

STATEMENT OF REASONS

1. While I am not obligated under the *Airports Act 1996* (Cth) (the **Act**) to prepare a statement of reasons where I decide to approve a draft major development plan, I have made this statement of reasons in response to a request for reasons made on 17 September 2024 by a person under s 28 of the *Administrative Appeals Tribunal Act 1975* (Cth).

THE DECISION

2. On 10 September 2024 under subsection 94(2) of the Act, I approved, subject to conditions, the draft Major Development Plan (**dMDP**) submitted to me by the airport-lessee company for Melbourne airport, Australia Pacific Airports (Melbourne) Pty Ltd (**APAM**), on 10 February 2023.
3. This document sets out my findings on material questions of fact, refers to the evidence for my findings and gives reasons for my decision.

RELEVANT BACKGROUND AND LEGISLATIVE PROVISIONS

4. The objects of the Act are set out in section 3 and relevantly include:
 - i. to promote the sound development of civil aviation in Australia (paragraph 3(a))
 - ii. to establish a system for the regulation of airports that has due regard to the interests of airport users and the general community (paragraph 3(b)), and
 - iii. to promote the efficient and economic development and operation of airports (paragraph 3(c)).
5. The main provisions dealing with airport major development plans are set out in Division 4 of Part 5 of the Act. Part 5, including Division 4, applies to Melbourne Airport by operation of paragraph 68(1)(a) of the Act. Melbourne Airport is a core regulated airport pursuant to section 7(1)(c) of the Act. On 2 July 1997, the Commonwealth granted an airport lease under Part 2 of the Act over the site of Melbourne Airport to APAM. APAM is the 'airport-lessee company' for Melbourne Airport, within the meaning of the Act. The lease is for a term of 50 years with an option to renew for a further term of 49 years.
6. Subsection 70(1) of the Act requires there be a final master plan for each airport to which Part 5 of the Act applies. On 14 November 2022, I approved a draft master plan for the Melbourne Airport that had been given to me by APAM. Upon approval, that draft master plan became Melbourne Airport's final master (refer to section 83 of the Act). Melbourne Airport's final master plan relates to a planning period of 20 years (refer to section 72 of the Act) and, remains in force for 5 years (refer to paragraph 77(1)(a) of the Act).
7. Subsection 90 of the Act relevantly provides that an airport-lessee company for an airport must not carry out a major airport development relating to the airport or cause or permit to be carried out a major airport development relating to the airport unless the

carrying out of the development is in accordance with a major development plan approved under Division 4 of Part 5 of the Act.

8. A "major airport development" is defined in section 89 of the Act and, relevantly is a development that is carried out at an airport site and that consists of constructing a new runway, extending the length of a runway or altering a runway (other than in the course of maintenance works) in any way that significantly changes flight paths or the patterns or levels of aircraft noise.
9. The approval process for major development plans is set out in Subdivision C of Division 4 of Part 5 of the Act. That process requires an airport-lessee company to give to the Minister a draft major development plan. That draft major development plan must set out the content required by section 91 of the Act. Before giving the Minister a draft major development plan, the airport-lessee company must advise the person identified in section 92(1A) of its intention to give the Minister a draft major development plan and must obtain public comment in accordance with the process specified in sections 92(1) to (3) of the Act. If the circumstances in section 93(1) of the Act apply, a draft major development plan must be accompanied by a written statement signed on behalf of the airport-lessee company listing the names of persons consulted and a summary of the views expressed by the persons consulted (refer to section 93(2) of the Act). In accordance with section 93A the Minister may request the airport-lessee company to provide specified material relevant to making a decision under section 94(2) in relation to a draft major development plan. Pursuant to section 94(2) the Minister must either approve a draft major development plan given to her or refuse to approve that plan. A decision to approve a plan may be made subject to conditions (refer to section 94(7)).
10. Between 1 February 2022 and 16 May 2022, APAM undertook public consultation on the dMDP in accordance with the requirements under section 92 of the *Airports Act 1996* (Cth) for a period of at least 60 business days.
11. A copy of the written advice provided under subsection 92(1A) of the Act and a written certificate signed on behalf of APAM listing the names of those to whom the advice was given accompanied the dMDP, as required under subsection 92(1B) of the Act.
12. On 10 February 2023, APAM gave me the dMDP for a decision as to whether I approve the plan or refuse to approve the plan.
13. While the dMDP has been before me for consideration, there were a number of requests for further information under section 93A of the Act.
14. In particular, I note that my delegate requested further information from APAM under section 93A of the Act. These requests, and the date APAM provided information in response to each request is set out below:

- i. a request for information dated 31 May 2023, to which APAM responded on 25 July 2023;
 - ii. a request for information dated 10 October 2023, to which APAM provided a response dated 23 October 2023;
 - iii. a request for information dated 4 December 2023, to which APAM provided a response dated 18 April 2024;
 - iv. a request for information dated 6 March 2024, to which APAM provided a response dated 18 April 2024;
 - v. a request for information dated 30 April 2024, to which APAM provided a response dated 6 May 2024;
 - vi. a request for information dated 9 May 2024, to which APAM provided a response dated 2 August 2024;
 - vii. a request for information dated 21 May 2024, to which APAM provided a response dated 7 June 2024;
 - viii. a request for information dated 23 July 2024, to which APAM provided a response dated 29 July 2024;
 - ix. a request for information dated 8 August 2024, to which APAM provided a response dated 13 August 2024;
 - x. a request for information dated 27 August 2024, to which APAM provided a response dated 29 August 2024;
 - xi. a request for information dated 15 August 2024, to which APAM provided a response dated 29 August 2024; and
 - xii. a request for information dated 2 September 2024, to which APAM provided a response dated 3 September 2024.
15. It is helpful to set out in full the text of subsections 91(1A) and 91(1), as well as section 94 of the Act. Section 91(1A) sets out the purpose of a major development plan:

91 Contents of major development plan

(1A) The purpose of a major development plan in relation to an airport is to establish the details of a major airport development that:

- (a) relates to the airport; and*
- (b) is consistent with the airport lease for the airport and the final master plan for the airport.*

16. Subsection 91(1) of the Act specifies the matters that must be set out in a draft or final major development plan:

(1) A major development plan, or a draft of such a plan, must set out:

- (a) *the airport-lessee company's objectives for the development; and*
- (b) *the airport-lessee company's assessment of the extent to which the future needs of civil aviation users of the airport, and other users of the airport, will be met by the development; and*
- (c) *a detailed outline of the development; and*
- (ca) *whether or not the development is consistent with the airport lease for the airport; and*
- (d) *if a final master plan for the airport is in force—whether or not the development is consistent with the final master plan; and*
- (e) *if the development could affect noise exposure levels at the airport—the effect that the development would be likely to have on those levels; and*
- (ea) *if the development could affect flight paths at the airport—the effect that the development would be likely to have on those flight paths; and*
- (f) *the airport-lessee company's plans, developed following consultations with the airlines that use the airport, local government bodies in the vicinity of the airport and—if the airport is a joint user airport—the Defence Department, for managing aircraft noise intrusion in areas forecast to be subject to exposure above the significant ANEF levels; and*
- (g) *an outline of the approvals that the airport-lessee company, or any other person, has sought, is seeking or proposes to seek under Division 5 or Part 12 in respect of elements of the development; and*
- (ga) *the likely effect of the proposed developments that are set out in the major development plan, or the draft of the major development plan, on:*
 - (i) *traffic flows at the airport and surrounding the airport; and*
 - (ii) *employment levels at the airport; and*
 - (iii) *the local and regional economy and community, including an analysis of how the proposed developments fit within the local planning schemes for commercial and retail development in the adjacent area; and*
- (h) *the airport-lessee company's assessment of the environmental impacts that might reasonably be expected to be associated with the development; and*
- (j) *the airport-lessee company's plans for dealing with the environmental impacts mentioned in paragraph (h) (including plans for ameliorating or preventing environmental impacts); and*
- (k) *if the plan relates to a sensitive development—the exceptional circumstances that the airport-lessee company claims will justify the development of the sensitive development at the airport; and*
- (l) *such other matters (if any) as are specified in the regulations.*

17. Section 94 provides for the Minister's decision on whether or not to approve a dMDP, once submitted, and sets out the matters to which the Minister must have regard to in making the decision whether to approve:

94 Approval of major development plan by Minister

- (1) *This section applies if an airport-lessee company gives the Minister, in writing, a draft major development plan.*
- (2) *The Minister must:*
- (a) *approve the plan; or*
 - (b) *refuse to approve the plan.*
- (3) *In deciding whether to approve the plan, the Minister must have regard to the following matters:*
- (aa) *the extent to which the plan achieves the purpose of a major development plan (see subsection 91(1A));*
 - (a) *the extent to which carrying out the plan would meet the future needs of civil aviation users of the airport, and other users of the airport, for services and facilities relating to the airport;*
 - (b) *the effect that carrying out the plan would be likely to have on the future operating capacity of the airport;*
 - (c) *the impact that carrying out the plan would be likely to have on the environment;*
 - (d) *the consultations undertaken in preparing the plan (including the outcome of the consultations);*
 - (e) *the views of the Civil Aviation Safety Authority and Airservices Australia, in so far as they relate to safety aspects and operational aspects of the plan;*
 - (f) *if the plan relates to a sensitive development:*
 - (i) *whether the exceptional circumstances that the airport-lessee company claims will justify the development of the sensitive development at the airport exist; and*
 - (ii) *the likely effect of the sensitive development on the future use of the airport site for aviation related purposes; and*
 - (iii) *the likely effect of the sensitive development on the ground transport system at, and adjacent to, the airport.*
- (4) *Subsection (3) does not, by implication, limit the matters to which the Minister may have regard.*

EVIDENCE AND OTHER MATERIAL RELIED UPON IN MAKING MY FINDINGS OF FACT AND DECISION

18. The material on which my findings of fact and my decision were based is as follows:
- i. The Melbourne Airport Master Plan 2022, approved on 14 November 2022.
 - ii. The Melbourne Airport Lease.

- iii. A Ministerial Submission from my department dated 6 September 2024 which included the following attachments:
 - a. the dMDP (in full);
 - b. the Supplementary Report accompanying the dMDP;
 - c. each request for information to APAM;
 - d. all information provided from APAM, Airservices Australia, Civil Aviation Safety Authority (CASA) and other third parties (e.g. the Environment Minister/Department) throughout the process;
 - e. any consultation material (submitted separately to the dMDP).

FINDINGS ON MATERIAL QUESTIONS OF FACT AND REASONS FOR DECISION

- 19. The dMDP proposes a major airport development comprising:
 - i. the construction of a new 3,000 metre runway to be situated parallel to the west of the existing north-south runway, with a 200-metre runway starter extension at the southern end and associated taxiways (referred to as "M3R");
 - ii. the shortening of the east-west runway (Runway 09/27) from its current length of 2,286 metres to a revised approximate length of 1,940 metres;
 - iii. other development works including:
 - a. lighting and navigational aids;
 - b. construction of alternative access to the Airservices Australia compound by a tunnel under new cross-field taxiways;
 - c. development of construction zones to the west to support the M3R works, including construction of access roads from the north and south;
 - d. provision of Aviation Rescue Fire Fighting Service facilities and infrastructure as required to comply with regulatory requirements regarding emergency response to the new runway; and
 - e. site works.¹
- 20. No aspect of the major airport development concerns a proposed sensitive development within the meaning of section 71A of the Act.²

¹ dMDP, A1.3 - Project Overview.

² Accordingly, the relevant consideration in section 94(3)(f) is not applicable to this dMDP.

M3R is proposed to be located 1,311 metres to the west of, and parallel with, the existing north-south runway (Runway 16L/34R).³ In its proposed location, M3R would intersect with the current western end of Runway 09/27 and its associated Runway End Safety Area ("**RESA**").⁴ Furthermore, at this point of intersection, it is proposed that M3R would be elevated approximately 2.05 metres above the current elevation of Runway 09/27.

21. Another important feature of the dMDP concerns the proposed draft runway operating plan. In particular, the draft runway operation plan in the dMDP indicates that:
- i. the preferred mode of operation of the existing north-south runway and M3R is mixed mode parallel operations. This is effectively a mode of operation whereby arrivals and departures occur on both north/south runways and allocation of aircraft to respective north/south runways are based on the geographic location of their origin or destination (e.g. aircraft arriving from or departing to northern and western destinations such as Brisbane and Perth, would use M3R, while aircraft arriving from and departing to eastern destinations such as Sydney and Canberra would use the existing north/south runway). This mode of operation is projected to be necessary to meet projected demand between 6am and 11pm. Modelling in relation to this mode showed that a runway capacity of up to 90-95 aircraft movements an hour could be achieved;⁵
 - ii. an alternative potential operating mode of the existing north-south runway and M3R is the segregated parallel operations to be utilised when demand is lower outside peak periods and during poor weather when low visibility procedures are in use. This is effectively a mode of operation whereby one north-south runway is used for arrivals and the other is used for departures. Modelling in relation to this mode shows a runway capacity of up to 60-70 aircraft movements an hour could be achieved;⁶
 - iii. a further potential operating mode of the existing north-south runway and M3R is the simultaneous opposite direction parallel runway operations (**SODROPS**). This is effectively a mode of operation that processes arriving and departing aircraft traffic to the less densely populated areas to the north of Melbourne Airport (i.e. arrivals on M3R 16R and departures on the existing north/south runway 34R). This is the preferred mode of operation for managing the impact of aircraft noise on residential areas between 11pm and 6am. It is anticipated that this mode of operation could achieve a runway capacity of up to 50 aircraft movements per hour.⁷ However, this would be contingent on favourable weather

³ dMDP, A4.5 - Runway and Taxiway Design. (c.f. dMDP at E4A.4.1. - Design constraints in which APAM state that "*separation of the runway alignments by at least 1,310 metres enables them to be operated independently, which optimises the airport's flexibility, capacity and resilience*").

⁴ dMDP, E4A.4 - Rationale for Reduction in Length.

⁵ dMDP C2.3.3 - Mode Capacities

⁶ Letter from APAM in response to request for information EC24-000187, p20.

⁷ dMDP, E4 - Draft Runway Operating Plan. It is noted that "northerly winds are the primary condition that precludes SODPROPS." dMDP, C.4.6.1 - Runway usage.

conditions (including as to cloud base, visibility and wind strength and direction). APAM considered that SODROPS would only be an available mode for less than 30% of all night-time periods.⁸

22. The dMDP does not contain proposed runway operating modes that detail the utilisation of the Runway 09/27. Rather the dMDP provides:

Melbourne Airport acknowledges that there is significant opportunity to introduce operating modes that promote use of Runway 09/27 with the objective of noise sharing. The process of detailed airspace design (pending approval of the M3R MDP) shall incorporate this objective and include updated noise modelling.⁹

23. In light of the proposed modes of operation, the noise modelling presented in the dMDP does not include use of Runway 09/27. The noise modelling in the dMDP is set out in Chapter 4, Part C. This modelling indicates that following the implementation of the dMDP most aircraft noise will be directed north and south of the Melbourne Airport.
24. During the course of my consideration of the dMDP, APAM proposed to progress an extension of Runway 09/27 by installing 345m of pavement to the eastern end of Runway 09/27 (the **Eastern Extension Project** or **EEP**). That is, in essence, the EEP proposes to progress the extension of Runway 09/27 to the east in a commensurate distance to the shortening of Runway 09/27 at its western end by reason of the major airport development proposed in APAM's dMDP. The effect of such an extension would be to restore Runway 09/27 to its current length of 2,286m.
25. The EEP was described by APAM in correspondence dated 7 June 2024 and 29 July 2024 in which APAM revised Appendix E4A of the dMDP to refer to the EEP.
26. For the reasons outlined below, I decided to approve the dMDP subject to conditions.

Paragraph 94(5): Is the dMDP consistent with the Final Master Plan for Melbourne Airport

27. I had regard to the final master plan for Melbourne Airport and the dMDP. I was satisfied that the dMDP is consistent with the final master plan.

Paragraph 94(3)(aa): the extent to which the plan achieves the purposes of Major Development Plan

28. Paragraph 94(3)(aa) required me to have regard to the extent to which the dMDP achieves the purposes of a major development plan, as set out in subsection 91(1A).

⁸ dMDP, C4 - Aircraft Noise and Vibration, p192.

⁹ dMDP, E4A.6 - Ongoing Use of Runway 09/27.

29. Subsection 91(1A) provides that the purpose of a major development plan is to establish the details of a major airport development that relates to the airport and is consistent with the airport lease for the airport and the final master plan for the airport.
30. In this context, I was satisfied that the dMDP established the details of a major airport development that relates to the matters enumerated in subsection 91(1A) to a sufficient extent, and contained the material required by ss 89(1), 91, 92, 93 and 93A of the Act.

Paragraph 94(3)(a): the extent to which carrying out the plan would meet the future needs of civil aviation users of the airport, and other users of the airport, for services and facilities relating to the airport

31. The focus of this matter is on services and facilities to meet the future needs of civil aviation users and other users of the airport. Such services and facilities include (but are not limited to):
 - i. air-traffic management services and facilities;
 - ii. aviation rescue fire-fighting services and facilities;
 - iii. services and facilities for airlines, passengers, government agencies, freight businesses and transport providers;
 - iv. aircraft services and facilities including runways, taxiways, taxi lanes, aprons and associated navigation aids.
32. I note that the dMDP includes provision for additional Aviation Rescue Fire Fighting Service facilities and infrastructure to be developed. I was satisfied that the development of these services and facilities will meet future need in accordance with regulatory response times.
33. I was also satisfied that the aircraft infrastructure associated with M3R including the taxiway design (including rapid-exit taxiways), lighting, Airservices Australia interfaces and infrastructure and other associated facilities and services will meet the future need of civil aviation users, and other users of the airport. Furthermore, in relation to M3R (i.e. the facility of the runway itself), I was satisfied that the airfield pavement, subsurface and geotechnical design and airport drainage will meet the future needs of civil aviation users, and other users of the airport. In particular, I note that no issue has been raised by CASA, Airservices or the consulted airlines, in relation to the proposed design of these associated facilities and structural design of M3R.
34. Otherwise, insofar as consideration of this matter involves having regard to the extent to which carrying out the dMDP's proposed runway design (i.e. M3R, together with the shortening of Runway 09/27) would meet the future needs of civil aviation users of the airport, and other users of the airport, for services and facilities relating to the airport, I had regard to this matter in conjunction with consideration of the matter in paragraph 94(3)(b) of the Act below.

Paragraph 94(3)(b): the effect that carrying out the plan would be likely to have on the future operating capacity of the airport

35. I found that the construction of M3R would expand the capacity of Melbourne Airport to process aircraft movements (s 94(3)(b)).
36. I make the following findings in that regard:
- i. Melbourne Airport sees 60% of Australia's domestic fleet pass through it before lunchtime on each weekday and without additional capacity, Melbourne Airport would become a strain on Australia's aviation network, particularly where other major airports are already undergoing works to expand capacity;¹⁰
 - ii. M3R is essential to meet the forecast increase to demand for international and domestic travel in Melbourne,¹¹ and in particular APAM considers that demand will exceed capacity during the entire morning period by 2030; and
 - iii. the Victorian Government recognises the economic importance of Melbourne Airport and its role as Victoria's primary transport gateway for air passengers and air-freight exporters.¹²
37. However, I also note that Runway 09/27 is proposed to be shortened in length from its western end to facilitate M3R being in the location and elevation proposed in the dMDP and to:
- i. deconflict the western Runway End Safety Area of Runway 09/27 from its intersection with M3R; and
 - ii. resolve the elevation difference at the point of intersection with M3R.
38. In this regard, Airservices Australia and the CASA provided me with advice in relation to safety aspects and operation aspects relating to the proposed shortening of Runway 09/27. After having regard to Airservices Australia's advice, CASA's advice and APAM's responses to this advice, I concluded that:
- i. shortening Runway 09/27 will have the limiting effects on that runway's capacity as identified by Airservices Australia in its 11 April 2024 correspondence. I have preferred this information to the earlier information provided by APAM because Airservices Australia has analysed more recent 2023 data, rather than 2019 data;
 - ii. it may be possible, for reasons given by APAM in its 18 April 2024 response, for some Stage 3 length flights to depart from Runway 09/27. However, the extent to which it will be possible for Stage 3 length flights to depart Runway 09/27 has not been quantified. Accordingly, I am satisfied that it will not be possible for most Stage 3 length flights to depart the shortened Runway 09/27; and
 - iii. the shortening of Runway 09/27 would have the effect of redistributing a significant number of departures annually and the shortening of Runway 09/27 has a meaningful impact on the capacity of that runway.

¹⁰ See letter from APAM to the Department dated 18 April 2024, p 2.

¹¹ See letter from APAM to the Department dated 18 April 2024, p 2.

¹² See submission to the dMDP by the Victorian Government, 6 June 2022, p3.

39. Furthermore, there would likely be circumstances in which parallel operating modes would not be available or preferred, such as:
- i. in adverse weather conditions;¹³
 - ii. or noise-sharing purposes;¹⁴ and
 - iii. for effective synergistic operation with Essendon Fields runways.¹⁵
40. I find that to the extent that carrying out the plan would reduce the length of Runway 09/27 and give rise to the adverse impacts on meeting future capacity outlined above, this can be managed by the imposition of conditions (as outlined below).
41. In the circumstances described above:
- i. I am satisfied that carrying out the plan (subject to the conditions imposed) will meet the future needs of civil aviation users and other users of the airport, for services and facilities relating to the airport; and
 - ii. I am satisfied that carrying out the plan (subject to the conditions imposed) would be likely to significantly expand the future operating capacity of the airport.

Paragraph 94(3)(c): the impact that carrying out the plan would be likely to have on the environment

42. Paragraph 94(3)(c) requires me to consider the impact that carrying out the plan would likely have on the environment.
43. On 10 February 2023, my Department referred the dMDP to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) for advice under section 163 of the *Environment Protection and Biodiversity Conservation Act 1999*. On 22 September 2023, DCCEEW provided advice in response to the referral. DCCEEW advised that:
- i. as the action proposed in the dMDP is occurring on Commonwealth land, DCCEEW's assessment has incorporated the whole of the environment;

¹³ dMDP - C2.5.10; c.f. CASA letter dated 14 November 2023 in which CASA attached an older chart (2011/2012) which showed that at certain periods of the year, Runway 09/27 was the runway with the greatest usage and expressed the view that if Runway 09/27 is shortened, this raises the concern that during those periods of the year, some aircraft may be unable to land at Melbourne Airport in the prevailing environmental conditions.

¹⁴ dMDP - E4A.6 - Ongoing use of Runway 09/27.

¹⁵ CASA letter dated 14 November 2023 in which CASA state that it understands that under the two runway concept when Essendon Runway 08/26 is in use so too is Melbourne Runway 09/27, leading to a complication that if Runway 27 is not being used at Melbourne neither can Runway 26 be used at Essendon; c.f. Submission by Essendon Fields Airport dated 3 June 2022 especially parts 1.3 and 2.1.

- ii. as a result of that assessment, carrying out the dMDP would result in residual significant impacts to matters of environmental significance through:
 - a. clearance of 78.74 ha of Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Grasslands of South-eastern Australia;
 - b. clearance of up to 90.49 ha of Natural Temperate Grasslands of the Victorian Volcanic Plain;
 - c. clearance of up to 9.75 ha of Golden Sun Moth (*Synemon plana*) habitat;
 - d. clearance of up to 64.34 ha of Growling Grass Frog (*Litoria raniformis*) breeding and dispersal habitat;
 - e. clearance of up to 68.02 of Swift Parrot (*Lathamus discolor*) habitat.
- iii. carrying out the dMDP would result in direct and indirect impact to the environment as a result of disturbance to PFAS contaminated soils;
- iv. conditions (set out in Annexure A of the delegate's advice) should be attached to any approval decision, which are necessary and convenient to manage risks associated with the environmental impacts identified and that the potential impacts to the environment as a result of carrying out the dMDP will only be acceptable if such conditions were imposed.

44. Having regard to this advice, I was satisfied that the environmental impacts of carrying out the development could be managed by the imposition of the conditions described below.

Paragraph 94(3)(d): the consultations undertaken in preparing the plan (including the outcome of the consultations)

- 45. In deciding whether to approve the dMDP, paragraph 94(3)(d) required me to have regard to the consultations undertaken in preparing the plan and the outcome of those consultations.
- 46. Together with the dMDP, APAM submitted a Supplementary Report, the purpose of which was to demonstrate that APAM had complied with the various consultation obligations in the Act (see sections 92 and 93 of the Act).
- 47. Having regard to the Supplementary Report, I am satisfied that the consultation undertaken by APAM satisfied the requirements of sections 92 and 93 of the Act.

48. I note that a total of 2,128 submissions were received during public exhibition of the preliminary dMDP. Those submissions were sorted thematically and considered by subject matter experts. In particular the themes were:
- i. Background and Governance;
 - ii. The Project;
 - iii. Engagement and Approval;
 - iv. Airspace and Aircraft Impacts;
 - v. Community Impacts; and
 - vi. Environmental Impacts.
49. A large number of submissions concerned the issue of aircraft noise and issues relating to aircraft noise are dealt with in a number of parts of the Supplementary Report. I am satisfied that aircraft noise was a matter of substantial concern to the community and local governments.
50. Furthermore, a variety of submissions were received, including from community organisations, non-government organisations and commercial organisations and government relating to the proposed shortening of Runway 09/27.
51. While I was satisfied that APAM had carried out consultation as required under the Act (s 94(3)(d)), I note that concerns raised in these submissions included that the existing capacity of Runway 09/27 should be retained and that, if shortened, it would not be a viable alternative runway. Concerns were also raised about the fact that the usage of Runway 09/27 had not been incorporated into the aircraft noise modelling undertaken by APAM.

Paragraph 94(3)(e): the views of the Civil Aviation Safety Authority and Airservices Australia, in so far as they relate to safety aspects and operational aspects of the plan

52. As required by paragraph 94(3)(e) of the Act, in reaching my decision I had regard to the views of CASA and Airservices, insofar as they related to the safety aspects and operational aspects of the plan.
53. I have received and had regard to the following views from CASA:
- i. 23 March 2023 – Melbourne Airport’s Third Runway (M3R) Project – final draft Major Development Plan;

- ii. 14 November 2023 advice - Melbourne Airport 3rd runway (M3R) – draft Master Development Plan (dMDP) 2023;
 - iii. 6 March 2024 - Melbourne Airport – Major Development Plan (MDP);
 - iv. 23 March 2024 - Melbourne Airport’s Third Runway (M3R) Project - final draft Major Development Plan; and
 - v. 8 May 2024 - Melbourne Airport – Major Development Plan (MDP).
54. I have received and had regard to the following views from Airservices;
- i. 27 September 2023 - Melbourne Airport Third Runway Major Development Plan and Supplementary Report; and
 - ii. 11 April 2024 - Melbourne Third Runway Major Development Plan – Runway 09/27 assessment.
55. Throughout these reasons as appropriate and relevant, I have made specific reference to the views of Airservices and CASA.

Sub-section 94(4) of the Act

56. Subsection 94(4) provides that the matters set out in subsection 94(3) in relation to which I must have regard, do not, by implication, limit the matters to which I may have regard.
57. I am mindful of the significant contribution Melbourne Airport makes to the economy and transport infrastructure of Australia. Developing M3R will ensure Melbourne Airport has the capacity to continue to fulfil its function as a vital economic and transport hub for the state of Victoria and Australia more broadly.
58. Carrying out of the dMDP will result in an increase and redistribution of aircraft noise over Melbourne. I was satisfied that the currently proposed design of M3R (by reason of shortening Runway 09/27) would limit its functionality to facilitate noise sharing. In addition to requiring the redistribution of a significant number of flights away from Runway 09/27, the flights that would be redistributed will be those flights which are louder and have longer lasting sound.
59. The dMDP proposes a very significant development for Melbourne Airport which will largely reshape the manner in which that airport operates. A matter noted in submissions from the Victorian Government is the ongoing importance that Melbourne Airport remain curfew free. In addition to a coordinated State planning policy and strategy, whether Melbourne Airport remains curfew free depends on Melbourne

Airport being capable of functioning appropriately with a level of noise distribution acceptable to the community. The capacity of Melbourne Airport to distribute and share noise through the effective operation of Runway 09/27 is, therefore, an important matter.

60. I am, however, satisfied that the issues associated with the shortening of Runway 09/27 and noise impacts of M3R more broadly can be effectively managed by the imposition of conditions.

Conditions of approval

61. Having regard to the findings set out above, I was only prepared to approve the dMDP subject to conditions imposed pursuant to s 94(7) of the Act.
62. In summary I subjected the approval to conditions in relation to the following matters:
- i. Conditions which manage the impact of the proposed major airport development on the environment.
 - ii. Conditions which require APAM to prepare a noise sharing and airspace concept plan relating to the ongoing operation of the development to which the MDP relates.
 - iii. Conditions which require APAM to prepare a noise amelioration plan and implement a noise amelioration program to manage the impact of noise on residences and other community buildings situated in areas surrounding the Melbourne Airport as a result of the development to which the MDP relates.
 - iv. Conditions which require APAM to prepare terms of reference for, and then carry out, a community health study into the impacts of aircraft noise on the community in areas surrounding Melbourne Airport associated with the ongoing operation of the development to which the MDP relates.
 - v. A Condition extending the timeframe to ten years for the development to which the MDP relates to be substantially completed.
 - vi. A Condition which provides that APAM must not carry out the major airport development to which the MDP relates unless and until APAM provides the Commonwealth with a satisfactory legally enforceable commitment to carry out the Eastern Extension Project (subject to obtaining all necessary approvals under the Airports Act or other applicable laws). I note that APAM opposed the imposition of this condition. However, I consider that this condition is appropriate to manage the impact of noise and maximise the opportunities for

noise sharing in the light of the increased and redistributed aircraft noise that will result from carrying out the development to which the MDP relates.

63. The Conditions are publicly available on the department's website at <https://www.infrastructure.gov.au/infrastructure-transport-vehicles/aviation/airports/ministerial-decisions>

CONCLUSION

64. I decided to approve, subject to conditions, the dMDP submitted to me by APAM, on 10 February 2023.



The Hon Catherine King MP

Minister for Infrastructure, Transport, Regional Development and Local Government

27/10 / 2024