Submission
No 47

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

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STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO THE NSW PLANNING FRAMEWORK

Firstly I would like to thank the Standing Committee on State Development for this opportunity to make a submission into the above inquiry,

In doing my best to protect the State listed heritage item, which is also my home, I have been made to feel that I have committed some sort of crime. My local council has used the heritage "issue" as an opportunity to encourage the local aerodrome to see my property as a green light to increase activity over my land. I have wasted vast amounts of time preparing submissions to all levels of government when that time would have been far better spent maintaining my heritage property.

Where an aerodrome is concerned it would appear that it takes precedence over all other development (both new and existing) and knowing this the aerodrome operators do not feel constrained by any State Planning Laws. It is time that this was changed to give all land owners equal rights and opportunities.

Terms of reference 1(f): Regulation of land use on or adjacent to airports.

I understand that this item refers to land adjacent to Commonwealth Airports however as one who has lived adjacent to what was until recently an authorised landing area (ALA) I would like to take this opportunity to make some comments on the anomalies that occur where airports are concerned.

What is the definition of an Airport

The definition of an airport is so broad that it would appear to allow a privately owned aerodrome with a couple of mown grass strips to be treated in the same way as major international airport. This gives the small aerodrome owner the right to prepare a Master Plan, Anef contours and an Obstacle Limitation map and engage in massive expansion without having to follow due planning process.

Planning Action

The planning law should be amended to ensure that small aerodromes are treated as though they are like any other commercial business in terms of planning law and are not allowed to hide behind the Commonwealth regulations.

Master Plans/ANEF Contours/Obstacle Limitations

These appear to permit small aerodromes to achieve massive expansion with no planning approval. Some years ago our local airfield produced such a Master Plan which was only withdrawn due to the massive public opposition it attracted.

An airfield can use the maximum capacity scenario to disrupt the lives of thousands of people living in the vicinity of the aerodrome. In our case, as part of the Master Plan, the local council was asked to place affectations on the 149 certificates of thousands of residences within a 5km radius

of the airfield. Here was an airfield that had not increased its movements in 20 years, had no RPT service or air traffic control and yet when the opportunity presented itself the proposed Master Plan was used as an opportunity to engage in massive expansion.

Maximum Capacity
Our local aerodrome could probably claim 400,000 movements under a maximum capacity Master Plan. This would be an unacceptable and inappropriate expansion on the current 25,000 movements. It would however cause the placement of affectations on all surrounding properties, limiting the development opportunities for other private landowners just so that the airport owners could reserve the right to development which would be unlikely to proceed.
On the other hand this could make the aerodrome very attractive to a third party such as an international flying school which is keen to utilise the maximum capacity modelled as part of the Master Plan.
In this case a major flying school could be established without having to undergo any rigorous assessment by the local council and without giving local residents any opportunity to comment. Any right of appeal by the local council or residents to the Land & Environment Court would also be lost.

Planning Action
Maximum Capacity Master Plans should be subject to much closer scrutiny and should not be permitted for aerodromes that do not even have a control tower or an RPT service. This type of airport should not be allowed to claim to be critical infrastructure and above planning law.

Commonwealth vs State Law

It is very difficult to determine which laws apply to airport developments and activity. This confusion is used to muddy the waters by our local aerodrome and council.

None of the runways at our local airfield ever obtained development consent and yet they were constructed after the introduction of state planning law. When we challenged this lack of approval and the subsequent claim of existing use rights the history of the airfield underwent several revisions in an attempt to back-up the claims. Documentary evidence (including legal opinion) submitted to our local council to refute the existing use rights claim was ignored.

The modus operandi for other developments at the aerodrome was for them to be commenced and after a short time to be followed by a promotional article in the local newspaper. When challenged the local council would ask for a DA but the assessment would state there would be no additional impact on residents as the activity had already commenced.

It took years to get our local council to take some sort of responsibility for development at our local airfield. AirServices would point us to the local council who would in turn point us back to AirServices. Eventually a request to our local State MP produced a ruling from the Minister for Planning.

Planning Action
It would be helpful to have the Commonwealth/State/Local Government relationship clearly defined so that those living in the vicinity of airports/airfields can access a document that defines who is responsible for what.

Residents Rights vs Aerodrome Development.

It is noted that a mine or smelter is required to purchase any land within a nominated buffer zone but a privately owned small airport can expand without any development approval or EIS by using a Master Plan which has the potential to ruin the lives and property values of those in the vicinity of the airport without any compensation being paid.

Where an aerodrome is privately owned and is not a certified airport it is operated as a commercial venture. Such aerodromes should be required to respect the fact that the land around them is also privately owned and that those land owners have the right to permissible development and to

protection under the EP&A Act. We now live in a more enlightened era and should not be allowing these small aerodromes to dictate what will happen in their vicinity unless they are prepared to buy up a buffer zone of land impacted by their activity.

Why should the aerodrome operator be allowed to amend the flight patterns without local landowners being notified or being given any opportunity to comment? This lack of consideration leaves land owners in the vicinity of aerodromes in a complete state of uncertainty as they await the next

There was no consideration given to the fact that if the amenity of a heritage item was destroyed then it follows that the heritage item itself will eventually be destroyed. A heritage item is very expensive to maintain but I ask you who is going to be prepared to spend the vast sums required if the property is to be severely impacted by activity from the local aerodrome?

It is an easy option for government to allow airports to expand without any consideration being given to those living in the vicinity. In our case we live in a rural zone and our heritage listed property was constructed before aeroplanes were invented and some 60 years before the aerodrome was illegally established. We are however constantly being told that the aerodrome was there before we were and therefore we have no right to object to it.

We now find ourselves being treated as second class citizens with less rights than those now living in the newly developed residential areas surrounding the airfield. We also find that as development is permitted around the aerodrome we are, as a state listed heritage item, being used as an excuse to redirect more plane activity in our vicinity. In fact we have now become third class citizens and as our environment is expected to deteriorate so the future of our heritage property becomes increasingly uncertain.

It is now proposed that in the new LEP we are to be zoned RU6, a new zone included in the Standard LEP, but as yet the council officer cannot give us any details as to what this zone will mean to us. We fear the worst.

Planning Action

There should be more control applied to aerodromes that are not governed by the Commonwealth Airports Act – this would mainly apply to non-certified airports. These smaller aerodromes should be made more accountable for any new development in terms of its impact on surrounding land owners.

Land owners in the vicinity of non-certified airports should not be forced to subsidise the profits of what is just another commercial business. If the airport is to expand in order to increase business (and thus profits) is should be forced to subsidise the impacted landowners for their loss of amenity and development potential.

Thank-you for reading this submission.

Heather Berry
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