla, Meadows Heights, Gladstone Park and Taylors Lakes.

Establishment of the Melbourne Airport Environs Overlay

It was not till May 2007, The Victorian Minister for planning amended the Melbourne Airport Environs Overlay comprising of schedule 1 & 2.

Schedule 1 affects residential development located in the ANEF 25-30 noise contour. Use of land is restricted to one dwelling per lot and subject to the requirements of AS2021-2015.

Schedule 2 affects residential development located in the ANEF 20-25 noise contour. Development of a single lot for two or more dwellings must not exceed a density of one dwelling per 300 square metres and subject to the requirements of AS2021-2015.

The purposes of the overlay are:

- To ensure that land use and development are compatible with the operation of Melbourne Airport in accordance with the relevant airport strategy or master plan and with safe air navigation for aircraft approaching and departing the airfield.
- To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in dwellings and other noise sensitive buildings.
- To provide for appropriate levels of noise attenuation depending on the level of forecast noise exposure.

Failure of State planning policy

The Victorian Minister for Planning last updated the Victorian Planning Scheme, in 2007 with the ANEF noise contours from the Melbourne Airport 2003 Master Plan.

1. The current Victorian Planning Scheme still refers to the 2003 noise contour, which are 15 years out of date.
2. Local planning authorities use the 2003 ANEF noise contour as a basis for permit approval
3. Since the 2003 Melbourne Airport Master Plan the ANEF contours have extended more than 3 kilometres over the suburbs in line with the proposed new East/West and North/South runways.
4. One example is the hundreds of dwellings in the vicinity of Camp Road, Broadmeadows Victoria, located under the extended ANEF contours of the 2018 Master Plan. These have been re-developed into over 1,000 units/apartments.
5. Advice received from Hume Council confirms the development along Camp Road is not affected by the Melbourne Airport Environs Overlay based on the 2003 ANEF noise contour maps. (1)
6. Another example is the former Calder Rise School site in Keilor, which was recently sold to an aged care provider for development. With the recently announced plan to change to a north/south third runway at Melbourne Airport this land will now be affected by a level of aircraft noise that is incompatible with such use.
7. Councils are administering the Victorian Planning Scheme that has the 2003 ANEF noise contour maps, these have been superseded by three subsequent airport master plans.

It is extraordinary the Federal Department of Infrastructure, Victorian Government, Hume City Council, Brimbank City Council and Melbourne Airport have all been informed the planning scheme fails to reflect current ANEF noise contours. It is also extraordinary that it fails to reflect ultimate capacity noise contours as this means land that will eventually be

affected by aircraft noise at or above ANEF 20 will continue to be developed to an insufficient standard.

They are fully aware the approvals for residential development is inconsistent with the principles of the NASF and non-compliant with the requirements of AS2021-2015.

It would appear to be a repeat, albeit more serious, of the Victorian planning Minister's action in 1966, where home owners are casualties of government bungling and disregard for the community.

Local people are being short-changed through a convenient scheme of arrangement set up to protect airports through the use of planning laws which were introduced too late and are still knowingly out of date. This fails to provide protection for either residents or airport operations.

The land used restrictions are interfering with property use without compensation. We are of the view it is the Commonwealth's obligation to protect airports infrastructure. Therefore making laws or regulations on land it does not own would be subject to section 51 of the Australian Constitution, on just terms. Having the state responsible for land use control has been successful in shielding the commonwealth from compensation responsibility under section 51, Australian Constitution.

NASF Policy Shortcomings

The NASF policy document fails to include an oversight regime and penalty outcomes when NASF principles are not followed.

Airport development should be conditional on the achievement of land use controls which are consistent with the NASF principles. These land use controls should include:

- Where residential development is approved or pre-existing within ANEF 20 or higher noise contours, future airport runway expansion should be halted until residential development is made compliant with the requirements of AS2021-2015.
- The Department of Infrastructure and Transport should consider using available runway capacity at alternative airports to meet aviation demand.
- Curfew restrictions, caps on aircraft movements, and effective insulation programs for homes, schools, and other facilities impacted by aircraft noise should commence to protect residents of existing homes that have been left exposed to aircraft noise through inappropriate land use approvals.

Houses, schools, hospitals, childcare centres, aged care facilities and other sensitive facilities which existed long before the 1990 Melbourne Airport's four runway plan are located within ANEF 20 and higher noise zones. They have simply been allowed to remain without addressing the noise requirements as per AS2021-2015; this simply cannot stand.

Aircraft noise impacts all, but particularly the elderly and unwell. Existing or new development should all be made compliant to AS2021-2015 through rebate schemes. Communities are short changed through inadequate process.

The Attwood Child Care Centre is located under the existing east/west runway flight path at Melbourne Airport and is in 30-35 ANEF noise zone. It recently won a VCAT appeal against planning objections from Melbourne Airport and Hume Council for building extensions.

The existence of this facility in this location defines Melbourne Airport as a “qualifying airport” under the Aircraft Noise Levy Collection 1995 Act. This allows the Federal Minister for Infrastructure to declare Melbourne Airport as a “leviable airport” under this Act and commence a home insulation scheme for Melbourne as was done at Sydney and Adelaide airports.

Cost of interfering with community amenity and property

Many thousands of residential properties are subject to land development restrictions since the introduction of the Melbourne Airport Environs Overlay 2007.

The Commonwealth has the power to acquire properties for where it has to make laws, as per section 51 (Australian Constitution), this scheme of arrangements between the State and Federal governments seeks to place a barrier to rightful compensation. There is a legal view which supports that interference with property as a form of acquisition and should be done on just terms. We believe this is not a fair outcome.

The impacts and economic distribution from airports cannot be efficiently achieved by making airports larger.

The Federal government of the day around 1991 released a strategy document setting the direction for future development of airports in the Port Philip region. Some 18 years later a site for Melbourne’s third airport has not been chosen. (2,3)

Whilst we wait, Melbourne Airport continues to assert it is congested and requires additional runways and road infrastructure to accommodate forecast aviation growth. This is inflexible planning that is not taking into account the existing residential development surrounding Melbourne Airport.

Melbourne Airport and the Department of Infrastructure fail to establish airport capacity as was done at Sydney Airport. There are no plans to limit hourly aircraft movements, even though that were set in 1990 as part of the re-drafted four runway plan based upon population growth to approximately 5 million by 2050. Melbourne surpassed this in 2018 and is expected to grow to 8.5 million people by 2050.

There can never be an adequate level of safeguarding when the airport capacity is variable and continues to grow over time.

Annual aircraft movement forecasts that formed part of the Environmental Impact Statement in 1990 envisaged around 330,000 aircraft movement per year by 2050.

Since 1990 the Melbourne Airport Master Plans continue to increase annual aircraft movements and hourly through put, and ANEF contours have continued to expand. It is unclear how land use controls can achieve desirable outcomes to safeguard the airport under these circumstances.

Melbourne is currently serviced by two international airports, Melbourne and Avalon Airports. Avalon Airport is located around 50Klm form the Melbourne CBD. It appears logical that the under utilised runway capacity at Avalon airport, should be used ahead of further runway expansion at Melbourne Airport. This would provide an interim period for the planning and construction of a third airport east of Melbourne and for improvements to the planning strategy around Melbourne Airport to ensure residents are protected.

It is not an ideal situation for one airport to service the large urban sprawl in Melbourne. The airport master plan fails to adequately address the issue of efficiency for the consumer and to take into account the population growth which has already exceeded forecasts upon which the current runway expansion at Melbourne is based.

Furthermore, it is not clear having one international airport best serves the interests of the whole State.

Recommendations

1. Binding Inter-governmental agreements between Federal and State governments should be introduced to safeguard both airports and communities.
2. Ensure areas set aside for airport development include sufficient internal buffer land to provide 6 Km beyond each runway end. Surrounding land on the airport perimeter for a 6 Km radius should be zoned for commercial, open space. There should be no residential development within 6Km of an airport.
3. The Commonwealth should ensure Melbourne Airport operates within the capacities and aircraft hourly throughput established in the 1990 four runway plan.

4. A legislated curfew to operate between the hours of 8pm and 6am as recommended in the four runway plan independent review by PD Technologies (USA) 1990.
5. The Victorian Planning Scheme should be based on noise forecasts for the ultimate maximum capacity for each airport. A capacity cap must be set so that developments permitted under this planning scheme remain suitable for their location indefinitely.
6. As a consequence of negligence by Federal and State authorities responsible for airport and land use planning at Melbourne Airport, there should be no approval for additional runways beyond the existing two runways at Melbourne Airport.
7. The Commonwealth should immediately declare Melbourne Airport a “leviable airport” under the Aircraft Noise Levy Collection Act 1995 and commence a noise insulation program at Melbourne Airport.
8. Fast track the planning and building of a Third airport for Melbourne, located in the area of Port Philip as was detailed in the ministerial letter from Mr. Bob Collins, Minister for Shipping and Aviation support, dated 11 December 1991.

We would be happy to provide further clarification material at the request of the National Airports Safeguarding Advisory Group (NASAG).

Attachments

- 1 *Hume City Council - Melbourne Airport Environs Overlay*
- 2 *Minister for Transport & Communication - Port Phillip region Airport Study*
- 3 *Minister for Shipping & Airport Support - Strategy for Port Phillip Region Airports*

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