

2004-2005-2006

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**AIRPORTS AMENDMENT BILL 2006**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and Regional Services,  
the Honourable Mark Vaile MP)

## **AIRPORTS AMENDMENT BILL 2006**

### **OUTLINE**

The *Airports Act 1996* (the Act) establishes a comprehensive framework for the regulation of the 22 leased federal airports. The areas of regulatory control cover leasing and management, ownership and control of airport companies, land use planning and building controls, environmental management, protection of airspace, control of on-airport activities, pricing and quality of service, and access and demand management.

The purpose of the Airports Amendment Bill, which amends the Act, is to improve the land use planning system in place at the leased federal airports through increasing the focus on strategic planning, simplifying planning controls and improving development assessment processes.

The Bill also implements a number of recommendations arising from the June 2000 Senate Committee 'Inquiry into the Development Brisbane Airport Corporation Master Plan', aligns the planning arrangements for Canberra Airport with those for other federal airports, and provides for greater flexibility for future updates of some day-to-day on-airport activities.

The key areas in which the Bill amends the Act are as follows:

- permitting non-aeronautical development at leased airports, provided such development is consistent with the airport lease and approved master plan, to make clear the Australian Government's intention at the time of privatisation of the airports;
- excluding Canberra Airport from the operation of the National Capital Plan as provided for in the *Australian Capital Territory (Planning and Land Management) Act 1988*, aligning Canberra Airport's planning obligations with the other leased federal airports which are subject only to the planning provisions of the Act;
- refining the planning and development approval regime attaching to airport master plans and major development plans, including through streamlining public comment and assessment periods, providing purpose clauses, ensuring easier public access to a master plan and major development plans, and allowing the Minister to request further information during the assessment process via 'stop the clock' provisions;
- refining the regulatory framework for environment matters, including through streamlining public comment and assessment periods, providing a purpose clause for Airport Environment Strategies (AES), ensuring easier public access to an AES, and allowing the Minister to request further information during the assessment process via 'stop the clock' provisions; and
- clarifying and refining processes associated with the current noise management arrangements applying at the leased federal airports.

### **FINANCIAL IMPACT STATEMENT**

There is no financial impact.

## **AIRPORTS AMENDMENT BILL 2006**

### **NOTES ON CLAUSES**

#### **Clause 1 — Short title**

1. Clause 1 is a formal provision specifying the short title of the proposed Act.

#### **Clause 2 — Commencement**

2. Commencement will be 28 days after the Act receives Royal Assent.

#### **Clause 3 — Schedule(s)**

3. This provision provides for amendments to the Act and to the *Australian Capital Territory (Planning and Land Management) Act 1988* as set out in the Schedule.

### **Schedule 1—Amendments**

#### **Part 1—Amendments**

##### *Airports Act 1996*

#### **Item 1 — Paragraph 3(f) (Objects)**

4. This item amends the Objects of the Act. It is consequential to item 21.

#### **Item 2 — Section 4 (Simplified outline)**

5. This item amends the simplified outline to the Act in section 4. It is consequential to item 21.

#### **Item 3 — Section 4 (Simplified outline)**

6. This item amends the simplified outline to the Act in section 4. It is consequential to items 152 and 153.

#### **Item 4 — Section 4 (Simplified outline)**

7. This item amends the simplified outline to the Act in section 4. It is consequential to item 162.

#### **Item 5 — Section 5 (Definitions)**

8. This item provides that the term *airside vehicle control handbook* extends beyond its current restricted application to Part 11 of the Act. It is consequential to item 156.

#### **Item 6 — Section 5 (Definitions)**

9. This item inserts a definition for the definition of the term *approved auditor*. It is consequential to item 150.

**Item 7 — Section 5 (Definitions)**

10. This item inserts a definition for the term *Australian Noise Exposure Forecast*. It is consequential to items 26, 30 and 39.

**Item 8 — Section 5 (Definitions)**

11. This item inserts a definition for the term *building activities*. It is consequential to item 73.

**Item 9 — Section 5 (Definitions)**

12. This item inserts a definition for the term *business day*. It is consequential to the amendment of items 42, 43, 45, 48, 51, 56, 58, 59, 61, 69, 80, 81, 83, 86, 89, 95, 100, 101, 103, 112, 127, 128, 130, 133, 136, 141, and 147.

**Item 10 — Section 5 (Definitions)**

13. This item inserts a definition for the term *constructing*. It is consequential to item 73.

**Item 11 — Section 5 (Definitions)**

14. This item inserts a definition for the term *major airport development*. It is consequential to item 74.

**Item 12 — Section 5 (Definitions)**

15. This item inserts a definition for the term *quality of service matter*. It is consequential to item 154.

**Item 13 — Section 5 (Definitions)**

16. This item extends the definition for the term *vehicle*, presently at subsection 172(2) of the Act, beyond Part 11 of the Act.

**Item 14 — Paragraph 7(1)(g) (Meaning of core regulated airport)**

17. This item renames Coolangatta Airport as Gold Coast Airport.

**Item 15 — new Section 7C (Giving information and the Electronic Transactions Act)**

18. This item provides that where an airport-lessee company gives for approval a draft master plan, draft major development plan or draft environment strategy, or a draft variation of a master plan, major development plan or environment strategy, that plan or strategy may be given in an electronic form under section 9 of the *Electronic Transactions Act 1999*.

**Item 16 — new Paragraphs 32(1)(d) and (2)(d) (Airport-operator company must not carry on non-airport business)**

19. These provisions of section 32 of the Act are intended to ensure that the airport-operator company does not carry on substantial trading or financial business unrelated to the operation or development of the airport.

20. Item 16 clarifies that the types of business that an airport-operator company may carry on includes those activities that are consistent with the respective airport lease and final master plan, including non-aeronautical development.
21. This would extend to approved non-aeronautical development on the airport site, where consistent with the lease and master plan and is in line with the February 2005 Federal Court decisions *Westfield Management Ltd v Brisbane Airport Corporation Ltd* [2005] FCA 32 and *Direct Factory Outlets Pty Ltd v Westfield Management Ltd* [2005] FCA 34.

**Item 17 — Section 38 (Simplified outline)**

22. This item amends the simplified outline to Part 3 of the Act and is consequential to item 21.

**Item 18 — Division 4 of Part 3 (heading)**

23. This item substitutes the heading to Division 4 of Part 3 and is consequential to item 21.

**Items 19, 20 & 21 — Section 44 (Meaning of unacceptable airline-ownership situation)**

24. Item 19 is consequential to item 21.
25. Item 20 is consequential to item 21.
26. Item 21 provides for regulations to be made that would permit an airline to take a stake of greater than 5% in an airport other than a *core regulated airport*, which may or may not be subject to particular conditions by regulation.

**Items 22 & 23 — Section 70 (Final master plans)**

27. Item 22 is consequential to item 23.
28. Item 23 inserts new subsection 70(2), which sets out the purpose of a final master plan as:
  - a. to establish a strategic direction for efficient and economic development at the airport over the planning period of the plan;
  - b. to provide for the development of additional uses of the airport site;
  - c. to indicate to the public the intended uses of the airport site; and
  - d. to reduce potential conflicts between uses of the airport site, and to ensure that uses of the airport site are compatible with the areas surrounding the airport.

**Items 24, 25, 28 & 29 — Paragraphs 71(2)(c) & 71(3)(c) (Contents of draft or final master plan)**

29. Items 24, 25, 28 and 29 require the airport-lessee company to specify, in the master plan for their airport, their intentions for land use and development of the airport site.
30. Items 24 and 25 relate to airports other than joint-user airports whereas items 28 and 29 relate to the leased site of joint-user airports.

**Items 26 & 30 — Paragraphs 71(2)(d), new 71(2)(da), 71(3)(d) and new 71(3)(da)  
(Contents of draft or final master plan)**

31. Items 26 and 30 respond to community concern about adequate information concerning flight paths and aircraft noise exposure patterns around airports by providing that an airport master plan released for public comment is to specify such information in accordance with requirements to be set out in regulations. The proposed amendment at item 77 should also be noted.
32. Item 26 relates to airports other than joint-user airports whereas item 30 relates to the civil use of joint-user airports.

**Items 27 & 31 — Subsections 71(2) & 71(3) (Contents of draft or final master plan)**

33. Items 27 and 31 are technical changes reflecting current drafting practice.
34. Item 27 relates to airports other than joint-user airports whereas item 31 relates to civil uses of joint-user airports.

**Item 32 — Subsection 71(4) (Contents of draft or final master plan)**

35. This item is consequential to item 33.

**Item 33 — new Paragraph 71(4)(c) (Contents of draft or final master plan)**

36. This item provides that a draft or final master plan may, subject to specified conditions, relate to a period beyond the 20 year planning period set by section 72 of the Act.
37. Primarily, it is envisaged this amendment will allow for a draft or final master plan to include Australian Noise Exposure Forecast information that extends beyond the 20 year planning period, enabling State and Territory land use planning agencies to implement long-term planning goals that are compatible with an airport's proposed long term aeronautical operations.

**Item 34 — Subsection 71(8) (Contents of draft or final master plan)**

38. This item recognises that the Act references the 1994 version of Australian Standard AS2021, as amended from time to time.

**Item 35 — Section 73 (Assumption of continuity of lease)**

39. This item is consequential to item 33.

**Items 36, 37 & 38 — Subsections 75(1), 76(1), 78(1) & 78(2)**

40. These items, by providing for the future receipt of a master plan “in writing”, allow for the receipt of the master plan either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.
41. Item 36 relates to a company that acquires or is granted an airport lease and a final master plan is not in force, whereas items 37 and 38 relate to the giving of a

replacement master plan either at the airport-lessee company's own volition or at the direction of the Minister.

**Items 39 & 40 — new Subsection 78(2A) & Subsection 78(3)(a) (Replacement of final master plan)**

42. Item 39 inserts new subsection 78(2A), which provides for a replacement master plan to be developed for approval should a more recent Australian Noise Exposure Forecast for the airport be endorsed. The replacement master plan is to be made available either within 180 days of the Forecast being endorsed or, if the Minister allows in writing, then a longer period.
43. This amendment should assist State and Territory land use planning agencies in implementing long-term planning arrangements that take account of an airport's proposed aeronautical operations.
44. Item 40 extends the current offence provision for not providing, in accordance with the requirements of the Act, a replacement master plan to cover the matter addressed at item 39.

**Item 41 — Paragraph 79(1)(a) (Public comment)**

45. This item provides that an airport-lessee company is to publish advice on its website that a preliminary draft master plan that has been prepared is available for comment – this is in addition to the current requirement that such advice be published in a locally circulating newspaper.

**Item 42 — Subparagraph 79(1)(a)(ii) (Public comment)**

46. This item provides that the preliminary draft master plan will be available for public comment for 45 business days, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 43 — new Subparagraphs 79(1)(a)(iiia) & (iiib) (Public comment)**

47. Paragraph 79(1)(a) of the Act requires an airport-lessee company to advertise and provide the opportunity for public comment on a draft version of a master plan before providing the plan to the Minister. The provisions include requirements for advertising, inspection and sale of the document and inviting written public comment.
48. New subparagraph 79(1)(a)(iiia) provides that the preliminary draft master plan will be made available free of charge on the airport's website throughout the 45 business day public consultation period.
49. New subparagraph 79(1)(a)(iiib) provides that the airport's website address will be included in the advertisement seeking comment on the draft plan.

**Items 44 & 45 — Subparagraph 79(1)(a)(iv) (Public comment)**

50. Item 44 is consequential to items 41 and 43.

51. Item 45 provides that comment on the preliminary draft master plan will be accepted for 45 business days after the published advice, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 46 — new Paragraph 79(1)(c) (Public comment)**

52. This item provides that, in addition to providing for sale a printed copy of the preliminary version draft master plan, the airport-lessee company is to make the draft master plan available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister – at the website address mentioned under item 43.

**Item 47 — Paragraph 79(2)(c) (Public comment)**

53. This item provides that an airport-lessee company must 'demonstrate' how the company has had due regard to comments provided by the public in preparing their draft master plan – at present the airport is only required to state that it has had due regard to those comments.

**Item 48 — new Section 80A (Minister may request more information for making decision)**

54. This item provides that if the Minister believes that a draft master plan or a draft variation of a final master plan given for approval does not include enough information for a decision to be made, then the Minister may request that the airport provide specific information relevant to that decision-making process.
55. Noting that the Minister will have a maximum of 50 business days (item 51) to either approve or not approve a plan, item 48 also includes a 'stop the clock' provision for where further information is requested.

**Items 49 & 52 — Subsections 81(1) & 81(8) (Approval of draft by Minister)**

56. These items provide for the future receipt of a draft master plan "in writing", which allows for the receipt of the draft master plan either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 50 — new Paragraph 81(3)(aa) (Approval of draft by Minister)**

57. This item is consequential to item 23.

**Item 51 — Subsection 81(5) (Approval of draft by Minister)**

58. This item provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve a draft master plan.

**Items 53 & 54 — Section 83 (Effect of approval)**

59. Item 53 is consequential to item 54.



60. Item 54 inserts new subsection 83(2) which states that a final master plan is not a legislative instrument. The provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 55 — Paragraph 84(1)(b) (Minor variation of final master plan)**

61. This item provides for the future receipt of a minor variation of a final master plan “in writing”, which allows for the receipt of the minor variation either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 56 — Subsection 84(3) (Minor variation of final master plan)**

62. This item provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve a draft variation master plan.

**Item 57 — Paragraph 84A(1)(a) (Public comment—minor variation)**

63. This item provides that an airport-lessee company is to publish advice on its website that a draft variation of a final master plan that has been prepared is available for comment – this is in addition to the current requirement that such advice be published in a locally circulating newspaper.

**Item 58 — Subparagraph 84A(1)(a)(ii) (Public comment—minor variation)**

64. This item provides that a draft variation of a final master plan will be available for public comment for 15 business days, instead of 30 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 59 — new Subparagraphs 84A(1)(a)(iiia) & (iiib) (Public comment—minor variation)**

65. Paragraph 84A(1)(a) of the Act requires an airport-lessee company to advertise and provide the opportunity for public comment on a draft variation of a final master plan before providing the plan to the Minister. The provisions include requirements for advertising, inspection and sale of the document and inviting written public comment.
66. New subparagraph 84A(1)(a)(iiia) provides that the draft variation of a final master plan will be made available free of charge on the airport’s website throughout the 15 business day public consultation period.
67. New subparagraph 84A(1)(a)(iiib) provides that the airport’s website address will be published in the advertisement seeking comment on the draft variation.

**Items 60 & 61 — Subparagraph 84A(1)(a)(iv) (Public comment—minor variation)**

68. Item 60 is consequential to items 57 and 59.
69. Item 61 provides that comment on the draft variation of a final master plan will be accepted for 15 business days after the published advice, instead of 30 calendar days,

bringing the public comment period more into line with State/Territory planning systems.

**Item 62 — new Paragraph 84A(1)(c) (Public comment—minor variation)**

70. This item provides that, in addition to providing for sale a printed copy of the draft variation to the final master plan, the airport lessee-company is to make the draft variation available free of charge on the airport's website, in a readily accessible format that is acceptable to the Minister and in accordance with the notice – at the website address mentioned under item 59.

**Item 63 — Paragraph 84A(2)(c) (Public comment—minor variation)**

71. This item provides that an airport-lessee company must 'demonstrate' how the company has had due regard to comments provided by the public in preparing their draft variation of a master plan – at present the airport is only required to state that it has had due regard to those comments.

**Item 64 — Paragraph 86(2)(a) (Publication of final master plan or variation of final master plan)**

72. This item provides that an airport-lessee company is to publish advice on its website that a final master plan, or a variation of a final master plan, has been approved – in addition to publishing that advice in a locally circulating.

**Item 65 — Subparagraph 86(2)(a)(iii) (Publication of final master plan or variation of final master plan)**

73. This item is consequential to item 66.

**Item 66 — new Subparagraphs 86(2)(a)(iv) & (v) (Publication of final master plan or variation of final master plan)**

74. Section 86 of the Act requires an airport-lessee company to advertise that their draft master plan or variation of a final master plan has been approved and is available for public inspection and purchase.
75. New subparagraph 86(2)(a)(iv) provides that copies of the approved master plan or variation will be made available free of charge on the airport's website.
76. New subparagraph 86(2)(a)(v) provides that the airport's website address will be included in the advertisement advising of the approval of the draft plan or variation.

**Item 67 — Paragraph 86(2)(b) (Publication of final master plan or variation of final master plan)**

77. This item is consequential to item 68.

**Item 68 — new Paragraph 86(2)(ba) (Publication of final master plan or variation of final master plan)**

78. This item provides that, in addition to providing for sale a printed copy of the final master plan or variation of a final master plan, the airport lessee-company is to make the plan available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister at the website address mentioned under item 66.

**Item 69 — Paragraph 86(2)(c) (Publication of final master plan or variation of final master plan)**

79. This item provides that copies of the final master plan, or a variation of a final master plan, will be made available for 50 business days, instead of 90 calendar days.

**Item 70 — Paragraph 86(3)(a) (Publication of final master plan or variation of final master plan)**

80. This item is consequential to items 66 and 68.

**Item 71 — Subsection 89(1) (Meaning of major airport development)**

81. This item is consequential to items 9, 108, 109 and 110.

**Item 72 — Subparagraphs 89(1)(e)(ii), (f)(ii), (g)(ii), (h)(ii), (j)(ii), (k)(ii) & (l)(ii) (Meaning of major airport development)**

82. This item seeks to raise the dollar threshold for construction costs, which is one of the factors determining when a major development plan needs to be submitted, from \$10 million to \$20 million. The other factors, including the environmental trigger, remain unchanged.

83. The rise in the dollar threshold acknowledges the increase in building costs since the Act came into effect and the proposed change to construction costs at item 73. The increase also reinforces the focus of the Act on 'major developments.

**Item 73 — new Subsection 89(2A) (Meaning of major airport development)**

84. This item clarifies that the cost of construction to be used in assessing a project against the threshold is to include the costs of all associated *building activities*.

**Item 74 — new Subsection 89(4) (Meaning of major airport development)**

85. This item provides that a combination of individual building projects or developments which singly do not exceed the dollar threshold proposed at item 72, but which are consecutive or concurrent projects or extensions to existing buildings may be determined to be a major airport development.
86. Where such a determination is made the airport-lessee company will, prior to proceeding with any one of the projects, be required to prepare a draft major development plan, submit that plan for public comment prior and seeking approval through the Act in order to undertake those individual projects. The intention is to avoid a situation where the need for a major development approval can be avoided by dividing

a major project into parts which each come under the threshold, even though the total value exceeds the threshold.

87. This item also states that any determination arising from item 74 is not a legislative instrument. This latter provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 75 — new Subsection 91(1A) (Contents of a major development plan)**

88. This item includes provision to clarify that a major development plan must be consistent with the provisions of the airport lease and master plan by specifying that the purpose of a major development plan in relation to an airport is to establish the details of a major airport development that:
- a. relates to the airport; and
  - b. is consistent with the airport lease for the airport and the final master plan for the airport.

**Item 76 — new Paragraph 91(1)(ca) (Contents of a major development plan)**

89. This item is consequential to items 16 and 75.

**Item 77 — new Paragraph 91(1)(ea) (Contents of a major development plan)**

90. This item provides that if a proposed major airport development could impact upon flight paths or noise exposure patterns around an airport, then the likely effect of the development is to form part of the draft major development plan released for public comment – proposed amendments at items 26 and 30 should also be noted.

**Item 78 — Subsection 91(6) (Contents of major development plan)**

91. The existing provision references the 1994 version of Australian Standard AS2021, and this item is to ensure that the reference will apply to that standard as amended from time to time.

**Item 79 — Paragraph 92(1)(a) (Public comment)**

92. This item provides that an airport-lessee company is to publish advice on its website that the draft major development plan that has been prepared is available for comment – this is in addition to the current requirement that such advice be published in a locally circulating newspaper.

**Item 80 — Paragraph 92(1)(a) (Public comment)**

93. This item provides that the draft major development plan will be available for public comment for 45 business days, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 81 — new Subparagraphs 92(1)(a)(iiia) & (iiib) (Public comment)**

94. Paragraph 92(1)(a) of the Act requires an airport-lessee company to advertise and provide the opportunity for public comment on a draft version of a major development plan before providing the plan to the Minister. The provisions include requirements for advertising, inspection and sale of the document and inviting written public comment.
95. New subparagraph 92(1)(a)(iiia) provides that the draft major development plan will be made available free of charge on the airport's website throughout the 45 business day public consultation period.
96. New subparagraph 92(1)(a)(iiib) provides that the airport's website address will be included in the advertisement seeking comment on the draft plan.

**Items 82 & 83 — Subparagraph 92(1)(a)(iv) (Public comment)**

97. Item 82 is consequential to items 79 and 81.
98. Item 83 provides that comment on the draft major development plan will be accepted for 45 business days after the published advice, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 84 — new Paragraph 92(1)(c) (Public comment)**

99. This item provides that, in addition to providing for sale a printed copy of the draft major development plan, the airport-lessee company is to make the draft plan available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister – at the website address mentioned under item 81.

**Item 85 — Paragraph 92(2)(c) (Public comment)**

100. This item provides that an airport-lessee company must 'demonstrate' how the company has had due regard to comments provided by the public in preparing their draft major development plan – at present the airport is only required to state that it has had due regard to those comments.

**Item 86 — new Section 93A (Minister may request more information for making decision)**

101. This item provides that if the Minister believes that a draft major development plan or a draft variation of major development plan given for approval does not include enough information for a decision to be made, then the Minister may request that the airport provide specific information relevant to that decision making process.
102. Noting that the Minister will have a maximum of 50 business days (item 89) to either approve or not approve a plan, item 86 also includes a 'stop the clock' provision for when further information is requested under this section.

**Item 87 — Subsection 94(1) (Approval of major development plan by Minister)**

103. This item provides for the future receipt of a draft major development plan "in writing", which allows for the receipt of the draft major development plan either as a written

document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 88 — new Paragraph 94(3)(aa) (Approval of major development plan by Minister)**

104. This item is consequential to item 75.

**Item 89 — Subsection 94(6) (Approval of major development plan by Minister)**

105. This item provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve the draft major development plan.

**Item 90 — new Subsections 94(7A) & (7B) (Approval of major development plan by Minister)**

106. Subsection 94(7A) provides that unless otherwise stated, any approval under subsection 94(7) of the Act requires the proposed major development to be substantially completed within 5 years of the approval – which is consistent with the validity period for a master plan and an airport environment strategy.

107. Subsection 94(7B) provides that an extended period of up to two years may be granted and that any extension may be subject to one or more conditions.

**Item 91 — new Subsection 94(11) (Approval of major development plan by Minister)**

108. This item provides that a major development plan is not a legislative instrument. The provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 92 — Paragraph 95(1)(b) (Minor variation of major development plan)**

109. This item provides for the future receipt of a minor variation of a major development “in writing”, which allows for the receipt of the minor variation either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 93 — new Paragraph 95(2)(c) (Minor variation of major development plan)**

110. This item provides that it is a matter for the Minister to determine whether it is in the public interest for a minor variation to a major development plan to be subject to public comment.

111. Currently all minor variations are subject to a 30 calendar day public consultation period. This proposed amendment ensures that the public, through the Minister, will be afforded the opportunity to comment on those variations which may impact upon the community while not overburdening the airport-lessee company where the variation is of a very minor nature.

112. The application of the public interest test will, for example, involve consideration being given to the nature and scope of the proposed variation, whether the variation introduces significant issues that had not been addressed in the major development plan, and the level and nature (if any) of community opposition to the original plan.

**Items 94 & 95 — Subsection 95(3) (Minor variation of major development plan)**

113. Item 94 is consequential to item 93.

114. Item 95 provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve a draft variation major development plan.

**Item 96 — Subsection 95(4) (Minor variation of major development plan)**

115. This item is consequential to item 93.

**Items 97 & 98 — new Subsection 95A(1A) (Public comment—minor variation)**

116. These items are consequential to item 93.

**Item 99 — Paragraph 95A(1A)(a) (Public comment—minor variation)**

117. This item provides that an airport-lessee company is to publish advice on its website that a draft variation of a major development plan that has been prepared is available for comment – this is in addition to the current requirement that such advice be published in a locally circulating newspaper.

**Item 100 — Subparagraph 95A(1A)(a)(ii) (Public comment—minor variation)**

118. This item provides that a draft variation of a major development plan will be available for public comment for 15 business days, instead of 30 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 101 — new Subparagraphs 95A(1)(a)(iiia) & (iiib) (Public comment—minor variation)**

119. Paragraph 95A(1)(a) of the Act requires an airport-lessee company to advertise and provide the opportunity for public comment on a draft variation of a major development plan before providing the plan to the Minister. The provisions include requirements for advertising, inspection and sale of the document and inviting written public comment.

120. New subparagraph 95A(1)(a)(iiia) provides that the draft variation of a major development will be made available free of charge on the airport's website throughout the 15 business day public consultation period.

121. New subparagraph 95A(1)(a)(iiib) provides that the airport's website address will be published in the advertisement seeking comment on the draft variation.

**Items 102 & 103 — Subparagraph 95A(1)(a)(iv) (Public comment—minor variation)**

122. Item 102 is consequential to items 99 and 101.

123. Item 103 provides that comment on the draft variation of a major development plan will be accepted for 15 business days after the published advice, instead of 30 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 104 — new Paragraph 95A(1)(c) (Public comment—minor variation)**

124. This item provides that, in addition to providing for sale a printed copy of a preliminary version of the draft variation of the major development plan, the airport lessee-company is to make the draft variation available free of charge on the airport's website, in a readily accessible format that is acceptable to the Minister – at the website address mentioned under item 101.

**Item 105 — Subsection 95A(2) (Public comment—minor variation)**

125. This item is consequential to items 93.

**Item 106 — Paragraph 95A(2)(c) (Public comment—minor variation)**

126. This item provides that an airport-lessee company must 'demonstrate' how the company has had due regard to comments provided by the public in preparing their draft variation of a major development plan – at present the airport is only required to state that it has had due regard to those comments.

**Item 107 — Paragraph 96(2)(a) (Publication of major development plan or variation of major development plan)**

127. This item provides that an airport-lessee company is to publish advice on its website that a final major development plan, or a variation of a major development plan, has been approved – in addition to publishing that advice in a locally circulating newspaper.

**Item 108 — Subparagraph 96(2)(a)(iii) (Publication of major development plan or variation of major development plan)**

128. This item is consequential to item 109.

**Item 109 — new Subparagraphs 96(2)(a)(iv) & (v) (Publication of major development plan or variation of major development plan)**

129. Section 96 of the Act requires an airport-lessee company to advertise that their draft major development plan or variation of a major plan has been approved and is available for public inspection and purchase.
130. New subparagraph 96(2)(a)(iv) provides that copies of the major development plan or a variation of a major development plan will be made available free of charge on the airport's website.
131. New subparagraph 96(2)(a)(v) provides that the airport's website address will be included in the advertisement advising of the approval of the draft plan or variation.

**Item 110 — Paragraph 96(2)(b) (Publication of major development plan or variation of major development plan)**

132. This item is consequential to item 111.



**Item 111 — new Paragraph 96(2)(ba) (Publication of major development plan or variation of major development plan)**

133. This item provides that in addition to providing for sale a printed copy the approved major development plan, or approved variation of a major development plan, the airport lessee-company is to make the plan or variation available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister at the website address mentioned under item 109.

**Item 112 — Paragraph 96(2)(c) (Publication of major development plan or variation of major development plan)**

134. This item provides that copies of the major development plan, or a variation of a major development plan, will be made available for 50 business days, instead of 90 calendar days.

**Item 113 — Paragraph 96(3)(a) (Publication of major development plan or variation of major development plan)**

135. This item is consequential to items 109 and 111.

**Items 114 & 115 — Subsection 98(1) (Interpretation)**

136. Item 114 is consequential to item 73.

137. Item 115 inserts new paragraph 98(1)(f), which amends the definition of *building activities* to include 'undertaking land clearing'.

**Item 116 — Subparagraphs 99(1)(d)(iii) & (3)(d)(iii) (Building activities not to be carried out without approval)**

138. This item is consequential to item 73.

**Items 117 & 118 — Section 101 (Building approval to be consistent with final master plan and major development plan)**

139. Item 117 is a technical amendment that removes redundant wording under subsection 101(3).

140. Item 118 is also a technical amendment which removes redundant wording under paragraph 101(4)(c).

**Item 119 — Paragraph 112(2)(b) (Exclusion of State/Territory laws)**

141. This item is consequential to item 73.

**Item 120 — new Section 112A (Exclusion of National Capital Plan)**

142. Unlike the other leased federal airports which are subject only to the Act, Canberra Airport is subject to the planning/development controls under the Act and the National Capital Plan, administered by the National Capital Authority under the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act).

143. Item 120 provides that Part 5 of the Act applies to the exclusion of the National Capital Plan. This will bring Canberra Airport into line with all the other leased federal airports in that all planning and control of developments will be governed by the Act. The consequential amendment to the PALM Act is at item 170.

**Items 121 & 122 — Section 115 (Final environment strategies)**

144. Item 121 is consequential to item 122.

145. Item 122 provides that the purposes of a final environment strategy are:

- a. to ensure that all operations at the airport are undertaken in accordance with relevant environmental legislation and standards;
- b. to establish a framework for assessing compliance at the airport with relevant environmental legislation and standards; and
- c. to promote the continual improvement of environmental management at the airport.

**Items 123, 124 & 125 — Subsections 120(1), 121(1), 123(1) & 123(2)**

146. These items, by providing for the future receipt of an environment strategy “in writing”, allow for the receipt of the environment strategy either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

147. Item 123 relates to a company that acquires or is granted an airport lease and a final environment strategy is not in force, whereas items 37 and 38 relate to the giving of a replacement environment strategy either at the airport-lessee company’s own volition or at the direction of the Minister.

**Item 126 — Paragraph 124(1)(a) (Public comment)**

148. This item provides that an airport-lessee company is to publish advice on its website that a preliminary draft environment strategy that has been prepared is available for comment – this is in addition to the current requirement that such advice be published in a locally circulating newspaper.

**Item 127 — Subparagraph 124(1)(a)(ii) (Public comment)**

149. This item provides that the preliminary environment strategy will be available for public comment for 45 business days, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 128 — new Subparagraphs 124(1)(a)(iiia) & (iiib) (Public comment)**

150. Paragraph 124(1)(a) of the Act requires an airport-lessee company to advertise and provide the opportunity for public comment on a draft environment strategy before providing the strategy to the Minister. The provisions include requirements for advertising, inspection and sale of the document and inviting written public comment.

151. New subparagraph 124(1)(a)(iiia) provides that the preliminary draft environment strategy will be made available free of charge on the airport's website throughout the 45 business day public consultation period.
152. New subparagraph 124(1)(a)(iiib) provides that the airport's website address will be included in the advertisement seeking comment on the draft strategy.

**Items 129 & 130 — Subparagraph 124(1)(a)(iv) (Public comment)**

153. Item 129 is consequential to items 126 and 128.
154. Item 130 provides that comment on the preliminary draft environment strategy will be accepted for 45 business days after the published advice, instead of 90 calendar days, bringing the public comment period more into line with State/Territory planning systems.

**Item 131 — new Paragraph 124(1)(c) (Public comment)**

155. This item provides that, in addition to providing for sale a printed copy of the preliminary version of the draft environment strategy, the airport-lessee company is to make the draft environment strategy available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister – at the website address mentioned under item 128.

**Item 132 — Paragraph 124(2)(c) (Public comment)**

156. This item provides that an airport-lessee company must 'demonstrate' how the company has had due regard to comments provided by the public in preparing their draft environment strategy – at present the airport is only required to state that it has had due regard to those comments.

**Item 133 — new Section 125A (Minister may request more information for making decision)**

157. This item provides that if Minister believes that a draft environment strategy or a draft variation of a final environment strategy given for approval does not include enough information for a decision to be made, then the Minister may request that the airport provide specific information relevant to that decision-making process.
158. Noting that the Minister will have a maximum of 50 business days (item 136) to either approve or not approve a strategy, item 133 also includes a 'stop the clock' provision for where further information is requested.

**Items 134 & 137 — Subsections 126(1) & 126(8) (Approval of draft by Minister)**

159. These items provide for the future receipt of a draft environment strategy "in writing", which allows for the receipt of the draft environment strategy either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 135 — new Paragraph 126(3)(aa) (Approval of draft by Minister)**

160. This item is consequential to item 122.

**Item 136 — Subsection 126(5) (Approval of draft by Minister)**

161. This item provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve a draft environment strategy.

**Items 138 & 139 — Section 128 (Effect of approval)**

162. Item 138 is consequential to item 139.

163. Item 139 inserts new subsection 128(2) which states that a final environment strategy is not a legislative instrument. The provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 140 — Paragraph 129(1)(b) (Minor variation of final environment strategy)**

164. This item provides for the future receipt of a minor variation of a final environment strategy “in writing”, which allows for the receipt of the minor variation either as a written document or by means of an electronic communication – pursuant to section 9 of the *Electronic Transactions Act 1999*.

**Item 141 — Subsection 129(3) (Minor variation of final environment strategy)**

165. This item provides that the Minister will have 50 business days, instead of 90 calendar days, to approve or not approve a draft variation environment strategy.

**Item 142 — Paragraph 131(2)(a) (Publication of final environment strategy or variation of final environment strategy)**

166. This item provides that an airport-lessee company is to publish advice on its website that a final environment strategy, or a variation of a final environment strategy, has been approved – in addition to publishing that advice in a locally circulating newspaper.

**Item 143 — Subparagraph 131(2)(a)(iii) (Publication of final environment strategy or variation of final environment strategy)**

167. This item is consequential to item 144.

**Item 144 — new Subparagraphs 131(2)(a)(iv) & (v) (Publication of final environment strategy or variation of final environment strategy)**

168. Section 131 of the Act requires an airport-lessee company to advertise that their draft environment strategy or variation has been approved and is available for public inspection and purchase.

169. New subparagraph 131(2)(a)(iv) provides that copies of the final environment strategy or variation will be made available free of charge on the airport’s website.

170. New subparagraph 131(2)(a)(v) provides that the airport's website address will be included in the advertisement advising of the approval of the draft strategy or variation.

**Item 145 — Paragraph 131(2)(b) (Publication of final environment strategy or variation of final environment strategy)**

171. This item is consequential to item 146.

**Item 146 — new Paragraph 131(2)(ba) (Publication of final environment strategy or variation of final environment strategy)**

172. This item provides that, in addition to providing for sale a printed copy of the final environment strategy or variation of a final environment strategy, the airport-lessee company is to make the strategy available free of charge on the airport's website in a readily accessible format that is acceptable to the Minister at the website address mentioned under item 144

**Item 147 — Paragraph 131(2)(c) (Publication of final environment strategy or variation of final environment strategy)**

173. This item provides that copies of the final environment strategy, or a variation of a final environment strategy, will be made available for 50 business days, instead of 90 calendar days.

**Item 148 — Paragraph 131(3)(a) (Publication of final environment strategy or variation of final environment strategy)**

174. This item is consequential to items 144 and 146.

**Item 149 — Subsection 140(1) (Airports to which Part applies)**

175. This item provides that Part 7 of the Act (Accounts and reports of airport-operator companies) is to apply to an airport-operator company where the airport is specified in regulations and there is an airport lease – allowing the Regulations to identify those which airports which are to be subject to, or exempt from, price monitoring arrangements.

**Item 150 — Section 144 (Approved auditor)**

176. This item recognises that the amended *Corporations Act 2001* now provides for an approved auditor to be either a registered auditor under Part 9.2 of the Corporations Act, which is the current position under section 144, or an authorised audit company under Part 9.2A of the Corporations Act.

**Item 151 — Section 150 (Simplified outline)**

177. This item is consequential to items 152, 153, 154 and 155.

**Item 152 — Subsection 151(1) (Airports to which Part applies)**

178. This item provides for regulations to identify those airports which are to be subject to, or exempt from, price monitoring arrangements.

**Item 153 — Section 155 (ACCC to monitor quality of services and facilities)**

179. This item provides for aspects of airport services and facilities (for example passenger processing through terminals and baggage processing), monitored by the ACCC, to be specified in the regulations, and for monitoring and evaluation to be against set criteria determined by the ACCC following consultation with the Department of Transport and Regional Services and Treasury.
180. Consequential to the above, Division 3 of Part 8 of the Act (sections 153 and 154), which provided for the regulations to clarify those performance indicators that could be used in monitoring quality of service and facilities is to be repealed.
181. Item 153 also states that a determination by the ACCC concerning the quality of services and facilities at a specified airport is not a legislative instrument. The provision is included to assist readers, as the instrument is not a legislative instrument within the meaning of section 5 of the *Legislative Instruments Act 2003*.

**Item 154 — Subsection 156(7) (Record-keeping and giving of information)**

182. This item is consequential to item 153.

**Item 155 — Subsection 157(1) (Publication of quality of service information)**

183. This item is consequential to item 153.

**Item 156 — new Subsection 172(1A) (Control of vehicle movements)**

184. This item provides that regulations may be made which apply, adopt or incorporate any matter contained in the Airside Vehicle Control Handbook for an airport as in force or existing from time to time. The handbook sets out rules for operating vehicles on the airside of airports. The intention of this provision is contrary to that of subsection 14(2) of the *Legislative Instruments Act 2003*.

**Item 157 — Subsection 172(2) (Control of vehicle movements)**

185. This item is consequential to item 156.

**Item 158 — Subsection 172(2) (Control of vehicle movements)**

186. This item, which provides a definition for ‘Airside Vehicle Control Handbook’, is consequential to item 156.

**Item 159 — Subsection 173(2) (Control of gambling)**

187. This item extends the definition of a *gambling activity*, providing for regulations to be made with regard to gaming activities that could be introduced at leased airports.

**Item 160 — Section 215 (Simplified outline)**

188. This item is consequential to item 162.

**Items 161, 162, 163 & 164 — Section 216 (Air traffic services, and rescue and fire fighting services, not to be provided without approval)**

189. Items 161, 163 and 164 are consequential to item 162.
190. Section 216 of the Act currently provides that Airservices Australia will normally provide or oversee the provision of air traffic services and rescue and fire fighting services at leased airports. This amendment would in the future permit a broader range of service providers. Item 162 provides for new provisions that would allow regulations to be made to allow additional service providers, but specifies that apart from the Department of Defence, any provider of an air traffic service or a rescue and fire fighting service at a leased airport would need to be appropriately approved or licensed by the Civil Aviation Safety Authority.

**Item 165 — Paragraph 242(2)(f) (Review of decisions by Administrative Appeals Tribunal)**

191. This item is consequential to item 162.

**Item 166 — Subclause 5(1) of the Schedule (Associates)**

192. This item is consequential to item 167.

**Item 167 — new Subclause 5(3) of the Schedule (Associates)**

193. This item provides for regulations to be made that, for the purposes of the ownership provisions (Part 3 of the Act), a specified person is not an *associate* of another specified person.

**Item 168 — Subclause 9(1) of the Schedule (Certain interests in shares to be disregarded)**

194. This item is consequential to item 169.

**Item 169 — new Paragraph 9(1)(e) of the Schedule (Certain interests in shares to be disregarded)**

195. This item ensures consistent nomenclature with relevant sections of the Act by replacing the term ‘in shares’ with the concepts used elsewhere in the Act of ‘direct control interests’ and ‘stakes’.

**AMENDMENTS TO OTHER ACTS**

*Australian Capital Territory (Planning and Land Management) Act 1988*

**Item 170 — Section 10 (Relationship with State law)**

196. This item provides that the [National Capital] Plan does not apply to Canberra Airport and then references item 120.

## **Part 2—Application, transitional and saving provisions**

### **Item 171 — Application—master plans**

197. Paragraph (1) provides that items 22 to 40 and 47 to 52 apply in relation to a preliminary version of a draft master plan, a draft master plan and specific final master plans made available for public comment after commencement of those items. Paragraph (2) provides that items 41 to 46 do not apply in relation to a draft master plan made available for public comment before commencement of those items. Paragraph (3) provides that items 48, 55, 56 and 63 apply in relation to a draft variation of a final master plan given to the Minister after commencement of those items. Paragraph (4) provides that items 57 to 62 do not apply in relation to a draft variation of a final master plan made available for public comment before commencement of those items. Paragraph (5) provides that items 64 to 70 are to apply to a draft master plan, or draft variation of a final master plan, approved after the commencement of those items.

### **Item 172 — Application—major development plans**

198. Paragraph (1) provides that the amendments made by items 72 and 73 apply in relation to major airport developments that are required to be carried out in accordance with a major development plan that is given to the Minister after the commencement of those items. Paragraph (2) provides that the amendment made by item 74 applies in relation to developments that are commenced after the commencement of that item.

### **Item 173 — Application and transitional—major development plans**

199. Paragraph (1) provides that items 75 to 78 and 85 to 90 apply in relation to a draft version of a major development plan, a draft major development plan and specific draft major development plans approved by the Minister after the commencement of those items. Paragraph (2) provides that items 79 to 84 do not apply in relation to a draft major development plan made available for public comment before the commencement of those items. Paragraph (3) provides that items 86, 92 to 98, 105 and 106 apply in relation to a draft version of a major development plan that is given to the Minister after the commencement of those items. Paragraph (4) provides that items 99 to 104 do not apply in relation to a preliminary version of a draft variation of a major development plan made available for public comment before the commencement of those items. Paragraph (5) provides that items 107 to 113 apply in relation to a major development plan, or a draft variation of a major development plan, approved after the commencement of those items. Paragraphs (6) and (7) contain transitional conditions. Paragraph (6) provides that a major development plan approved before the commencement of this item, and not subject to a time limit for the development, will be taken to have been approved subject to the condition that the development be substantially completed within 5 years of the commencement of this item. Paragraph (7) provides that the Minister may, before the end of the period referred to at paragraph (6), extend that period only once where the development relates to specific types of aeronautical developments and may impose further terms and conditions.

### **Item 174 — Application—environment strategies**

200. Paragraph (1) provides that items 121 to 125 and 132 to 137 apply in relation to a preliminary version of a draft environment strategy, a draft environment strategy and



specific final environment strategies made available for public comment after commencement of those items. Paragraph (2) provides that items 126 to 131 do not apply in relation to a preliminary version of a draft environment strategy made available for public comment before commencement of those items. Paragraph (3) provides that items 133, 140, and 141 apply in relation to a draft variation of a final environment strategy given to the Minister after commencement of those items. Paragraph (4) provides that items 142 to 148 apply in relation to a draft environment strategy or a draft variation of a final environment strategy approved after commencement of those items.

**Item 175 — Application—building activities**

201. The amendment made by item 115 applies in relation to land clearing undertaken after the commencement of that item.