

EXPLANATORY STATEMENT

Minute No.2018/12 - Deputy Prime Minister and Minister for Infrastructure and Transport

Subject - *Airports Act 1996*

Airports Amendment (Melbourne Airport Site) Regulations 2018

The *Airports Act 1996* (the Act) establishes a regulatory framework for the leased federal airports.

Section 252 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Regulation 1.03 of the *Airports Regulations 1997* (the Principal Regulations) declares airport sites for the purposes of section 5 of the Act. The Melbourne (Tullamarine) Airport Site is the area comprising the parcels of land specified in Part 1.14 of Schedule 1 of the Principal Regulations.

The *Airports Amendment (Melbourne Airport Site) Regulations 2018* (the Regulations) update the description of the Melbourne (Tullamarine) Airport site, as set out in Part 1.14 of Schedule 1 of the Principal Regulations, by inserting descriptions of three additional land parcels to be acquired in freehold by the Commonwealth.

The three land parcels:

- Total 183.49 hectares
- Are located at:
 - 185-215 McNabs Road, Melbourne Airport VIC 3045
 - 145 Bassett Road, Melbourne Airport VIC 3045
 - 115 Bassett Road, Melbourne Airport VIC 3045
- Are being acquired for the purposes of expanding the Melbourne (Tullamarine) Airport site, for anticipated aviation development to meet predicted passenger growth.

Specifically, the three land parcels are required for a proposed new parallel east-west runway. This runway was foreshadowed in Melbourne Airport's 2013 Master Plan, which was subject to extensive community consultation and approved on 18 December 2013.

The updated description reflects agreement between the Commonwealth and Australian Pacific Airports (Melbourne) Pty. Ltd. (the owner of the three land parcels and current lessee of the Melbourne (Tullamarine) Airport site) to transfer ownership of the land to the Commonwealth, for a proposed purchase price of \$1 plus GST, and for the land to be leased back as part of the Melbourne (Tullamarine) Airport site under the same terms as the original lease. This enables development on the subject land to be considered as part of a Major Development Plan under section 89 of the Act.

Section 251B of the Act allows the making of a regulation amending a Part of Schedule 1 by inserting a description of land even if, at the time the amending regulation commences, the land is not owned by the Commonwealth.

Subsection 161(1) of the Act provides that if there is an airport lease relating to an airport site for an airport, the Governor General must not make any regulations varying the site unless the lessee has given written consent to the making of those regulations. Australian Pacific Airports (Melbourne) Pty. Ltd. provided this written consent on 15 February 2018.

A statement from the Office of Best Practice Regulation removing the requirement for a Regulatory Impact Statement due to minor impacts was obtained (OBPR ID 18814).

Details of the Regulations are set out in Attachment A.

The Statement of Compatibility with Human rights is set out in Attachment B.

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence the day after it is registered on the Federal Register of Legislative Instruments.

Authority: Section 252 of the
Airports Act 1996

Details of the *Airports Amendment (Melbourne Airport Site) Regulations 2018*

Section 1 - Name

This section provides that the title of the Regulations is the *Airports Amendment (Melbourne Airport Site) Regulations 2018*.

Section 2 - Commencement

This section provides for the Regulations to commence the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 - Authority

This section provides that the *Airports Amendment (Melbourne Airport Site) Regulations 2018* is made under the *Airports Act 1996*.

Section 4 - Schedule(s)

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Item 1 – clause 14 of schedule 1 (before table item 1)

This item provides that a description of the land at 185-215 McNabs Road, Melbourne Airport VIC 3045, as per the Victorian certificates of title, be inserted into clause 14 of schedule 1 (before table item 1).

Item 2 – clause 14 of schedule 1 (after table item 35)

This item provides that descriptions of the land at 145 and 115 Bassett Road, Melbourne Airport VIC 3045, as per the Victorian certificates of title, be inserted into clause 14 of schedule 1 (after table item 35).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Airports Amendment (Melbourne Airport Site) Regulations 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of this Legislative Instrument

This Legislative Instrument amends the Principal Regulations to:

- update the description of the Melbourne (Tullamarine) Airport site, as set out in Part 1.14 of Schedule 1 of the Principal Regulations, by inserting descriptions of three additional land parcels to be acquired in freehold by the Commonwealth.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights, as it does not raise any human rights issues.

MICHAEL MCCORMACK

Deputy Prime Minister and Minister for Infrastructure and Transport