

14 March 2022

Director, Airport Reform, Sunsetting and IFAM Section
Airports Branch
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
CANBERRA ACT 2601

Via email: aviationreform@infrastructure.gov.au

Dear Sir/Madam,

Sunsetting Airports Regulations Stage 1A: Cutting Red Tape - Submission from Sydney Airport

Thank you for the opportunity to comment on the Consultation Regulatory Impact Statement (**RIS**) for Sunsetting Airports Regulations Stage 1A (Cutting Red Tape).


Sydney Airport's response to the questions in that part of the RIS dealing with subleases and licensing in the *Airports Regulations 1997* is at **Attachment A**.

Our response to the questions in that part of the RIS dealing with the *Airports (Ownership-Interests in Shares) Regulations 1996* is at **Attachment B**.

We look forward to future stages in this process as reform in the areas identified offers substantial scope to cut red tape and improve the airport-related regulatory process.

If you would like any further information, please feel free to contact Sydney Airport's Special Adviser Government and Community Relations, Mr Ted Plummer, on [REDACTED] or at [REDACTED].

Yours sincerely,



Geoff Culbert
Chief Executive Officer

Encls.

Option 1: Status quo: Allow the Airports Regulations to sunset	
1. Do you think the Airports Regulations should be allowed to sunset?	No.
2. What are the benefits of no regulations on airport subleases, licensing and ownership?	Complete deregulation would reduce compliance costs to zero.
3. What are the consequences of no regulations on subleases, licensing and ownership?	The Australian Government would be unable to exercise any oversight role in these areas.
Option 2: Remake the Airports Regulations without changes	
1. Do you agree or disagree with keeping Parts 1, 2 and 3 of the Airports Regulations as is and without changes?	No. In relation to Part 2 – see below.
2. What are the benefits or efficiencies in keeping these Regulations as is?	In relation to Part 2, our experience is that current practice has not been overly burdensome in seeking Declarations and approvals in relation to subleases and licences to trusts and State Government agencies/authorities. Over the past few years this resulted in approximately five or less applications per year. The current obligations under Part 2 are consistent with our obligations under clause 10 of our Head Lease. The benefit in maintaining this practice ensures streamlining and compliance with our Head Lease obligations which are reviewed annually.

<p>3. What are the inefficiencies in keeping these Regulations as is?</p>	<p>The opportunity would be lost to reduce red tape and compliance costs for airports.</p> <p>In relation to Part 2, there are inefficiencies in retaining these obligations so far as they relate to subleases and licences to trusts. Trusts are not uncommon ownership entity structures used for leasing purposes. In our standard occupancy agreements, SYD seeks warranties from subtenants and licensees that they are not a trustee of a trust. In the normal course, as a prudent Airport Lessee Company (“ALC”) we make inquiries at the outset in relation to trust arrangements before granting the sublease or licence. The additional time required to seek a declaration can delay the finalisation of the relevant sublease or licence. If the Department is supportive of removing this requirement in the Regulations, then consideration must also be had to removing the corresponding obligation in the Head Lease.</p>
<p>Option 3: Remake the Airports Regulations with changes</p>	
<p>1. Do you agree or disagree with the proposed amendments? Please specify.</p>	<p>Disagree. The proposal to require ALCs to maintain a register of <i>all</i> subleases and licenses and for the Australian Government to have oversight of that register would create a more onerous process for ALCs and increase, not decrease, compliance costs.</p> <p>The ability for the government to intervene with respect to <i>any</i> sublease or license (if required) is considered unwarranted. It's not clear on what basis such intervention could occur, especially given the Regulations currently clearly identify the circumstances in which subleases or licenses are prohibited.</p>
<p>2. Can you suggest any improvements to the proposed amendments (e.g., is there anything else that should be included?)</p>	<p>Limit government's oversight of subleases and licenses to those relating to state governments and remove oversight for trusts.</p>
<p>3. What level of benefit would you expect these changes to bring to your business?</p>	<p>As currently proposed, the changes would create a more onerous process than currently exists and add to compliance costs.</p>
<p>4. Are there other opportunities to streamline and reduce red tape in regard to subleases and licensing?</p>	<p>Refer to comments above - removing the requirement to obtain declarations in relation subleases and licences to trusts would reduce red tape in the leasing process.</p>
<p>5. Do you agree with the department's estimate of the regulatory impact of proposed changes?</p>	<p>As noted above, rather than there be a cost savings, we believe the proposal would add to compliance costs.</p>

Option 1: Status quo: Allow the Airports (Ownership - Interests in Shares) Regulations (AOISRs) to sunset	
1. Do you think the AOISRs should be allowed to sunset?	No. Sydney Airport endorses the view expressed by the Department in the consultation paper (on page 17), to the effect that allowing the AOISRs to sunset would not be “an acceptable position for the Commonwealth to adopt”. Such a course of action would be entirely inappropriate, unfair and extremely prejudicial to those who have relied on them in making significant investment decisions and who may still be relying on them.
2. What are the benefits of no regulations on airport subleases, licensing and ownership?	See above.
3. What are the consequences of no regulations on subleases, licensing and ownership?	See above.
Option 2: Remake the AOISRs without changes	
1. Do you agree or disagree with keeping AOISRs as is and without changes?	The AOISRs should either be: <ul style="list-style-type: none"> • simply remade in their current form; or • amended in a way that does not prejudice, in any way, those who have relied on the AOISRs in the past and who may still be relying on them.
2. What are the benefits or efficiencies in keeping these Regulations as is?	See the comments under Option 1 (in response to question 1) above.
3. What are the inefficiencies in keeping these Regulations as is?	See above.

Option 3: Remake the AIOSRs with changes	
1. Do you agree or disagree with the proposed amendments? Please specify.	Sydney Airport does not have any specific comments on any of the proposed amendments. It repeats the comment that it has had made under Option 2 (in response to question 1) above.
2. Can you suggest any improvements to the proposed amendments (e.g., is there anything else that should be included?)	See above.
3. What level of benefit would you expect these changes to bring to your business?	See above.
4. How could airport ownership remain as competitive as possible, while protecting Australia's national infrastructure?	Sydney Airport does not comment on this question.
5. Do you agree with the department's estimate of the regulatory impact of proposed changes?	Sydney Airport does not comment on this question.