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PORTFOLIO COMMITTEE NO. 7

Warnervale Airport (Restrictions) Repeal Bill 2020

Report 4

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7



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Warnervale Airport (Restrictions) Repeal Bill 2020

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Terms of reference

That:

- (a) the provisions of the Warnervale Airport (Restrictions) Repeal Bill 2020 be referred to Portfolio Committee No. 7 – Planning and Environment for inquiry and report,
- (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly,
- (c) the committee report by 16 November 2020, and
- (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill.

The terms of reference were referred to the committee by the Legislative Council on 13 October 2020.¹

¹ *Minutes*, NSW Legislative Council, 13 October 2020, pp 1402-1403.

Committee details

Committee members

Ms Cate Faehrmann MLC	The Greens	<i>Chair</i>
The Hon Mark Pearson MLC	Animal Justice Party	<i>Deputy Chair</i>
Ms Abigail Boyd MLC²	The Greens	
The Hon Mark Buttigieg MLC	Australian Labor Party	
The Hon Ben Franklin MLC	The Nationals	
The Hon Shayne Mallard MLC	Liberal Party	
The Hon Taylor Martin MLC³	Liberal Party	
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² Ms Abigail Boyd MLC was a participating member from 15 October 2020 for the duration of the inquiry.

³ The Hon Taylor Martin MLC substituted for the Hon Catherine Cusack MLC from 14 October 2020 for the duration of the inquiry.

Chair's foreword

This inquiry was established in October to examine the Warnervale Airport (Restrictions) Repeal Bill 2020. The bill seeks to initially amend the *Warnervale Airport (Restrictions) Act 1996* to remove the daily take off and landing cap for Warnervale Airport and to then repeal the Act in its entirety at a future date.

During this short, but important inquiry, the committee received evidence from the licensee of Warnervale Airport, local councils, community groups and the NSW Government. There was also strong community interest, with the committee receiving 442 responses to an online questionnaire that canvassed support or opposition to the bill.

The key issues that arose during the inquiry included the potential environmental impact of any expansion and redevelopment of the Airport, particularly to the protected Porter's Creek Wetland, the legislative duplication and possible confusion created by retaining the *Warnervale Airport (Restrictions) Act 1996*, the importance of community consultation and concerns over an increase in aircraft noise for local residents.

I note that some in the community who opposed the bill indicated their lack of confidence and trust in the local council regarding the future of Warnervale Airport. This lack of trust stems from a number of attempts by the local council over the years to expand the airport, thereby adversely affecting the surrounding environment. However, other views presented to the committee point to the zoning of the land directly surrounding the Airport which either prevents or makes it extremely difficult for this type of development to proceed.

The committee therefore recommends that the Legislative Council proceed to debate the Warnervale Airport (Restrictions) Repeal Bill 2020 and discuss the concerns raised by inquiry participants in this report.

On behalf of the committee, I would like to thank all those who participated in the inquiry at short notice. I would also like to thank my committee colleagues for their hard work.



Ms Cate Faehrmann MLC
Committee Chair

Recommendations

Recommendation 1

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That the Legislative Council proceed to debate the Warnervale Airport (Restrictions) Repeal Bill 2020, and the committee comments and concerns identified by stakeholders as set out in the report be addressed during debate in the House.

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 13 October 2020.

The committee received six submissions from nominated stakeholders and organisations/experts who were invited to make a submission.

The committee received 442 responses from individual participants to an online questionnaire. In response to the question 'What is your position on the Warnervale Airport (Restrictions) Repeal Bill 2020' the vast majority of participants (368 respondents, or 83.26 per cent) supported the bill, 73 participants (16.52 per cent) indicated their opposition to the bill and one respondent (0.23 per cent) indicated that they were neutral/undecided. There was no option, however, to support only the first part of the bill and not the provisions which seek to repeal the *Warnervale Airport (Restrictions) Act 1996* in its entirety.

The committee held one public hearing at Parliament House in Sydney on 30 October 2020.

Inquiry related documents are available on the committee's website, including submissions, the hearing transcript, tabled documents and the report on the online questionnaire.

Chapter 1 Background

Chapter 1 places the Warnervale Airport (Restrictions) Repeal Bill 2020 in context, setting the scene for an examination of key issues and stakeholder perspectives detailed in the next chapter. It provides a general introduction to Warnervale Airport and its environment, an overview of the *Warnervale Airport (Restrictions) Act 1996* and its two preceding reviews, before turning to the substance of the repeal bill.

Reference

- 1.1 The Warnervale Airport (Restrictions) Repeal Bill 2020 (the bill) was introduced in the Legislative Assembly on 24 September 2020 by the Hon Rob Stokes MP, Minister for Planning and Public Spaces.⁴
- 1.2 On 13 October 2020, the Selection of Bills Committee recommended that the provisions of the bill be referred to Portfolio Committee No. 7 – Planning and Environment for inquiry and report by 16 November 2020.⁵ This recommendation was agreed to by the Legislative Council later that day.⁶
- 1.3 The bill then passed the Assembly on 14 October with an amendment and was reported to the Council. The Assistant President informed the House that the bill (as opposed to the provisions) now stood referred to the committee for inquiry and report.
- 1.4 The bill, as amended, seeks to:
 - amend the *Warnervale Airport (Restrictions) Act 1996* to remove the daily take off and landing cap for Warnervale Airport immediately
 - repeal the *Warnervale Airport (Restrictions) Act 1996* in its entirety at a future date appointed by proclamation no later than three years from the date of assent of the proposed Act.⁷
- 1.5 The Assembly's amendment extended the timeframe for the commencement date from two years to three years.⁸

Warnervale Airport and the surrounding environment

- 1.6 Warnervale Airport is located in the town of Warnervale, 70 kilometres north of Sydney, within the Central Coast Local Government Area (LGA) and less than 5 kilometres from the Lake Macquarie LGA boundary.⁹

⁴ *Votes and Proceedings*, NSW Legislative Assembly, 24 September 2020, p 838.

⁵ Selection of Bills Committee, NSW Legislative Council, *Report No. 38 – 13 October 2020*, p 2.

⁶ *Minutes*, NSW Legislative Council, 13 October 2020, pp 1402-1403.

⁷ Warnervale Airport (Restrictions) Repeal Bill 2020, second print, p 3.

⁸ *Votes and Proceedings*, NSW Legislative Assembly, 14 October 2020, pp 860-861.

⁹ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 19.

- 1.7** Central Coast Council is the owner, operator and administrator of the airport. The Central Coast Aero Club is licensed by Council to operate the airport within agreed parameters.¹⁰
- 1.8** Porters Creek Wetland forms the southern boundary to the airport. This is the largest freshwater wetland on the Central Coast. Due to its ecological and biological diversity, it is considered as having high conservation value.¹¹ These wetlands are mapped under the State Environmental Planning Policy (Coastal Management) 2018.¹²
- 1.9** To the north of the airport is a major arterial road – namely, Sparks Road – and a line of trees identified as an endangered ecological community under the *Biodiversity Conservation Act 2016*. These trees are located on privately owned land.¹³
- 1.10** In accordance with Federal aviation safety regulations, Warnervale Airport is an Aircraft Landing Area (ALA). As opposed to certified or regulated aerodromes, ALAs are limited in the type of operations that may be undertaken and place a high level of operational requirements on the pilot.¹⁴
- 1.11** The ALA at Warnervale Airport consists of one sealed runway – measuring 10 metres wide and approximately 1,196 metres long – and a limited taxiway and apron area. Use of the runway is limited to aircraft of not more than 5,700 kilograms Maximum Take-Off Weight.¹⁵
- 1.12** The ALA at Warnervale is used by emergency services aircraft, serves as an emergency aerodrome for aircraft in distress, and provides a refuelling stop for aircraft flying to other destinations. The facilities at Warnervale also accommodate various stakeholder and community activities, airport-related services and operations, skills training for pilots and engineers, recreation training flying, student experiences and tourist activities.¹⁶
- 1.13** Warnervale Airport's landing area is the only fuel stop and emergency landing area between Bankstown and Newcastle.¹⁷

¹⁰ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 20.

¹¹ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 22.

¹² Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 22; Department of Planning, Industry and Environment, ePlanning spatial viewer, <https://www.planningportal.nsw.gov.au/spatialviewer/#/find-a-property/address> (accessed 21 October 2020).

¹³ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 22.

¹⁴ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 21.

¹⁵ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 21.

¹⁶ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 21.

¹⁷ Submission 4, Central Coast Aero Club Limited, p 5.

The Warnervale Airport (*Restrictions*) Act 1996

1.14 *The Warnervale Airport (Restrictions) Act 1996* (hereafter, the WAR Act) commenced in July 1996.

1.15 The WAR Act imposes restrictions on Warnervale Airport's operations and future development, and establishes the following provisions:

- s 5 provides for a curfew on take offs and landings at the airport, commencing at 10:00 pm and concluding at 6:30 am the next day
- s 6 limits the number of take offs and landings to a total of 88 per day
- s 7 provides for exemptions to the curfew and take off and landing limits in certain emergency situations
- s 8 provides that the maximum runway length for any runway is 1,200 metres. Council may apply in writing to the Minister to increase the maximum runway length to up to 1,800 metres
- s 9 prohibits the carrying out of any work for the construction of a runway unless the site of the runway has been approved by the Minister in writing
- ss 10, 11 and 12 establish the assessment process that must be followed in the event that Council applies to the Minister for an increase to the maximum runway length. This mandates independent review/environmental impact assessment, community consultation and expert consideration of potential noise impacts.¹⁸

1.16 In addition, s 4 clarifies that the curfew and daily limit on aircraft movements do not apply to take offs and landings on an 'existing runway'. The Act defines existing runway as one that was 'constructed before the commencement of this section and that is not extended at any time after the commencement of this section'.¹⁹ Essentially this means that the restrictions in ss 5 and 6 were not operational when the Act came into effect.

Triggering of the curfew and flight movement restrictions

1.17 In 2015, the curfew and daily limit on take offs and landings were triggered or 'switched on' when, according to one inquiry participant, the former Wyong Shire Council widened the runway, extended its length from 970 metres to 1,196 metres and strengthened it.²⁰ At the time, council considered these works to be essential maintenance and, in its view, did not constitute an extension to the runway.²¹

¹⁸ *The Warnervale Airport (Restrictions) Act 1996*, ss 5, 6, 7, 8, 9, 10, 11 and 12.

¹⁹ *The Warnervale Airport (Restrictions) Act 1996*, s 4.

²⁰ Submission 2, Central Coast Airport Resistance Group, p 6; See also, Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 7; Submission 4, Central Coast Aero Club, p 2.

²¹ Evidence, Ms Janine McKenzie, 30 October 2020, p 2; See also Evidence, Ms Monica Gibson, Executive Director, Local and Regional Planning, Department of Planning, Industry and Environment, 30 October 2020, pp 42 and 44.

- 1.18** A compliance investigation by the then Department of Planning and Environment later determined that the former Wyong Shire Council had extended the runway, thereby triggering the statutory flight movement restrictions.²²
- 1.19** In July 2019, the Central Coast Council formed the opinion that ss 5 and 6 of the WAR Act had probably been triggered by the works carried out in 2015, and implemented procedures to comply with the curfew and daily limit on flight movements prescribed by the Act.²³

Background to the Act

- 1.20** The WAR Act was introduced in Parliament in 1996 as a private member's bill by the then Member for Wyong, Mr Paul Crittenden.²⁴
- 1.21** The WAR Act is generally considered to have come into existence in response to a master planning process and associated development proposal for the airport's redevelopment, brought forward in 1993 by what was then Wyong Shire Council.²⁵
- 1.22** When introducing the bill, Mr Crittenden stated that the proposed development involved a two stage process, which would culminate in the establishment of a 1,800 metre runway enabling the airport to take much larger aircraft. Mr Crittenden charged Wyong Shire Council with proceeding to the second stage of the development and executing contracts for the establishment of the runway without community consultation.²⁶
- 1.23** Mr Crittenden drew on personal stories from his constituents to illustrate the uncertainty and frustration within the community at the time and to impress upon members the extent of community opposition to the expansion or redevelopment of Warnervale Airport. Mr Crittenden noted community concerns about property values, lack of communication and consultation, noise impacts on lifestyle and impacts on the environment.²⁷
- 1.24** He indicated that the WAR Act would 'introduce certainty and proper planning processes to ensure that investment and development take place in a reasoned and considered way'.²⁸

²² Department of Planning, Industry and Environment, NSW Government, *Terms of reference for the review of the Warnervale Airport (Restrictions) Act 1996*, p 1.

²³ Evidence, Ms McKenzie, 30 October 2020, p 2.

²⁴ The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, p 1.

²⁵ See for example: Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 24; City Plan Strategy and Development, *Warnervale Airport (Restrictions) Act 1996 Review: Summary and recommendations report*, 2017, p 9 (as attached to Submission 1); Paul Crittenden, second reading speech: Warnervale Airport (Restrictions) Bill 1996, 20 June 1996, p 5551.

²⁶ Paul Crittenden, second reading speech: Warnervale Airport (Restrictions) Bill 1996, 20 June 1996, p 5551.

²⁷ Paul Crittenden, second reading speech: Warnervale Airport (Restrictions) Bill 1996, 20 June 1996, p 5551.

²⁸ Paul Crittenden, second reading speech: Warnervale Airport (Restrictions) Bill 1996, 20 June 1996, p 5551.

Reviews of the *Warnervale Airport (Restrictions) Act 1996*

1.25 In accordance with s 17 of the WAR Act, the Minister is required to review the Act's policy objectives and terms to determine whether they remain valid and appropriate. This review is to occur as soon as possible after five years from the date of assent.²⁹

1.26 Since its inception, there have been two reviews of the WAR Act, as detailed below.

Statutory Review of Act (2017)

1.27 In 2016, in response to representations made by the Council, the then Department of Planning and Environment commissioned a review of the WAR Act explicitly addressing the s 17 requirements. The review considered whether the policy objectives of the WAR Act remain valid and, if so, whether the Act is effective in achieving those objectives.³⁰

1.28 The review noted that the policy objectives are not clearly defined and had to be assumed with reference to third party interpretations. Accordingly, it assumed the policy objectives to be:

- to limit the future development and operations of the airport, including aircraft movements, runway length and the siting of any future/new runway
- to protect the amenity of the surrounding area with reference to potential environmental and social impacts of any future proposal
- to ensure an open, transparent and independent decision making process for any future development of the airport.

1.29 The review concluded that the policy objectives remain valid and that the WAR Act should be retained:

The review has determined that the policy objectives, as assumed in this Report, remain valid, and the WAR Act, in principle, remains the most effective mechanism to achieve the policy objectives.³¹

1.30 The review also recommended further investigation into a number of provisions that it considered inoperable or ineffective in their current form:

- the immediate removal of aircraft movement restrictions applying to *general* aviation operations at Warnervale Airport's existing runway
- the requirement that aircraft movement restrictions be reviewed when changes are made that influence long-term development objectives and future aviation uses

²⁹ *The Warnervale Airport (Restrictions) Act 1996*, s 17.

³⁰ City Plan Strategy and Development, *Warnervale Airport (Restrictions) Act 1996 Review: Summary and recommendations report*, 2017, pp 1 and 2 (as attached to Submission 1).

³¹ City Plan Strategy and Development, *Warnervale Airport (Restrictions) Act 1996 Review: Summary and recommendations report*, 2017, p 46 (as attached to Submission 1).

- the need to consider a range of other works that could lead to an expansion of the airport's operations. Such works are not currently subject to the WAR Act's independent review requirements and could be self-approved by Council
- the need to address anomalies, omissions and make general housekeeping amendments.³²

The Goldberg and Fiegehen Review (2020)

- 1.31** In late 2019, the Hon Rob Stokes MP, Minister for Planning and Public Spaces established an independent review of the WAR Act in partnership with Central Coast Council to determine whether it remained valid and necessary. The review was initiated against a backdrop of ongoing community concern about the airport's operations and future development.³³
- 1.32** The review team consisted of Ms Abigail Goldberg – an expert in infrastructure, urban planning, governance and executive management – and Mr Peter Fiegehen, a qualified pilot with experience and qualifications in accident investigation, air traffic control, aircraft engineering, aviation search and rescue, and aviation safety.³⁴
- 1.33** The overarching objective of the Goldberg and Fiegehen Review was to remove the uncertainty created when the airport runway was extended in 2015, thereby triggering the statutory flight movement restrictions (see paragraphs 1.17 to 1.19).³⁵ The review team also investigated whether the WAR Act remains relevant and necessary.³⁶
- 1.34** In summary, the review found that the WAR Act:
- has symbolic relevance for the community, but has not resolved community and stakeholder concerns
 - is without precedent in that it is the only item of legislation of its kind in place for a local airport
 - is atypical in its drafting and is relatively aged, lacking the legislative prerequisites of more recent legislation
 - is duplicative of other primary legislation, including Civil Aviation Safety Authority and environmental planning legislation, without adding any unique requirements

³² City Plan Strategy and Development, *Warnervale Airport (Restrictions) Act 1996 Review: Summary and recommendations report*, 2017, p 46 (as attached to Submission 1).

³³ Department of Planning, Industry and Environment, NSW Government, *Warnervale Airport (Restrictions) Act 1996 review*, <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/Central-Coast/Warnervale-Airport-Restrictions-Act-1996-review> (accessed 29 October 2020).

³⁴ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 14.

³⁵ Department of Planning, Industry and Environment, NSW Government, *Terms of reference for the review of the Warnervale Airport (Restrictions) Act 1996*, p 1.

³⁶ Department of Planning, Industry and Environment, NSW Government, *Terms of reference for the review of the Warnervale Airport (Restrictions) Act 1996*, p 1.

- provides no unique protection that is not provided more effectively by other legislation
- is difficult to administer, adding to operational complexity
- cannot be easily improved or updated by minor amendments
- adds complexity for pilots and presents potential compliance and safety risks.³⁷

1.35 In view of these findings, the review concluded that the WAR Act should be repealed as soon as possible, and that if for any reason it cannot be immediately repealed, the s 6 restrictions on aircraft movements should be immediately suspended.³⁸

1.36 Furthermore, it recommended that actions be taken to address the significant community uncertainty and distrust identified throughout the review process – and to promote awareness and understanding of the airport's governance, existing statutory protections and aviation safety frameworks established by other primary legislation, and the proper planning process for any future changes in use or development of the airport.³⁹

1.37 As part of its public consultations, the Goldberg and Fiegehen Review received 939 unique stakeholder and community inputs via written submissions and face-to-face presentations. Of these submissions, 75 per cent supported the WAR Act being repealed while 25 per cent were in favour of the Act's retention.⁴⁰

The Warnervale Airport (Restrictions) Repeal Bill 2020

1.38 In line with the Goldberg and Fiegehen Review, the Warnervale Airport (Restrictions) Repeal Bill 2020 seeks to remove the daily take off and landing cap for Warnervale Airport and repeal the entire WAR Act at a future date appointed by proclamation.

1.39 The intention of the delayed commencement is to allow sufficient time for Central Coast Council to clearly articulate its position on Warnervale Airport – including its future use and operations – through the preparation and implementation of a business and operational plan, and to develop appropriate local planning controls.⁴¹

1.40 In his second reading speech on the bill in the Assembly, Minister Stokes outlined the case for repealing the *Warnervale Airport (Restrictions) Act 1996*, referring to the legislation as an historical anomaly in the New South Wales statute book which has been the subject of much contention and debate since its enactment.

³⁷ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, pp 10 and 36-37.

³⁸ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, pp 36-37.

³⁹ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, pp 37-38.

⁴⁰ Abigail Goldberg and Peter Fiegehen, *Review of the Warnervale Airport (Restrictions) Act 1996*, 2020, p 6.

⁴¹ Evidence, Ms Gibson, 30 October 2020, pp 43 and 44; The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, p 2.

1.41 According to the Minister, the effects of the legislation have contributed to uncertainty about the future of the airport and its operations, including a lack of clarity amongst stakeholders about operational and compliance issues.⁴²

1.42 In particular, the Minister referred to concerns raised by the Central Coast Aero Club about the impacts of the s 6 restrictions on the club's viability:

They told me of the problems they and their members were facing since the flight cap in the Act was triggered. A limit of only 88 take-offs and landings per day meant their club was unviable, their members were unable to enjoy the skies as easily and again the financial viability of this crucial community group and employment opportunities on the Central Coast were put in jeopardy. ... The Club was 47 years old at this meeting in September 2019 and it was facing total uncertainty.⁴³

1.43 The Minister expressed the view that lifting the daily limit of take offs and landings was 'crucial' in improving the airport's financial viability and providing clarity to the airport's users:

This amendment is crucial and will provide clarity in operation to local businesses and community groups that use Warnervale Airport and improve its financial viability in providing a reliable airspace. As the review notes, the current limit of 88 aircraft movements appears arbitrary and without explanation. And there is nothing in the provision that allows for an increase or decrease in movements to be applied for or permitted to address operational realities as they change from time to time. Section 6 of the Act is administratively ineffective and its immediate removal is a significant step.⁴⁴

1.44 More generally, the Minister considered the Act to be ineffective and obsolete – as having superseded its purpose and duplicative of other legislation. The Act was therefore considered to be of a symbolic nature only, and ultimately at odds with the Government's agenda to cut red tape and unnecessary regulation.⁴⁵

⁴² The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, p 3.

⁴³ The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, p 3.

⁴⁴ The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, p 4.

⁴⁵ The Hon Rob Stokes MP, second reading speech: Warnervale Airport (Restrictions) Repeal Bill 2020, 24 September 2020, pp 3, 4 and 5.

Chapter 2 Key issues

This chapter outlines the key concerns raised by inquiry participants regarding the Warnervale Airport (Restrictions) Repeal Bill 2020 and responses to those concerns. While most inquiry participants, including those responding to the inquiry online questionnaire, supported the bill (83.26 per cent), some were strongly opposed. The primary reasons for this opposition include concerns about the possible future development of Warnervale Airport and any impact on the surrounding environment, concerns that the repeal of the Act will remove a layer of legislative protection for the community and concerns regarding an increase in aircraft noise for people living under the flight path.

Possible future development of Warnervale Airport and concerns regarding impact to the surrounding environment

- 2.1 Many of the concerns raised in opposition to the bill stem in part from a lack of clarity and certainty around the Central Coast Council's intentions for Warnervale Airport, including any potential future development and operations.
- 2.2 Mr Laurie Eyes, President of the Central Coast Airport Resistance Group claimed that the development application granting consent for the extension of the Warnervale Airport runway to 1,800 metres in 1993 has not lapsed (discussed in chapter 1). If ever developed, the runway would extend approximately one kilometre into Porters Creek Wetland.⁴⁶
- 2.3 More recently, a concept plan was considered by Central Coast Council in November 2017 for a staged expansion of Warnervale Airport into a general aviation hub.⁴⁷ The concept plan provided for a passenger airport serviced by a 1,800 metre runway by 2033.⁴⁸ However, in 2017 Central Coast Council voted not to proceed with public exhibition of the concept plan, reaffirming its commitment to the *Warnervale Airport (Restrictions) Act 1996* (hereafter, the WAR Act).⁴⁹
- 2.4 Central Coast Airport Resistance Group considered the WAR Act to be necessary in order to protect the community from the impacts associated with a 'much larger planned, but unjustified, airport'.⁵⁰ According to the resistance group, repealing the WAR Act would enable Central Coast Council to resurrect and pursue aspects of its concept plan, potentially resulting in harm to the environment.

⁴⁶ Evidence, Mr Laurie Eyes, President, Central Coast Airport Resistance Group, 30 October 2020, p 29.

⁴⁷ Evidence, Ms Jane McKenzie, Unit Manager, Business Enterprise, Central Coast Council, 30 October 2020, p 2.

⁴⁸ Submission 2, Central Coast Airport Resistance Group, pp 3-4; Tabled document, Central Coast Airport Resistance Group, correspondence to the committee chair, 21 October 2020, p 1.

⁴⁹ Central Coast Council Minutes, Ordinary Meeting of Council, 27 November 2017, pp 17-18, see Central Coast Council website - <https://cdn.centralcoast.nsw.gov.au/sites/default/files/documents/meetings/edit-meeting/em-27-november-2017/minutes-om-27-november-20171.pdf>

⁵⁰ Evidence, Mr Eyes, 30 October 2020, p 28.

- 2.5** Potential harm to Porters Creek Wetland emerged as one of the key concerns among inquiry participants opposed to the bill. For instance, Central Coast Airport Resistance Group submitted that harm to the sensitive wetlands would be unavoidable should the proposals to extend the runway ever be realised:

The proposed 1799 m ... runway protrudes some 600 m plus into the SEPP 14 wetland. It is not possible to build the 1198 m runway ... and protect the wetland, as both would require the bulk of protected trees in the northern part of the wetland to be eliminated. The 1799 m runway would require some 10 hectares of the wetland to be filled in, reducing its flood retention capacity and inhibiting natural flows into the wetland.⁵¹

- 2.6** In a similar vein, responses to the inquiry questionnaire highlighted the utility and necessity of the WAR Act to safeguard against harm to the wetland from any future expansion of the runway, with a respondent asserting that:

The restrictions are needed to stop any extension to the airport which already runs into the adjacent ecologically significant Porters Creek Wetland. This wetland is the largest existing wetland on the Central Coast and apart from being a habitat for important flora and fauna, filters floodwaters that enter the Wyong River and eventually the Tuggerah Lake. It needs to be protected.⁵²

- 2.7** However, Mr Eyes noted that the Central Coast Airport Resistance Group is 'realistic regarding the Act' and considered that if the WAR Act is to be repealed, a Warnervale Airport SEPP be introduced in its place to protect the surrounding environment. He stated that the SEPP should include the following terms:

Warnervale Airport will remain an Aeroplane Landing Area under CASA CAAP-92-(1) with a 1196 m long x 10 m wide runway and all development and any physical environmental impacts contained within the existing 31 ha fenced site.⁵³

Response to concerns

- 2.8** A number of inquiry participants sought to allay concerns regarding any expansion of Warnervale Airport, specifically seeking to clarify the situation concerning current developmental consent as well as pointing to the significant environmental constraints that limit future expansion.
- 2.9** Mr Michael Allen, Director, Central Coast Aero Club, indicated that the development consent 'possibly granted in 1993' would likely have expired as there has been 'no substantial commencement of any runway extensions works' at Warnervale.⁵⁴

⁵¹ Submission 2, Central Coast Airport Resistance Group, p 11.

⁵² Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 4.

⁵³ Evidence, Mr Eyes, 30 October 2020, p 28.

⁵⁴ Evidence, Mr Michael Allen, Director, Central Coast Aero Club, 30 October 2020, pp 9-10.

2.10 Other inquiry participants pointed to the surrounding environment to support the assertion that the runway could not be extended without significant cost and/or the destruction of the protected wetlands of Porters Creek, significant road works to Sparks Road or the removal of a hill to the north.⁵⁵

2.11 Central Coast Aero Club identified the significant environmental protections in place that would make airport expansion extremely difficult:

- Land to the south (most of Porters Creek Wetland) is zoned SEPP 14 wetland. Extension of any runway into this zone is prohibited as there are no aviation related activities whatsoever permitted (including those permitted with consent) under the instrument. Consequently, expansion to the south simply cannot occur under existing environmental instruments.
- Land to the north (being land bordering on the north boundary of Sparks Road and extending north to the boundary of private holdings) is zoned E2 Environmental Management. None of the permitted uses under this zone permit any aviation activities.⁵⁶

2.12 In addition, Mr Andrew Smith, Director of the Central Coast Aero Club indicated that an entire hill would also need to be removed:

[Y]ou would have to remove an entire hill to the north, which is at 300 or 400 feet. I cannot imagine the amount of earthworks that would be required for that. It is just not feasible.⁵⁷

2.13 A questionnaire respondent reiterated that the surrounding terrain does not allow for the expansion of the runway to support the operation of jet aircraft:

The Act was enacted to protect the community from large jet transport operations. The runway has never been sufficiently long enough for any jet transport aircraft operating in Australia. The airport is surrounded by terrain which makes it very difficult to physically lengthen the runway (wetlands immediately South, a major road and rising terrain to the North). Environmental zoning surrounding the Airport requires that State Government must consent to any lengthening of the runway. There is no economic case for jet airline or freight operations at Warnervale.⁵⁸

2.14 Further, some inquiry participants expressed no desire to see the airport expanded and the wetlands impacted.

⁵⁵ Evidence, Mr Andrew Smith, Director, Central Coast Aero Club, 30 October 2020, p 15; Evidence, Ms McKenzie, 30 October 2020, p 3; Evidence, Mr Ben Morgan, Chief Executive Officer, Aircraft Owners and Pilots Association of Australia, 30 October 2020, p 25; Evidence, Ms Abigail Goldberg, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act, 30 October 2020, p 36.

⁵⁶ Submission 4, Central Coast Aero Club, p 3.

⁵⁷ Evidence, Mr Smith, 30 October 2020, p 15.

⁵⁸ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 3.

2.15 Mr Ben Morgan, Chief Executive Officer of the Aircraft Owners and Pilots Association of Australia indicated that the aviation industry has no intention of interfering with the surrounding wetlands and wants Warnervale to remain a small airport:

[T]here is no intention by the aviation industry to seek to interfere with the wetlands. Those constraints, along with the local zoning and planning constraints, preclude this airport from being used in that capacity, so this is an airport that our national aviation industry recognises is a light recreational and general aviation airport.⁵⁹

2.16 Mr Smith from the Central Coast Aero Club, provided a similar view, stating: 'We do not want a huge airport there, either'.⁶⁰

2.17 In addition, Central Coast Aero Club indicated that while it may be possible to change the orientation of the runway from north to south, to east to west, in order to circumvent the physical constraints of the site, this proposition is also problematic as the orientation of a runway in this direction is not optimal for flying conditions. Mr Allen and Mr Smith indicated that, to make this change, a new runway would need to be constructed,⁶¹ and the Woolworths distribution centre located to the west would need to be acquired.⁶²

Repealing the Act removes a layer of protection

2.18 While many inquiry participants acknowledged that the WAR Act is an unusual piece of legislation, those opposing its repeal argued that it was necessary as it provides an extra layer of legislative protection over the airport and its surrounds.

2.19 Mr Laurie Eyes, President of the Central Coast Airport Resistance Group was of the view that Warnervale Airport presents a particular set of circumstances which defy comparison with other airports of similar size and scale. In his view this makes the WAR Act a necessary protection against impacts to amenity and the environment, and as a safeguard against what is perceived to be a lack of transparency in Central Coast Council processes, particularly concerning potential expansion of the airport.⁶³

2.20 Mr Eyes argued that the Act provides a degree of certainty to local residents who have built their futures around the strength of the Act and its protections:

You are talking about repealing something that people have depended on in building their homes and building their futures around that airport. They have depended on that Act to protect them from this large airport that council have constantly come up with. There is every reason to retain it. We are saying okay, give them unlimited movements. That is fine. But otherwise keep it as it is and keep the Act as it is to give the community the certainty that they deserve for their futures. The community has as much right as the 190 pilots that use Warnervale, or perhaps more. That Act is what

⁵⁹ Evidence, Mr Morgan, 30 October 2020, p 25.

⁶⁰ Evidence, Mr Smith, 30 October 2020, p 15.

⁶¹ Evidence, Mr Allen, 30 October 2020, p 12.

⁶² Evidence, Mr Smith, 30 October 2020, p 12.

⁶³ Evidence, Mr Eyes, 30 October 2020, pp 31 and 32.

they have depended on to protect them for the last 25 years. They have built their futures on the strength of that Act.⁶⁴

- 2.21** Mr Eyes also viewed that, generally speaking, existing statutory protections have not always been effective in deterring or preventing harm to wetlands and that harm mitigation often takes the form of *post facto* remediation rather than pre-emptive deterrence and prevention. According to Mr Eyes, the WAR Act is required to provide an extra level of protection to address these issues:

We need the extra level of protection that is in the Act to basically pre-empt council's efforts to undertake actions and then address the actions later. That is the issue. The damage comes first and then, if they get forced to, they will address it. We do not want that to happen. That is not the way things are supposed to happen.⁶⁵

- 2.22** Some inquiry participants also discussed whether repealing the WAR Act would remove one of the statutory requirements for community consultation required as part of any future development assessment pathway.

- 2.23** As a neighbouring local government area with suburbs directly under the flight path, Lake Macquarie City Council noted that it has long advocated for 'the strengthening of the existing legislation governing Warnervale Airport' to protect the rights and interests of residents and businesses in Morisset and Wyee, especially given 'the different ideas about Warnervale Airport expanding and potentially leading to direct flight paths of larger aircraft over these catchments'.⁶⁶

- 2.24** Lake Macquarie City Council indicated that this could be achieved by embedding appropriate consultation requirements into legislation governing the airport's operations:

... we believe the rights and interests of residents and businesses affected by Warnervale Airports operations can be protected by embedding adequate consultation requirements for the airport's owners to consult with Lake Macquarie City Council and those from the abovementioned catchments. An open and robust consultation process could help resolve many of the diverse and divergent views about the airport ...⁶⁷

- 2.25** Lake Macquarie City Council credited the WAR Act with the basic provisions necessary to protect the rights and interests of residents and businesses in the Central Coast and Lake Macquarie local government areas, but argued that its consultation provisions do not go far enough. The Council called for the consultation radius to be extended from seven and a half kilometres to 15 kilometres to include residents of Wyee.⁶⁸

⁶⁴ Evidence, Mr Eyes, 30 October 2020, p 32.

⁶⁵ Evidence, Mr Eyes, 30 October 2020, p 31.

⁶⁶ Evidence, Mr Dan Hughes, Government Relations and Policy Advisor, Lake Macquarie City Council, 30 October 2020, p 18; Submission 6, Lake Macquarie City Council, p 1.

⁶⁷ Submission 6, Lake Macquarie City Council, p 2.

⁶⁸ Submission 6, Lake Macquarie City Council, p 4; Evidence, Mr Hughes, 30 October 2020, p 18.

2.26 On the issue of repeal and its bearing on future consultation, Lake Macquarie City Council formed the view that 'repealing the Act does not necessarily mean the rights and interests of those affected by the airport's operations will be ignored'.⁶⁹ However, it called for enhanced protections to ensure robust consultation mechanisms are in place for anyone affected by the airport's future growth, whether this is achieved through the WAR Act or other governing legislation.

2.27 Mr Dan Hughes, Government Relations and Policy Advisor for Lake Macquarie City Council, explained council's position:

Regardless of whether the Act remains or is repealed we would like to see protections extended to Lake Macquarie. We must ensure that these protections are in place now, regardless of any future plans for the airport, which will ensure appropriate consultation mechanisms are in place for anyone impacted by the airport's growth, irrespective of the local government boundary.⁷⁰

2.28 Mr Eyes of the Central Coast Airport Resistance Group did not concur with the suggestion that repealing the WAR Act would have limited bearing on community consultation requirements. On the contrary, he advised that if the WAR Act was to be repealed, an extra process of community consultation would be abolished making it easier for expansion plans to proceed. Referring to the s 12 provisions in the Act, Mr Eyes stated:

But most importantly, the Minister goes out to everyone within 7½ kilometres of the airport and asks for their opinion on the proposal. It is a legislated thing to go out and get the community's opinions.

[...]

.... To put it bluntly, this review of the Act is all about doing away with it so that those expansion plans can proceed. With the Act in place, it is very difficult for them.⁷¹

2.29 More generally, it was suggested to the committee that by repealing the WAR Act, certain statutory processes and prerequisites would no longer apply – including the requirement for Ministerial approval for any future runway extension – thereby making it easier for development to go ahead.⁷²

Remove daily flight cap and curfew, but not repeal the WAR Act?

2.30 Some inquiry participants noted that their primary concerns with the WAR Act are the restrictions on flights and the curfew. This prompted questions by the committee on whether the entire Act should be repealed, or only those sections which place restrictions on the daily movements.

⁶⁹ Evidence, Mr Hughes, 30 October 2020, p 18.

⁷⁰ Evidence, Mr Hughes, 30 October 2020, p 18.

⁷¹ Evidence, Mr Eyes, 30 October 2020, p 29.

⁷² Evidence, Mr Eyes, 30 October 2020, p 29.

- 2.31** Ms Janine McKenzie, Unit Manager, Business Enterprise, for Central Coast Council noted that Council's main concern with the WAR Act is the flight cap due to its administrative burden on the Council:

I think that the removal of the requirement to administer the daily limit as per section 6 of the Act would reduce some of the administrative burden around the airfield. There are other operational requirements that would not come into play. For example, at the moment pilots are required to email their requests for landings and take-offs 24 hours in advance, so there would not be a need to continue that process, which would reduce the administration of the airfield. Whether there still would need to be consideration of the future use and strategic direction of the airfield, that would be a matter for council to determine, but potentially likely.⁷³

- 2.32** Mr Allen noted that the Aero Club is not 'terribly worried' about the curfew, but is particularly keen to remove the flight caps, noting that this would be beneficial to the operations of the club.⁷⁴ Mr Allen indicated that the simplest and clearest way of achieving this is to repeal the Act:

Simply, my understanding is that what is currently before the Committee and the Legislative Council is a repeal or no repeal of the Act. It would be a different proposition and we would respond to it differently if there was simply only an amendment of the Act on the cards. I am not going to say that, no, that does not help us. It does. Certainly it takes away that existential threat. That is what really alarmed us in the first place.

[...]

I suppose we just do not know what is coming next. We would rather deal with one piece of legislation on this, which is—I think appropriately—the planning law. Look, again we simply want to see the thing tidied up. We simply want to see the cap removed. There is no doubt about that. The easiest and the most appealing way for us is to get rid of the Act because it does not do anything that the legislation does not do.⁷⁵

- 2.33** The idea to remove the flight caps, but maintain the Act was supported by a questionnaire respondent:

Why can't the Bill be amended to lift the flight restrictions only? Make sure whatever happens that it doesn't impinge on the quality of life for nearby residents or adversely affect any of the environmental constraints.⁷⁶

- 2.34** Mr Eyes considered removing the flight cap and retaining the Act to be a perfect solution, but sought to also maintain the curfew.⁷⁷

⁷³ Evidence, Ms McKenzie, 30 October 2020, p 6.

⁷⁴ Evidence, Mr Allen, 30 October 2020, p 10.

⁷⁵ Evidence, Mr Allen, 30 October 2020, pp 10-11.

⁷⁶ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 4.

⁷⁷ Evidence, Mr Eyes, 30 October 2020, p 29.

Response to concerns

- 2.35** In response, some inquiry participants questioned what would be fundamentally achieved by only removing the flight cap and curfew as opposed to repealing the Act in full, as it would merely duplicate other legislation. For example, Ms Abigail Goldberg, planning expert and co-author of the Goldberg and Fiegehen Review (discussed in chapter 1), reflected:

You remain in a position where you are now, where the Act is not providing any benefit and the Act contains areas of duplication not just to the airport legislation and air safety legislation but to environmental legislation, planning legislation and transport legislation.⁷⁸

- 2.36** Similarly, Mr Peter Fiegehen, aviation expert and the other co-author of the Goldberg and Fiegehen Review, questioned the value of retaining the WAR Act albeit in an amended form, noting the potential confusion in maintaining parallel legislation with similar policy objectives:

So what we would end up with is parallel legislation where at some stage, if it were challenged, it would be necessary to determine what the hierarchy is and which one has precedence. So straight away you have introduced confusion and effort to establish the hierarchy ... Why do we need two pieces of legislation for one outcome? If we can strengthen the legislation that we believe is higher in the hierarchy then that should be sufficient just like in any other legislation. If there is no need for duplication you would not have it because that causation of confusion and establishing hierarchy on challenge.⁷⁹

- 2.37** Ms Goldberg and Mr Fiegehen suggested that in order to protect the surrounds of Warnervale Airport from development, stakeholders should use the various environmental and planning instruments and legislation in place, rather than rely on the WAR Act. Ms Goldberg noted that the 'Act provides no unique protection that is not provided more effectively by other legislation'.⁸⁰

- 2.38** Ms Goldberg also argued that the Act is drafted in an old-fashioned and confusing manner and does not serve a purpose:

[Y]ou have an item of legislation which is old-fashioned in the way that it is written. It is outdated in the way that it is structured. It is unclear, it is confusing and it is providing no tangible purpose, no clear outcome and no benefit to the average user—to people.⁸¹

- 2.39** Similarly, Mr Allen, Central Coast Aero Club, described the WAR Act as 'arcane, poorly drafted, difficult to interpret and expensive to monitor'.⁸²

⁷⁸ Evidence, Ms Goldberg, 30 October 2020, p 38.

⁷⁹ Evidence, Mr Peter Fiegehen, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act, 30 October 2020, p 39.

⁸⁰ Submission 1, GoldbergBlaise, p 10.

⁸¹ Evidence, Ms Goldberg, 30 October 2020, p 38.

⁸² Evidence, Mr Allen, 30 October 2020, p 10.

- 2.40** In addition, inquiry participants noted that Warnervale is the only airport in Australia, with the exception of Sydney Airport, to have an individual piece of legislation governing its operations. Mr Allen noted that the Act is unusual, with other similar airports not requiring such legislation:

I think the key things there are it is not unique—it is unique but does not particularly provide any unique protection ... It just does not do the job. It is unique for a reason—there is no need for it. All the other communities around the States with these sorts of airports have not seen the need for this. That is why this Act is not replicated anywhere else in this country, except for Sydney Airport. But we will not equate our Warnervale Airport to Sydney Airport.⁸³

- 2.41** Mr Morgan, also noted this and argued that there is nothing particularly unique about Warnervale Airport that requires such an Act:

Warnervale is not unique—it is one of thousands of airports around Australia—yet it is unique in that it is the only one that has an Act that sits across the top of it, and again I would question what is the purpose of this Act? If the only purpose is to create an additional layer of red tape ... why is it required?⁸⁴

- 2.42** Further to this, Mr Morgan considered the Act to contain 'excess red tape' and that any potential development of Warnervale Airport should be dealt with under standard planning processes:

There are already appropriate controls in place that will enable any potential development of the site to be dealt with through a normal process. To leave this piece of legislation is to accept that we are just simply allowing excess red tape for the sake of allowing red tape.⁸⁵

Noise and amenity impacts

- 2.43** A number of inquiry participants raised concerns that removing the daily flight cap from the Act may see an increase in aircraft noise which would be of great concern to local residents living under the flight path.

- 2.44** The Central Coast Airport Resistance Group argued that aircraft noise is already a problem, asserting that complaints have been made by residents of Watanobbi. The resistance group referred to anecdotal evidence during the 2019 Federal election to illustrate the severity of aircraft noise and its impacts on residents:

... nearly every home door knocked by a political party in Watanobbi during the lead up to the 2019 Federal election complained about aircraft noise and conversations with home owners had to stop when an aircraft flew over due to noise interference.⁸⁶

⁸³ Evidence, Mr Allen, 30 October 2020, p 9.

⁸⁴ Evidence, Mr Morgan, 30 October 2020, p 25.

⁸⁵ Evidence, Mr Morgan, 30 October 2020, p 23.

⁸⁶ Submission 2, Central Coast Airport Resistance Group, p 22.

2.45 The Central Coast Airport Resistance Group also noted that in 2018 a temporary change in flight paths had resulted in aircraft being redirected over residential areas west of the airport. The resistance group stated that the primary reason why this change was short lived was due to noise complaints, with the flight path provoking 'a swift and outraged response from residents living to the west of [Warnervale Airport]'.⁸⁷

2.46 Concerns regarding aircraft noise were echoed by questionnaire respondents. In particular, respondents were concerned that the lifting of the daily flight cap would result in increased aircraft noise and a deterioration of quality of life. For example:

- It is negligent to impose additional noise burden on a large and growing community to satisfy a very small number of hobby pilots.⁸⁸
- My property borders the runway. More planes and increased hours will be disruptive to our life and community. There are restrictions already in place for this reason.⁸⁹

2.47 Another respondent described their experience of the current aircraft noise as having a 'constant lawnmower noise in the sky':

The noise from low flying planes around the residential Tuggerah lakes area is disturbing especially at night and during day. Joy flights and training aerobatics is not what residents who live locally were informed about or agreed on when purchasing homes here. We have been subjected to small planes circling the lakes practising their noisy turns and dives up to midnight and in morning hours. It's like having a constant lawnmower noise in the sky and reminds us of the noisy seaplanes flying low over Pittwater.⁹⁰

Response to concerns

2.48 Responding to concerns about aircraft noise, the Central Coast Aero Club noted that the club and the airport had remained 'remarkably complaint free'⁹¹ and reasonably expected it to stay that way.

2.49 Mr Smith of the Aero Club explained that they avoid flying over residential areas and that the small aircrafts that fly in the area generate only a low level of noise:

We routinely avoid any residential areas. The types of operations that we conduct are very low impact and low noise, and the length and width of the runway preclude any larger aircraft from using it. ... The smaller the aircraft, the quieter it is. We do not

⁸⁷ Submission 2, Central Coast Airport Resistance Group, pp 21-22.

⁸⁸ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 4.

⁸⁹ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 4.

⁹⁰ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 4.

⁹¹ Evidence, Mr Smith, 30 October 2020, p 13.

have any issues with the community currently. With the zoning the way it is and the environmental constraints, I cannot see that we will moving forwards.⁹²

2.50 In terms of the effect on amenities in the local area, questionnaire respondents suggested that the repeal of the Act would lead to economic benefits including training and employment opportunities, increased tourism and the development of a general aviation hub. For example:

- The unrestricted operation of the airport is an important element of the economic growth of the Central Coast region. Not only does it offer additional attraction for tourism to the region it also provides a base for safety services to operate from (e.g. air ambulance - with the M1 so close, fire services, etc).⁹³
- Warnervale airfield provides a valuable range of services that should be preserved, and could be further extended (without imposition on local residents) to increase employment, attract investment and become a thriving hub for general aviation and its related businesses. Development of the Western Sydney airport will place pressure on airfields such as Bankstown and Camden - attracting this cashflow to the Central Coast will be positive for everyone who lives there.⁹⁴

2.51 Mr Morgan of the Aircraft Owners and Pilots Association of Australia agreed that the repeal of the WAR Act would be of economic benefit to the region and of benefit to the aviation industry in general:

[Y]ou have a Central Coast in dire need of gainful employment, opportunity and a future... We have got a fantastic flight school The Central Coast needs to be providing a greater level of training and education, but we cannot currently do it with the Act in place ... what the Act has effectively done is it has pulled the handbrake on all aviation activity on the Central Coast, and whilst the population has increased, whilst the number of young people has increased, we have not increased their access to technical trades within the aviation industry and their access to the aviation industry.⁹⁵

Committee comment

2.52 The committee notes the weight of support for the bill among witnesses and questionnaire respondents (83.26 per cent of respondents), while acknowledging the key concerns raised in evidence by the bill's opponents. The committee notes, however, that questionnaire respondents were not given an option of supporting the WAR Act with amendments.

2.53 The committee acknowledges the concern of some members in the local community regarding the uncertainty surrounding Central Coast Council's plans to redevelop Warnervale Airport. Any potential redevelopment would likely impact the local environment and in particular the ecologically and biologically diverse Porters Creek Wetland. While the status of previous

⁹² Evidence, Mr Smith, 30 October 2020, p 14.

⁹³ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 2.

⁹⁴ Portfolio Committee No. 7 – Planning and Environment, NSW Legislative Council, *Report on the online questionnaire: Inquiry into the Warnervale Airport (Restrictions) Repeal Bill 2020*, p 2.

⁹⁵ Evidence, Mr Morgan, 30 October 2020, pp 23 and 24.

development proposals and plans was not entirely clear to the committee, we are aware that some in the community view that Central Coast Council still intends to redevelop the site.

- 2.54** In the committee's opinion, the history of unrealised development proposals made by both Council and individual Councillors for the airport's expansion and redevelopment has cultivated a climate of uncertainty, mistrust and a lack of confidence in council processes for some members of the local community.
- 2.55** However, the committee notes the views of a number of inquiry participants who indicated that the planning and environmental protections afforded by the WAR Act are better administered through other legislation and planning instruments, and that retaining the Act would create some legislative duplication as well as confusion regarding the management of parallel legislation. Notwithstanding such views, the committee also acknowledges alternate perspectives on the WAR Act which emphasise the importance of its community consultation provisions.
- 2.56** The committee recommends that debate on the Warnervale Airport (Restrictions) Repeal Bill 2020 proceed taking into account the committee comments documented in this report and the concerns raised by stakeholders during this inquiry.

Recommendation 1

That the Legislative Council proceed to debate the Warnervale Airport (Restrictions) Repeal Bill 2020, and the committee comments and concerns identified by stakeholders as set out in the report be addressed during debate in the House.

Appendix 1 Submissions

No.	Author
1	GoldbergBlaise
2	Central Coast Airport Resistance Group Inc
3	Your Central Coast Airport Association
4	Central Coast Aero Club Limited
5	Mr David Mehan MP
6	Lake Macquarie City Council

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Friday 30 October 2020 Macquarie Room Parliament House, Sydney	Ms Janine McKenzie	Airport Manager, Central Coast Council
	Mr Andrew Smith	Director, Central Coast Aero Club
	Mr Michael Allen	Director, Central Coast Aero Club
	Ms Amy Regado	Chief Development Planner, Lake Macquarie City Council
	Mr Dan Hughes	Government Relations and Policy Advisor, Lake Macquarie City Council
	Mr John Codrington	President, Your Central Coast Airport Association Inc
	Mr Ben Morgan	Chief Executive Officer, Aircraft Owners and Pilots Association of Australia
	Mr Laurie Eyes	President, Central Coast Airport Resistance Group
	Ms Abigail Goldberg	Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act
	Mr Peter Fiegehen	Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act
Ms Monica Gibson	Executive Director Local & Regional Planning, Department of Planning, Industry and Environment	
Mr Greg Sullivan	Director Strategic Planning, Department of Planning, Industry and Environment	

Appendix 3 Minutes

Minutes no. 33

Thursday 15 October 2020

Portfolio Committee No. 7 – Planning and Environment

Members' Lounge, Parliament House, Sydney, 1.36 pm

1. Members present

Ms Faehrmann, *Chair*

Mr Pearson, *Deputy Chair*

Ms Boyd (*participating member*)

Mr Buttigieg

Mr Franklin

Mr Mallard

Mr Martin (*substituting for Ms Cusack for the duration of the inquiry*)

Mr Veitch (*substituting for Ms Sharpe*)

2. Correspondence

The Committee noted the following items of correspondence:

Received:

- 14 October 2020 – Email from the Chair to the secretariat advising that Ms Boyd will be a participating members for the duration of the inquiry into the provision of the Warnervale Airport (Restrictions) Repeal Bill 2020.

Resolved, on the motion of Mr Franklin: That Ms Boyd be provided with all committee documents for the inquiry into the provisions he Warnervale Airport (Restrictions) Repeal Bill 2020, including meeting papers, submissions and the Chair's draft report.

3. Inquiry into the provisions of the Warnervale Airport (Restrictions) Repeal Bill 2020

3.1 Participating member

Committee noted that Ms Boyd will be a participating members for the duration of the inquiry into the provision of the Warnervale Airport (Restrictions) Repeal Bill 2020.

3.2 Terms of reference

Committee noted the referral on 13 October 2020 of the following terms of reference:

That:

- (a) the provisions of the Warnervale Airport (Restrictions) Repeal Bill 2020 be referred to Portfolio Committee No. 7 – Planning and Environment for inquiry and report,
- (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly,
- (c) the committee report by 16 November 2020, and
- (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill.

3.3 Inquiry timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- Friday 23 October– closing date for submissions (6 days)
- Friday 30 October – 1 hearing

- Wednesday 11 November – circulation of chair's draft report (Note: this will allow less than seven days to consider the chair's draft report, in variance to the sessional order)
- Friday 13 November – 8.45 am – report deliberative
- Monday 16 November – report tabled.

3.4 Physically distanced hearings

Resolved, on the motion of Mr Buttigieg: That the committee hold a physically distanced hearing.

3.5 Submissions, online questionnaire and proformas

Resolved, on the motion of Mr Martin:

- That the committee accept submissions from nominated stakeholders and organisations/experts in the field who apply to make a submission and are approved by the chair.
- That the committee not issue an open call for submissions through the website.
- That the committee not accept any proformas.
- That the wording for the website be as follows:

Submissions

- Individuals are invited to submit their comments on the bill here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.
- If you are an organisation or have specialist knowledge in the field and you would like to make a more detailed submission, please contact the secretariat before [submission closing date].

3.6 Submission and witness invitations

Resolved, on the motion of Mr Martin: That the following stakeholders be invited to make a submission, and that these stakeholders be invited to appear as a witness at the hearing:

- Central Coast Council
- Central Coast Aero Club
- Lake Macquarie City Council
- Newcastle Airport
- Abigail Goldberg and Peter Fiegehen (authors of the 2020 Independent Review of the Warnervale Airport (Restrictions) Act)
- Department of Planning, Industry and Environment.

Resolved, on the motion of Mr Martin: That members have 24 hours to nominate additional stakeholders.

3.7 Online questionnaire and summary report

Resolved, on the motion of Mr Franklin: That the questions for the online questionnaire be as follows:

- What is your position on the Warnervale Airport (Restrictions) Repeal Bill 2020? Select one of these options: support, oppose, neutral/undecided
- In relation to the previous question, please explain your position on the bill (500 word text box)
- Do you have any other comments on the bill (250 word text box)

Resolved, on the motion of Mr Franklin: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns
- individual responses be kept confidential on tabling.

3.8 Questions on notice and supplementary questions

Resolved, on the motion of Mr Martin: That there be no questions taken on notice at the public hearing or supplementary questions from members, but witnesses may be asked to provide the information in a supplementary submission within 48 hours.

3.9 Advertising

Committee noted that that the inquiry will be advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales.

4. Adjournment

The committee adjourned at 1.48 pm. *Sine die*.

Vanessa O'Loan

Clerk to the Committee

Minutes no. 35

Friday 30 October 2020

Portfolio Committee No. 7 – Planning and Environment

Macquarie Room, Parliament House, Sydney, 10.18 am

1. Members present

Ms Faehrmann, *Chair*

Mr Pearson, *Deputy Chair*

Ms Boyd (*participating member*)

Mr Buttigieg

Mr Franklin (*until 3:20pm*)

Mr Mallard

Mr Martin (*substituting for Ms Cusack for the duration of the inquiry*)

Ms Sharpe (*via videoconference*)

2. Previous minutes

Resolved, on the motion of Mr Pearson: That draft minutes no. 33 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 21 October 2020 – Email from Ms Merran Magill, Governance Manager, Newcastle Airport, to the secretariat advising that they will provide a written submission but will decline the committee's invitation to give evidence at the hearing on 30 October.
- 22 October 2020 – Email from Temple Eyre, private citizen, to the secretariat, registering their opposition to the Warnervale Airport (Restrictions) Repeal Bill 2020.
- 23 October 2020 – Email from Ms Merran Magill, Governance Manager, Newcastle Airport, to the secretariat, advising that they will no longer be making a written submission to the inquiry.

4. Inquiry into the provisions of the Warnervale Airport (Restrictions) Repeal Bill 2020**4.1 Public submissions**

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos: 1, 3, 4, 5, 6.

4.2 Partially confidential submission

Resolved on the motion of Mr Pearson: That the committee authorise the publication of submission no. 2, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat.

4.3 Online questionnaire

The committee noted that the report summarising the online questionnaire responses has been published on the committee's website.

4.4 Additional stakeholders and witnesses

The committee noted that it previously agreed via email to the following individuals or organisations being invited to make a written submission and appear as a witness on 30 October, in addition to the previously resolved list:

- Mr John Codrington, President, Your Central Coast Airport Association Inc
- Mr Ben Morgan, Chief Executive Officer, Aircraft Owners and Pilots Association of Australia
- Mr Laurie Eyes, President, Central Coast Airport Resistance Group
- Cr Louise Greenaway, Councillor (IND), Central Coast Council.

4.5 Questions on notice and supplementary questions

The committee noted that it had previously resolved that there be no questions taken on notice at the public hearing or supplementary questions from members, but witnesses may be asked to provide certain information in a supplementary submission within 48 hours.

4.6 Allocation of questioning

Resolved, on the motion of Mr Buttigieg: That the allocation of questioning be left in the hands of the Chair.

4.7 Public hearing

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Janine McKenzie, Airport Manager, Central Coast Council

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Andrew Smith, Director, Central Coast Aero Club
- Mr Michael Allen, Director, Central Coast Aero Club

Ms Michael Allen tendered the following document:

- Aerial and land zoning maps nos. 1 to 3

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Amy Regado, Chief Development Planner, Lake Macquarie City Council
- Mr Dan Hughes, Government Relations and Policy Advisor, Lake Macquarie City Council

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr John Codrington, President, Your Central Coast Airport Association Inc
- Mr Ben Morgan, Chief Executive Officer, Aircraft Owners and Pilots Association of Australia

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Laurie Eyes, President, Central Coast Airport Resistance Group

Mr Laurie Eyes tendered the following documents:

- Correspondence from the Central Coast Airport Resistance Group to the Hon Rob Stokes MP, Minister for Planning and Public Spaces, dated 10 October 2020
- Correspondence from the Central Coast Airport Resistance Group to the Chair, dated 21 October 2020

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Ms Abigail Goldberg, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act
- Mr Peter Fiegehen, Co-Author, 2020 Independent Review into Warnervale Airport (Restrictions) Act

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Monica Gibson, Executive Director Local & Regional Planning, Department of Planning, Industry and Environment
- Mr Greg Sullivan, Director Strategic Planning, Department of Planning, Industry and Environment

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 3:55 pm.

The public and media withdrew.

4.8 Tendered documents

Resolved, on the motion of Mr Pearson: That the committee accept and publish the following documents tendered during the public hearing, with the exception of identifying and/or sensitive information which are to remain confidential, as per the recommendation of the secretariat:

- Correspondence from the Central Coast Airport Resistance Group to the Hon Rob Stokes MP, Minister for Planning and Public Spaces, dated 10 October 2020, tendered by Mr Laurie Eyes, President, Central Coast Airport Resistance Group
- Correspondence from the Central Coast Airport Resistance Group to the Chair, dated 21 October 2020, tendered by Mr Laurie Eyes, President, Central Coast Airport Resistance Group

Resolved, on the motion of Mr Pearson: That the committee accept and publish the following documents tendered during the public hearing:

- Aerial and land zoning maps nos. 1 to 3, tendered by Mr Michael Allen, Director, Central Coast Aero Club

5. Adjournment

The committee adjourned at 3:56 pm until 9.00 am Monday 2 November 2020 (public hearing for water infrastructure inquiry).

Vanessa O'Loan

Clerk to the Committee

Draft minutes no. 37

Friday 13 November 2020

Portfolio Committee No. 7 – Planning and Environment

Room 1254, Parliament House, Sydney, 8.45 am

1. Members present

Ms Fachrmann, *Chair*

Mr Pearson, *Deputy Chair*

Ms Boyd (*participating member*)

Mr Buttigieg

Mr Franklin

Mr Mallard (*via videoconference*)

Mr Martin

Ms Sharpe

2. Previous minutes

Resolved, on the motion of Mr Martin: That draft minutes no. 35 be confirmed.

3. Inquiry into the provisions of the Warnervale Airport (Restrictions) Repeal Bill 2020**3.1 Supplementary information**

The committee noted that links to the publically available concept plan had been provided by the Central Coast Airport Resistance Group.

3.2 Consideration of Chair's draft report

The Chair submitted the draft report entitled 'Warnervale Airport (Restrictions) Repeal Bill 2020' which, having been previously circulated, was taken as being read.

Resolved, on the motion of Mr Martin: The paragraph 2.2 be amended by omitting 'indicated' and inserting instead 'claimed' before 'that the development'.

Resolved, on the motion of Mr Martin: That paragraph 2.9 be amended by inserting 'likely' before 'have expired'.

Resolved, on the motion of Mr Martin: That paragraph 2.44 be amended by omitting 'amongst local residents of Watanobbi are endemic and widespread' and inserting instead 'have been made by residents of Watanobbi'.

Resolved, on the motion of Mr Martin: That paragraph 2.54 be amended by inserting 'made by both Council and individual Councillors' before 'for the airport's'.

Resolved on the motion of Mr Pearson: That:

- The draft report, as amended, be the report of the committee and that the committee present the report to the House
- The transcripts of evidence, submissions, tabled documents and correspondence relating to the inquiry be tabled in the House with the report
- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee
- That the report be tabled in the afternoon on Monday, 16 November 2020.

4. Adjournment

The committee adjourned at 9:00 am until Friday, 27 November 2020, at a time to be confirmed, Macquarie Room, Parliament House (Water infrastructure hearing).

Vanessa O'Loan
Clerk to the Committee

