

EXPLANATORY STATEMENT

Issued by the Minister for Infrastructure, Transport, Regional Development and Local
Government

Airports Act 1996

Airports Amendments (Sydney West Airport) Regulations 2024

Legislative Authority

The *Airports Act 1996* (the Act) establishes a system for the regulation of 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.

Under section 5 of the Act an airport site is defined to be a place that is:

- declared by the regulations to be an airport site; and
- a Commonwealth place; and
- used, or intended to be developed for use, as an airport (whether or not the place is used, or intended to be developed for use, for other purposes).

Section 6 of the Airports Regulations 2024 (the Principal Regulations) declares places to be airport sites for the purposes of this definition. The airport site for Sydney West Airport is declared to be the place made up of the land described in Part 1.20 of Schedule 1 to the Principal Regulations.

Purpose

The purpose of this instrument is to amend the Principal Regulations to reflect changes in the description of the land that makes up Sydney West Airport.

Summary of the Airports Amendments (Sydney West Airport) Regulations 2024

This instrument adds certain parcels of land that are to become part of the airport following the completion of the realignment of The Northern Road by Transport for New South Wales (TfNSW) and removes certain parcels of land from the airport that are to be transferred or otherwise made available to TfNSW to support the upgrade of Elizabeth Drive as part of the M12 Motorway project.

The Airports Amendments (Sydney West Airport) Regulations 2024 is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to the default sunseting requirements and disallowance. The Airports Amendments (Sydney West Airport) Regulations 2024 commences 1 August 2024.

Details of the instrument are set out in [Attachment A](#).

Consultation

The changes in the description of the land that makes up Sydney West Airport set out in this instrument have been made in consultation with the lessee for Sydney West Airport, WSA Co Limited (WSA), and TfNSW. These changes reflect requirements set out in contractual arrangements entered into by the Commonwealth, WSA and TfNSW.

Section 161 of the Act sets out that the Governor-General must not make any regulations varying an airport site unless the holder of an airport lease has given written consent to the making of those regulations.

Section 163A of the Act sets out that the holder of an airport lease may request the Minister to vary the lease by reducing the leased area as specified in the request.

WSA consented to the making of regulations to reflect the removal of the parcels identified in this instrument from the Sydney West Airport site on 16 October 2023. On the same day WSA requested the Minister to remove the parcels identified in this instrument from the Sydney West Airport site and reduce the leased area.

On 7 February 2024, the Minister for Infrastructure, Transport, Regional Development and Local Government, declared the Airport Lease to have been varied, to remove the parcels identified in this instrument from the Sydney West Airport site and reduce the leased area. Notice of this decision was published in the Gazette on 27 February 2024.

On 26 February 2024, TfNSW entered into arrangements with the Commonwealth to accept the parcels identified in the declaration made by the Minister for Infrastructure, Transport, Regional Development and Local Government.

WSA consented to the making of regulations to add the parcels identified in this instrument to the Sydney West Airport site on 21 December 2023.

The Office of Impact Analysis (OIA) considered the Airports Amendments (Sydney West Airport) Regulations 2024 and determined that a detailed impact analysis is not required under the Australian Government's Policy Impact Analysis Framework (OIA24-07410).

Statement of Compatibility with Human Rights

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at [Attachment B](#).

Details of the proposed *Airports Amendment (Sydney West Airport) Regulations 2024.*

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Airports Amendment (Sydney West Airport) Regulations 2024*.

Section 2 - Commencement

This section provides for the Regulations to commence on 1 August 2024.

Section 3 - Authority

This section provides that the Airports Amendment (Sydney West Airport) Regulations 2024 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 20 of Schedule 1 (table items 16 to 19)

This item would repeal four items from the table which are New South Wales certificates of title which no longer form part of the Sydney West Airport site.

Item [2] – Clause 20 of Schedule 1 (at the end of the table)

This item would provide for the addition of five New South Wales certificates of title and that the Sydney West Airport site includes the land specified in those certificates of title.

Statement of Compatibility with Human Rights

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

Airports Amendment (Sydney West Airport) Regulations 2024

This Disallowable 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

The *Airports Act 1996* (the Act) establishes a system for the regulation of 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.

Under section 5 of the Act an airport site is defined to be a place that is:

- declared by the regulations to be an airport site; and
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Section 6 of the *Airports Regulations 2024* (the Principal Regulations) declares places to be airport sites for the purposes of this definition. The airport site for Sydney West Airport is declared to be the place made up of the land described in Part 1.20 of Schedule 1 of the Principal Regulations.

This Disallowable Legislative Instrument amends the Principal Regulations to update Part 1.20 of Schedule 1 to the Principal Regulations to reflect minor changes in description of the land which makes up Sydney West Airport.

Human rights implications

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

Conclusion

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

Catherine King

Minister for Infrastructure, Transport, Regional Development and Local Government