

22 November 2019

Mr Jim Wolfe  
Chair  
National Airports Safeguarding Advisory Group  
Department of Infrastructure, Transport, Cities and Regional Development  
PO Box 594  
**CANBERRA ACT 2601**

Dear Mr Wolfe,

**National Airports Safeguarding Framework – Implementation Review Submission**

Thank you for providing Australia Pacific Airports Corporation Limited (APAC) the opportunity to make a submission to the National Airports Safeguarding Framework – Implementation Review (the Review).

The Review provides a timely opportunity to evaluate the National Airports Safeguarding Framework (NASF) in delivering a national land use planning regime to protect airports and communities from inappropriate off-airport development. The APAC submission addresses both Melbourne and Launceston Airports' experiences of the NASF against each of the Terms of Reference and highlights issues as appropriate.

If you would like to discuss this submission further, please contact Ms Romy Collier, Manager of Statutory Planning on 03 9297 1521 or [romy.collier@melair.com.au](mailto:romy.collier@melair.com.au).

Yours sincerely,



Lyell Strambi  
**CHIEF EXECUTIVE OFFICER**

## **NASF Implementation Review Submission – Australia Pacific Airports Corporation**

### **Introduction**

Australia Pacific Airports Corporation Limited (APAC) makes this submission as owner and operator of Melbourne Airport and Launceston Airport. APAC is a privately held corporation owned by institutional investors, predominantly superannuation / pension funds. APAC owns Australia Pacific Airports (Melbourne) Pty Ltd (APAM), which owns and operates Melbourne Airport, and Australia Pacific Airports (Launceston) Pty Ltd (APAL), which owns and operates Launceston Airport.

APAC acquired the lease for Melbourne Airport in July 1997 and Launceston Airport in May 1998. Both Melbourne and Launceston airports are operated under a 50-year long-term lease from the Commonwealth Government, with an option for a further 49 years.

### **Overview**

The capacity of an airport to operate unencumbered is fundamentally dependent on the activities on the land surrounding it. The long-term and effective safeguarding of Melbourne Airport and Launceston Airport is critical to maintaining the social and economic benefits they provide to their local and regional communities, and to protecting surrounding communities. Airport works closely with the Victorian and Tasmanian Governments, relevant local governments and the surrounding communities to ensure inappropriate development that may encroach on airport operations is prevented through the application of policies and processes including the National Airport Safeguarding Framework (NASF).

Whilst the NASF was agreed by Commonwealth, State and Territory Governments in 2012 to provide a national land use planning regime to protect airports and communities from inappropriate off-airport development, the reality is that it has not substantially achieved these policy outcomes due to a number of reasons which are summarised here and explored in further detail below.

#### *Summary of Issues:*

- 1. NASF is a guideline and as such does not have the appropriate power to prevent the progression of plans and/or development in areas with little to no knowledge of the impact of planning decisions relating to developments close to airports.*
- 2. Airports and other operators and regulators are spending significant amounts of time and resources defending what the NASF Guidelines are trying to establish.*
- 3. Education and understanding of the NASF Guidelines is generally poor particularly amongst planning professionals and is therefore open to misapplication.*

### **Whether the NASF has been/is being embedded in legislation/regulations:**

#### *Melbourne Airport*

The Melbourne Airport Environs Overlay (MAEO) is the only legislatively mandated planning control relating to airport safeguarding in the Victorian Planning Provisions (VPPs) that protects Melbourne Airport. The Melbourne Airport Environs Strategy Plan prepared in 2003 recommended the adoption of the MAEO to ensure the continuing protection of the operation of the airport and to manage the effect of exposure to environmental noise in accordance with the Planning and Environment Act 1997. The MAEO only relates to noise sensitive land uses and does not control other safeguarding matters or potential hazards which are covered by the NASF guidelines such as intrusions into Prescribed Airspace, wildlife hazards and dangerous lighting.

The NASF Guidelines, whilst adopted by the Commonwealth, State and Territory Governments do not provide a clear legislative mandate for application given the NASF only has to be considered by planners as a policy reference.

In 2015 Amendment VC128 included NASF in the State Planning Policy Framework as a policy consideration for assessment of proposals which may impact airport operations. This policy reference only requires the proponent and the planning authority to “consider, as relevant” the NASF guidelines. The concern here is that the onus is on the proponent and the planning authority to have the knowledge to undertake appropriate safeguarding checks. However, in our experience this process does not translate into practice.

#### *Launceston Airport*

The Northern Midlands Interim Planning Scheme (NMIPS) recognises the importance of Launceston Airport and contains a code in Part E relating to airport safeguarding: E12 Airports Impact Management Code. The code further stipulates land-use standards relating to noise impacts, and development standards relating to obstacles to aircraft.

Under the Tasmanian Government’s planning reform program, the NMIPS will soon be replaced with a new planning scheme, the Tasmanian Planning Scheme (TPS). The TPS includes a Safeguarding of Airports Code (C16.0) which will apply when the TPS comes into effect in the Northern Midlands municipality. This code further stipulates land-use and subdivision standards for sensitive uses in airport noise exposure areas and development standards for buildings and works in airport obstacle limitation areas.

Whilst the state and local planning systems provide some protection for Launceston Airport, there is no reference to NASF in either the current ‘Airports Impact Management Code’ or the future ‘Safeguarding of Airports Code’, and neither code addresses the full range of airport safeguarding matters set out in the NASF guidelines. APAL has raised this matter with the relevant state and local planning authorities and there is ongoing engagement planned.

Whilst the premise and objectives of NASF are generally supported APAC believes that:

- The reality is that there are limited appropriate legislative mechanisms or planning controls to adequately protect the policy designs to strengthen the role of Melbourne Airport within the State’s economic and transport infrastructure and protect its ongoing operation as outlined in SPPF Clause 18.04-1.
- A lack of understanding of the complexity of protecting ongoing airport operations by planning practitioners and the intersect between on and off-airport planning.
- Limited legislative protective measures and an over-reliance on policy mechanisms and guidelines to ensure the best or most appropriate planning outcomes which have limited or no legal enforcement.
- Competing planning and policy outcomes mean that there is always a level of conflict between achieving all stakeholders’ requirements.

Commonwealth agencies interpret and apply the NASF guidelines to airports and on-airport development more stringently than to Local Government Authorities (LGAs) and off-airport development. Rather than considering the guidelines as “guidelines” in relation to on-airport development, there is an expectation that they are stringently applied as rules or regulations. This means there is a disconnect between on and off-airport application of the guidelines which dilutes the overall policy objective and provides disparate outcomes.

Consideration should be given to whether it would be possible to use the Airports (Protection of Airspace) Regulations 1996 to implement the NASF guidelines at a national level. These Regulations deal with NASF Guideline F matters, therefore the question needs to be asked “why can’t they be expanded to deal with some or all the other guidelines?”

*Recommendation:*

- Review relevant legislative mechanisms for the protection of airports to ensure that they are appropriate, balanced and implemented correctly.
- Investigate how the intersect and application of the guidelines can be streamlined more effectively between jurisdictions.
- Investigate whether the Airports (Protection of Airspace) Regulations 1996 can be amended to implement the NASF guidelines at a national level.

**Whether the NASF is reflected in policy, guidance and any other planning advice:**

*Melbourne Airport*

The existing Victorian planning policy framework goes some way to incorporating strategic policy support for the safeguarding of the State’s airports and airfields through the State Planning Policy Framework clauses 18.04-1, 18.04-2 and 18.04-3 which relate to Melbourne Airport, Planning for Airports and Planning for Airfields. Whilst these policy frameworks look to strengthen the role of airports, including Melbourne Airport within the State’s economic and transport infrastructure, there continues to be a disconnect in enshrining this framework in a regulatory or planning control context as previously noted.

The NASF is referenced as a policy consideration in current State strategic land use planning documents including Plan Melbourne and the Victorian Planning Policy Framework (PPF) and is also referenced in LGA planning schemes. For example, Amendment VC128 changed the Victorian Planning Provisions in 2015 by amending Clause 18.04-1 (Melbourne Airport) and 18.04-2 (Planning for airports) to include the NASF as a policy guideline. The aim of the clause was to ensure urban encroachment into airport flight paths was avoided and to protect the curfew free status of the airport.

Municipal Strategic Statements (MSS) and Local Planning Policies (LPP) are also important tools in ensuring LGAs recognise the strategic and economic importance of airports such as Melbourne Airport within their jurisdiction. Whilst the MAEO is reflected in relevant LPPs, there is no information about NASF or the airport on websites of LGAs within the locale of the airport. Including this information would assist those living, working and potentially developing land around the airport with a more comprehensive understanding of the types of issues that require consideration.

Melbourne Airport provides an extensive level of information about safeguarding through a variety of media. The Community Aviation Consultation Group (comprising community representation) and the Planning Coordination Forum (comprising amongst others, Commonwealth, State and Local Government planning authority representation) both provide forums for discussion on issues relating to the NASF guidelines. The 2018 Master Plan also provides a comprehensive overview of safeguarding including a description and maps of each of the NASF guidelines in relation to Melbourne Airport. Melbourne Airport also works closely with surrounding LGAs to continue discussion and education about the NASF guidelines and their implementation at a local planning level.

Whilst the Victorian Government has adopted the NASF and advocates its implementation to inform land use planning and the safe and efficient use of airports in Victoria, it appears that there is mixed



understanding and application of the principles at the local planning level. This is critical to note as it is this level that the practical applications of these principles have the most direct impact (both positive and negative) on achieving the policy outcomes.

The direct translation and understanding of the principles are not as effective as could be due to the lack of clear guidance of how to consider them at the local level. Whilst the State government offers a NASF training session for LGAs, anecdotal evidence shows that there has been poor uptake of this training. In addition, there is no guidance or information on websites for LGAs that surround Melbourne Airport about the NASF, MAEO, aircraft noise or Prescribed Airspace. This deficit is an issue given the potential for noise to be experienced in these areas.

#### *Launceston Airport*

The situation at Launceston Airport is much the same as it is for Melbourne Airport as outlined above.

The Northern Midlands Interim Planning Scheme recognises the importance of Launceston Airport, and contains the following objective:

*Protect Launceston Airport from encroachment by incompatible uses or developments that compromise its operations in recognition of its importance and contribution to the Launceston Region and State economy.*

This objective is supported and is broadly consistent with the principles of NASF. However, there is no specific policy reference to NASF in either the NMIPS or the TPS. As in Victoria, the direct translation and understanding of the NASF principles and guidelines is not as effective as it could be due to the lack of clear guidance of how to consider them at the local level.

#### *Response*

As a result of this mixed understanding and application, airports continue to suffer from poor off-site planning decisions, encroachment of inappropriate land uses into noise effected areas and limited consideration of all the NASF guidelines – not just guideline A (Measures for Managing Impacts of Aircraft Noise) which focuses on noise and tend to gain the most focus.

#### *Recommendation:*

- It is important that LGAs consistently set out objectives and strategies to support the airports ongoing operation and protection in accordance with the NASF principles and clearly apply them.
- Clear understanding of all stakeholders' objectives and requirements both on and off airport and the interrelationships that are needed to achieve mutually beneficial outcomes. Regular engagement between LGAs and airports, as well as education/training sessions implemented by State Government authorities, LGAs airports should go some way to ensuring desired outcomes.
- Clarity of the allocation of responsibilities and the precise rights and obligations of interested parties is critical in managing planning implications.

**What impediments (if any) have there been to full implementation:**

*Melbourne Airport*

The ANEF/AS2021 system forms the basis of the Melbourne Airport Environs Overlay which is the only planning control within the VPPs. It is now generally recognised that aircraft noise effects (and as such complaints) are not confined to areas only in the ANEF contours.

NASF Guideline A (Measures for Managing Impacts of Aircraft Noise) acknowledges the need to consider other metrics including N contours given that basing land use planning decisions solely on ANEF contours is not optimal. The key planning overlay in Victoria (the MAEO) does NOT incorporate the N-above contours.

Whilst the NASF Guidelines are referenced within the Victorian Planning Policy Framework, they are only as a “policy guideline”. They have NO statutory force or effect as a planning control which means there is risk of ad hoc and inconsistent application. In addition, the Urban Growth Boundary Logical Inclusions Review Advisory Committee noted in 2012 that *“while the State Planning Policy Framework identifies the airport as a key determination in planning decisions, there is a vacuum between the policy objective of not prejudicing the operations of the airport and what this means in terms of restrictions on development.”* This is compounded in terms of how the NASF guidelines are incorporated into local planning schemes. What should have provided additional weight in terms of safeguarding the airport and ensuring 24/7 operations, has not actually had that effect and results in continued poor planning decisions around the airport.

*Launceston Airport*

As previously stated, there is no reference to NASF in either the current ‘Airports Impact Management Code’ or the future ‘Safeguarding of Airports Code’, and neither code addresses the full range of airport safeguarding matters set out in the NASF guidelines.

Processes in place through the NMIPS ensure that Launceston Airport has an opportunity to assess proposed developments and advise the Council of applicable standards and impact on airport operations. The council planning scheme through the provisions of the Airport Impact Management Code (and the future Safeguarding of Airports Code) ensures relevant Australian Standards are applied to all land-use development proposals, but only within the ANEF contours. This may not capture all potentially important off-airport development proposals.

To assist in the implementation of NASF off-airport, and the safeguarding of Launceston Airport, there should be appropriate planning controls in place in local planning schemes in accordance with the NASF principles outlined above.

*Response*

Pursuant to the NASF agreement, each jurisdiction is responsible for implementation of the Framework into their respective planning systems. As noted previously, the planning schemes relating to both airports include some safeguarding controls, however, there is a narrow focus on the impacts of noise (and then only the ANEF contours). There are no controls, in the case of either airport, relating to N-above contours, windshear, lighting, wildlife hazards or public safety areas.

One reason for this, and an impediment to full implementation, may be the number guidelines to be addressed (nine in total) and the complexity of the matters they deal with, which makes it challenging to translate into established planning scheme frameworks.

*Recommendation:*

- Clear promotion of the NASF framework and guidelines to key stakeholders is required through a variety of media and forums including mechanisms for practical implementation through planning controls.

**The level of industry and community stakeholder awareness and familiarity with the NASF framework and guidelines:**

*Melbourne and Launceston Airports*

As previously outlined, there appears to be limited understanding with local government planners of the application of the NASF guidelines even within LGAs that are close to or have boundaries with the airports. For example, we tend to only get notified of off-airport proposals when they are within the MAEO, whereas the NASF guidelines deal with matters that extend over a much larger area meaning that there may be significant proposals that the airport never gets notified about. The suspicion is that turnover of LGA planners means that translation of the specifics of the NASF framework to new staff does not always occur given the “core” business of the LGAs. A critical acknowledgement by LGAs that understanding and implementation of the NASF is core business within the planning framework is required.

Melbourne and Launceston Airports spend considerable time and resources advising LGAs, industry and existing and potential future landowners about airport safeguarding and the NASF through a range of mechanisms outlined above. In addition, the airports attend community functions so that the communities and others can further learn about the airport and its functions. Melbourne Airport is currently finalising a fact sheet that has been designed to better inform LGAs, the community and industry of key planning processes and implications of planning permit decisions around the airport.

There does appear to be a lack of information and understanding by the broader development industry of the implications of developing land close to airports. Broader education on the benefits that airports bring to communities through economic development and employment needs to be better targeted to industry bodies as well as the NASF requirements.

The Planning Institute of Australia, (planning industry body), is not supportive of industrial developments on airports due to the perception of competition and an uneven playing field given the difference of planning regimes on and off airport. Further policy work should be undertaken by the Commonwealth Government and the Australian Airports Association (AAA) to educate and provide additional information on the role of airports, the NASF and the positive development opportunities that can exist.

Given that airports are critical economic and infrastructure assets, it appears that there is limited planning context surrounding key strategic assets such as airports provided within tertiary/vocational training, meaning that graduate planners are not adequately equipped to manage the intersect of strategic and statutory planning and policy in this space.

There was an attempt by the AAA to develop an Airport Safeguarding Planning Practice Note for the Victorian context, to add the State’s suite of existing Planning Practice Notes. However, this did not receive much support at the State level and did not proceed. There have also been discussions about running a ‘PLANET’ training course for planners about airports and airport safeguarding, but again this idea has not progressed to date.



#### *Recommendations:*

- Engage the AAA as the airport industry body to engage with tertiary institutions and industry representative bodies to continue to educate these bodies about the NASF.
- Provide ongoing education to town planners working in councils with Airports to address the turnover of employees and maintain an airport safeguarding knowledge bank.
- AAA and individual airports to investigate developing mutually beneficial relationships/partnerships with higher education institutions to facilitate more effective education within the planning space.

#### **Any specific case studies to illustrate the impact of NASF on land use planning decisions:**

##### Melbourne Airport

##### *Hume City Council Housing Diversity Strategy:*

Hume City Council (HCC) shares a boundary with Melbourne Airport. The HCC has prepared a draft Housing Diversity Strategy (draft Strategy):

*“to meet the growing and changing housing needs of its community and deliver upon our community’s desire for more well located, diverse and affordable housing options in Hume’s established areas.” p5 draft Hume City Council Housing Diversity Strategy*

The airport, as a key stakeholder, has had positive interaction with the HCC to discuss the draft Strategy and provide advice in the development phase. Importantly, the draft Strategy highlights the importance of the airport’s curfew-free status and the need to manage housing development which could prejudice this status. However, several key issues are still to be addressed, including the NASF which highlight the intersect between each parties’ strategic priorities including the need for the HCC to reference other legislative/policy provisions which are considered vital in terms of safeguarding the airport’s 24/7 operations.

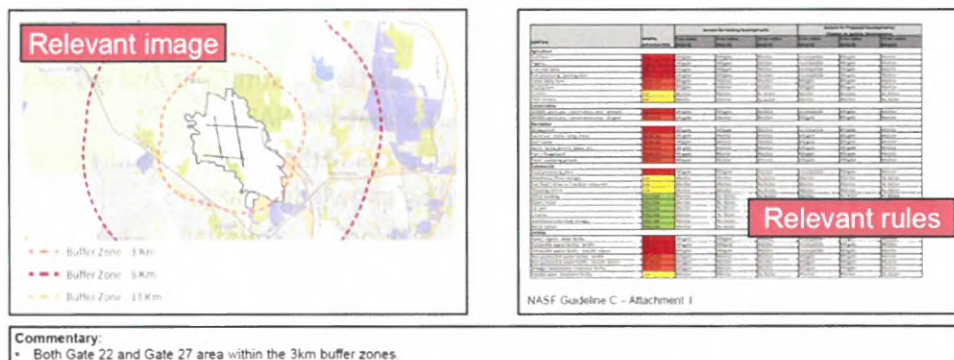
Melbourne Airport is also in the process of engaging with a university and HCC to study high-density housing in areas affected by aircraft noise with a focus on assessing the aircraft noise sensitivity of residents of high-density housing in strategically important areas that may be affected by aircraft noise. The purpose of the study will be to assess the aircraft noise sensitivity of residents of high-density housing compared to conventional housing. It would also examine whether there are measures over and above those required by AS2021 that could be used to facilitate high-density housing in strategically important areas that might be affected by aircraft noise (for example near Metropolitan Activity Centres).

##### *NASF assessment tool*

Melbourne Airport has developed an internal NASF assessment tool that enables the Project and development Managers and the Approvals and Safeguarding teams to work together to assess any NASF implications as part of project development.

The tool outlines each guideline against the proposed project to provide a visual and written assessment. This enables clear internal assessment of proposals against each of the NASF guidelines as well as providing demonstration of the assessments for external parties. An example of the tool is shown below for Guideline C.





### *Attwood Childcare Centre and Kindergarten*

The Attwood Childcare Centre and Kindergarten (the Centre) is located within the MAEO 1 approximately 3kms from Melbourne Airport's east-west runway. The Centre applied to amend their existing planning permit to add an additional classroom to cater for an extra 22 children. Melbourne Airport objected to the request to amend the original planning permit as it is an existing non-conforming use and is unacceptable in AS2021 within the 30 ANEF. A review of the decision by the LGA was sought through the Victorian Civil Administrative Tribunal (VCAT).

VCAT found in favour of the Centre and the LGA despite Tribunal acknowledging the proposed expansion now being a 'prohibited use' under applicable modern planning controls due to the noise exposure. The key reason for approving the planning permit was that there were existing use rights and the belief that there would be a net community benefit by allowing the centre to expand and that any issues with noise exposure could be dealt with in the future by insulating the building and by notifying parents of the noise potential.

A telling finding by the Tribunal highlights the lack of understanding of noise perception and potential impacts in such close proximity to the airport as follows:

"By contrast, it needs to be said that a 'child care centre' is typically not known as a quiet form of use. Rather, young children typically have lots of energy, enjoy interacting with their peers and usually themselves make some degree of significant noise with their play (particularly when running around outside). Hence any occasional aircraft noise experienced by say children using the outdoor areas of the Centre needs to be balanced against the fact that these children may well themselves be playing in a vibrant manner." paragraph 60 <http://www.austlii.edu.au/cases/vic/VCAT/2016/259.html>

### *Proposed Helipad, Somerton*

A helicopter landing site was proposed in Somerton, approximately 10 km from Melbourne Airport as part of an amendment to an existing planning approval. Both Melbourne Airport and Airservices Australia lodged objections to the amendment for reasons relating to the impact of helicopter movements within controlled Class C airspace which is a likely impediment to the operation of airport. As a result, the LGA refused the application to amend and the applicant has since taken the matter to VCAT to review the decision.

Given the importance of the airport to Victoria economically and as acknowledged within the planning scheme, Melbourne Airport took the significant step of requesting the Minister for Planning 'call in' the application for review, under Clause 58 of Schedule 1 of the Victorian Civil and Administrative Tribunal Act 1998, on the basis that the proceeding raised a major issue of policy and its determination may have a substantial effect on the achievement or development of planning objectives. The case is

still to be resolved but highlights the level that airports often must go to, to ensure appropriate safeguarding.

#### *Launceston Airport*

Launceston Airport has recently been dealing with several proposals in the vicinity of the airport which have safeguarding implications. These include the proposed expansion of a quarry to the east of the airport, development within the adjacent industrial estate, a number of small and large sub-divisions within vicinity of the airport and large farming water bodies.

Both the Department of Infrastructure and Launceston Airport (as well as a local resident) lodged objections to the expansion of the quarry due to its proximity to the airport boundary. The objections raised included a lack of information pertaining to the risk of blast activity, dust plumes (both potentially a controlled activity due to their proximity to the prescribed airspace), potential wildlife activity and lighting. Although the objections are being recognised by the LGA and it has been agreed the proponent undertake an aviation safety impact assessment, there remain few controls the LGA can rely on pending the results of the assessment.

Development applications on the industrial precinct adjacent to the airport are referred for comment if triggered within the LGA's planning scheme. If the application breaches a certain height or lies within the ANEF contours, it will be referred for comment. Often however, applications will not be referred and should be due to lighting, wildlife and/or wind shear. Without the referral Launceston Airport has little control over development in surrounding areas.

Launceston Airport is aware, through media and passive tracking, of local small and large sub-division developments occurring in the vicinity of the airport. Likely most of the developments would not be referred by the LGA for assessment and comment due to not triggering a height or ANEF contour issue. These developments however could pose a potential risk to the airport and its future operations. This includes issues such as noise complaints, wildlife attractant and migration risk and lighting.

Finally, Launceston Airport has experienced issues with non-council development such as large water bodies. Recently a large water body was planned to the east of the airport, this type of development poses a risk of wildlife attraction and migration across flight paths and landing areas. Approval for this type of development is given through the state's Department of Primary Industries, Parks, Water and Environment. There exist no opportunities for the airport to object or request conditions for this type of development through the application process.

In each case the proposals required consideration of safeguarding matters, but this has been hampered by the lack of reference to NASF in State legislation and local planning schemes. Whilst APAL refers to and applies the NASF guidelines in these situations, there is no statutory obligation on the proponent or the relevant authority to do the same.