



29 November 2023

Director, Aviation White Paper Project Office  
Aviation White Paper  
Department of Infrastructure, Transport, Regional Development, Communications and the  
Arts  
GPO Box 594  
CANBERRA ACT 2601

**By email:** [aviationgreenpaper@infrastructure.gov.au](mailto:aviationgreenpaper@infrastructure.gov.au)

Dear Sir/Madam

**RE: Submission to the Aviation Green Paper**

**Introduction**

1. I write to you in my capacity as President of the Gold Coast Lifestyle Association (**GCLA**) in response to the invitation by the Minister for Infrastructure, Transport, Regional Development, Communications and Arts for submissions on the Aviation Green Paper released on 7 September 2023.
2. The GCLA is a Gold Coast-based community advocacy group with the principal objective of ensuring that the operations of the Gold Coast Airport are conducted in a manner that takes appropriate consideration of the minimisation of any adverse impact on the Gold Coast community.
3. The GCLA welcomes the review as an opportunity to improve Australia's aviation sector for the benefit of all Australians and, in particular and relevantly, the improvement of the impact on the Gold Coast community of operations at the Gold Coast Airport.
4. The GCLA is pleased to see that the Department is seeking submissions on the following key areas:
  - (a) airport development planning process and consultation mechanisms; and
  - (b) fit-for-purpose agencies and regulations; and
  - (c) airspace regulation and management.
5. This submission highlights certain issues that the GCLA considers are vital and should be included and addressed in the Aviation White Paper in order to properly address the concerns of the Gold Coast community and which are fundamental to ensuring the necessary social licence for the continued operations of the Gold Coast Airport. These

issues include the regulation of aircraft noise and pollution, management of flight paths, and the management of runway operating hours.

### **Inadequacy of the current regulatory framework**

6. There is currently a significant (and untenable) vacuum with respect to the regulation of flight paths in Australia.
7. The Civil Aviation Safety Authority (**CASA**) is the applicable agency with statutory authority to regulate the designation and use of flight paths in Australia, having the power to relevantly:
  - a) designate air routes and airways and to determine the conditions that apply to the use of a designated air route or airway (*Airspace Act 2007* (Cth) s 11(2)(e); *Airspace Regulations 2007* (Cth) s 11);
  - b) give directions in connection with the use or operation of a designated air route or airway or related facilities (*Airspace Act 2007* (Cth) s 11(2)(f); *Airspace Regulations 2007* (Cth) s 12); and
  - c) approve the provision of air traffic services, and aerodrome rescue and firefighting services, provided at airports (*Airports Act 1996* (Cth) ss 4, 216).
8. However, the applicable Part within the *Civil Aviation Safety Regulations 1998* (Cth) concerned with Airspace, Part 71, (anomalously) reads as follows:

*"Note: This Part heading is reserved for future use."*
9. As such, there is currently nothing within the *Civil Aviation Safety Regulations 1998* that specifically deals with CASA's regulation, approval, or administration of airspace or with CASA's design or designation of airways or air routes.
10. This failure to articulate the content of CASA's responsibility with respect to the regulation, approval, and administration of airspace and the design and designation of airways and air routes effectively results in:
  - a) the *ad hoc* approval of flight paths as a second-order consideration in the Minister's approval of the applicable airport's Master Plan every five years under the *Airports Act 1996* (Cth),
  - b) only those significant changes to flight paths arising from alterations to runways requiring to be the subject of a Major Development Plan for the Minister's approval under the *Airports Act 1996* (Cth), and
  - c) otherwise, any alteration to flight paths, including for example to accommodate increased capacity or changes to air navigation technology, being effectively unregulated and able to be made by the applicable commercially-driven airport operator (and its 'for profit' air traffic services provider, Airservices Australia) without any community input or consultation.

11. This regulatory lacunae results in affected communities having to arbitrarily, unfairly and unnecessarily absorb the costs of aircraft noise and pollution without appropriate community input or consultation and, as such, entirely fails to protect communities from being negatively affected by impacts such as aircraft noise and emissions and creates a clear and fundamental challenge to the social licence for future aviation operations.

SUBMISSION NO.1

Part 71 (Airspace) of the *Civil Aviation Safety Regulations 1998* (Cth) needs to be populated with content articulating CASA's responsibility with respect to the regulation, approval, and administration of airspace and the design and designation of airways and air routes, including the need for public consultation to be undertaken in relation to any proposed change to flight paths that significantly changes the patterns or levels of aircraft noise.

SUBMISSION NO.2

A new subparagraph (bb) should be added into the definition of "major airport development" in section 89(1) of the *Airports Act 1996* (Cth) as follows:

*"(bb) altering a flight path in any way that significantly changes the patterns or levels of aircraft noise; or"*

**Other problems requiring urgent rectification**

*The pathway for public submissions on MPs and MDPs*

12. Currently the applicable airport is responsible under the *Airports Act 1996* (Cth) for conducting and receiving all public submissions on draft Master Plans and proposed Major Development Plans, reviewing the submissions received and reporting to the Minister on how these views have been taken into account in the airport's proposed final Master Plan or Major Development Plan.
13. This current role of airports creates an obvious and untenable conflict of interest on the part of the airport (being both the applicant and 'gate keeper' for public submissions) that needs to be rectified by way of legislative amendment.

SUBMISSION NO.3

Sections 79 and 84A (regarding Master Plans) and 92 and 95A (regarding Major Development Plans) of the *Airports Act 1996* (Cth) should be amended to require that all public submissions on draft Master Plans and proposed Major Development Plans be provided directly to the Department.

*Conditional Approval of Master Plans*

14. Section 81(2) of the *Airports Act 1996* (Cth) requires the Minister to either approve or refuse to approve a Master Plan and does not enable the Minister to approve the Master Plan with conditions.
15. This is an unwarranted fetter on the statutory authority of the Minister and places the Minister in the invidious position of, short of refusing the Master Plan outright, having to approve the Master Plan without adequate measures for the reasonable protection of the community interest, including for example, to require the adoption of noise abatement

procedures or noise amelioration programs as a condition to proposed substantial increases in RPT movements.

#### SUBMISSION NO.4

Section 81(2) of the *Airports Act 1996* (Cth) should be amended to insert “(which may be approved subject to conditions)” after “approve the plan” in subparagraph (a).

#### Role of Aircraft Noise Ombudsman

16. The Aircraft Noise Ombudsman is appointed and reports to the Board of directors of Airservices Australia (*Aircraft Noise Ombudsman Charter*, para’s 12-14). Airservices Australia is, relevantly, the ‘for profit’ provider of air traffic services to airports. The air traffic services conducted by Airservices Australia are the very services that give rise to complaints to the Aircraft Noise Ombudsman.
17. This creates an untenable conflict of interest on the part of the Aircraft Noise Ombudsman and diminishes, at the very least, the public perception and confidence in the capacity of the Aircraft Noise Ombudsman for independent investigation of complaints.
18. The Aircraft Noise Ombudsman must be a fully independent office.

#### SUBMISSION NO.5

The Aircraft Noise Ombudsman should become part of the Office of the Commonwealth Ombudsman.

#### Rectification of curfew arrangements

19. In 2022 the Gold Coast community sent a very clear message to the responsible Minister that there should be no air freighter flight movements at the Gold Coast Airport during curfew hours. The Minister acknowledged this by refusing the application by Qantas to conduct such flights. However, the Minister declined to address the legacy enabling provisions of the Gold Coast Curfew Regulation which allow four air freighter movements per week during curfew hours. These provisions are a relic from a time when they were required to facilitate delivery of weekend newspapers printed in Sydney to the Gold Coast. This need has not existed for 20 years, and the regulations need to be updated to remove this provision.

#### SUBMISSION NO.6

Regulations 12 and 13 should be deleted from the *Air Navigations (Gold Coast Airport Curfew) Regulations 2018* so that no air freighter movements are permitted within the curfew period.

### **Conclusion**

20. In conclusion, and for ease of reference, the submissions made by the GCLA in this letter are as follows:
  - i. Part 71 (Airspace) of the *Civil Aviation Safety Regulations 1998* (Cth) needs to be populated with content articulating CASA’s responsibility with respect to the regulation, approval, and administration of airspace and the design and designation of airways and air routes, including the need for public consultation to

be undertaken in relation to any proposed change to flight paths that significantly changes the patterns or levels of aircraft noise.

- ii. A new subparagraph (bb) should be added into the definition of “major airport development” in section 89(1) of the *Airports Act 1996* (Cth) as follows:

*“(bb) altering a flight path in any way that significantly changes the patterns or levels of aircraft noise; or”*
- iii. Sections 79 and 84A (regarding Master Plans) and 92 and 95A (regarding Major Development Plans) of the *Airports Act 1996* (Cth) should be amended to require that all public submissions on draft Master Plans and proposed Major Development Plans be provided directly to the Department.
- iv. Section 81(2) of the *Airports Act 1996* (Cth) should be amended to insert “(which may be approved subject to conditions)” after “approve the plan” in subparagraph (a).
- v. The Aircraft Noise Ombudsman should become part of the Office of the Commonwealth Ombudsman.
- vi. Regulations 12 and 13 should be deleted from the *Air Navigations (Gold Coast Airport Curfew) Regulations 2018* so that no air freighter movements are permitted within the curfew period.

The GCLA trusts that these submissions are well received and will be given full consideration by the Department in the development and release of the Aviation White Paper.

Please do contact the undersigned if there is any aspect of these submissions that we can expand upon or clarify.

Yours sincerely

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