Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 104

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Hobart Airport
Proof Hansard Page: 97 (19 October 2015)

Senator Brown, Carol asked:

….
Senator CAROL BROWN: On notice, can you give me details of what is required to proceed? I think there was a report in January about the tenders for the runway extension project. I am not sure whether you saw that report. There has been no announcement about the tender, has there?
Mr Doherty: I will get Ms Horrocks to elaborate if necessary. At this stage we understand the notice for tender has not been released by the airport. They have been working towards that. I am not sure that that will be released before they have the regulatory approval to proceed with the construction.
….

Answer:

In order to move to the construction phase for the runway extension, Hobart Airport is required to:

- Publish the Hobart Airport Master Plan approved by the Deputy Prime Minister and Minister for Infrastructure and Regional Development on 18 December 2015;
- conclude public consultation on the Major Development Plan (MDP) for the runway extension and associated works and submit it to the Deputy Prime Minister and Minister for Infrastructure and Regional Development for consideration;
- seek building activity approval from the Commonwealth appointed Airport Building Controller should the draft MDP be approved; and
- adhere with any conditions the Deputy Prime Minister and Minister for Infrastructure and Regional may impose on an approval of the MDP.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 105

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Hobart Airport
Proof Hansard Page: 98 (19 October 2015)

Senator Brown, Carol asked:

….
Senator CAROL BROWN: Senator Abetz was reported in the *Mercury* in March 2014 saying he expected the airport would be operational in early 2016.
Mr Wilson: At this stage it is not likely that an extension would be completed and operational by the end of 2016.
Senator CAROL BROWN: By the end?
Mr Wilson: Not given the regulatory processes that they would need to go through and the construction time frame.
Senator CAROL BROWN: So, you will take on notice for me the details of the works that they have to send to you?
Mr Wilson: Yes.
…

Answer:

Please see answer to Question on Notice 104.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 106

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Airport Disputes – DPM and Councils
Proof Hansard Page: 99 (19 October 2015)

Senator Gallacher, Alex asked:

….
Senator GALLACHER: Has the deputy prime minister personally met with any council representatives in relation to this issue?
Mr Mrdak: The deputy prime minister meets with councils often. I think in relation to this specific matter he has asked that the department handle the matter, given that it comes down to a commercial negotiation between parties. As a first step he has been happy for the department to see if we can find a way forward.
Senator GALLACHER: Whilst I accept that the deputy prime minister will meet with whomever he chooses, including council representatives, has the deputy prime minister personally met with any council representatives in relation to this issue?
Mr Mrdak: I would have to take that on notice and check.
…

Answer:

The Deputy Prime Minister's Office has met with Northern Midlands Council on three (3) occasions:

1. 26 March 2015
2. 16 June 2015
3. 3 December 2015

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 107

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Airport Disputes – Departments Role
Proof Hansard Page: 99 (19 October 2015)

Senator Gallacher, Alex asked:

…
Senator GALLACHER: Can we get a copy of the letter from the secretary of the department outlining their obligations as per answer to question 114.5?
Mr Mrdak: Yes.
…

Answer:

The letter from Mr Mike Mrdak, Secretary of the Department of Infrastructure and Regional Development to the General Manager of Clarence City Council, Tasmania, dated 15 August 2014 is attached at Attachment A. This letter is representative of the letters sent to all relevant local authorities.

Australian Government
Department of Infrastructure and Regional Development

Secretary

File Reference: 2014/05517
Contact: Leonie Horrocks

Mr Andrew Paul
General Manager
Clarence City Council
38 Bligh Street (PO Box 96)
ROSNY PARK, Tasmania 7018

Dear Mr Paul

Subject: Ex-gratia payments in lieu of rates by Hobart Airport

As you are aware, the Department of Infrastructure and Regional Development has responsibility for regulation of the *Airports Act 1996* and the airport leases and sale agreements for the leased Federal Airports. I am writing to clarify the lease obligations placed on Hobart Airport, a federally owned airport, to make ex-gratia payments in lieu of rates to relevant government authorities. I am aware there have been, in some instances, ongoing differences of opinion between some airports and Councils on this matter, particularly with regard to the calculation method for these payments.

Firstly it is important to state that neither the Commonwealth nor Hobart Airport is under any statutory obligation to pay rates, however at the time of the long term lease of the airport the Commonwealth recognised the need for competitive neutrality between commercial (non aeronautical) activities on airport land and off airport land. In reflection of this under the airport's lease with the Commonwealth, the airport lessee company is required to pay an ex-gratia payment in lieu of rates.

In the case of airport lessee companies, this seeks to ensure that, notwithstanding the statutory inapplicability to Commonwealth-owned land of State and local government rates, the lessee of a federally owned airport and its tenants are on an comparable footing in this respect to other similar commercial landowners and tenants off airport, and do not enjoy competitive advantage arising from the inapplicability to Commonwealth-owned land of such charges.

Consequently the lease provision provides for the airport lessee company to pay an ex-gratia payment in lieu of rates in respect of those parts of the airport site:

(i) which are sub-leased to tenants; or
(ii) on which trading or financial operations are undertaken including but not limited to retail outlets and concessions, car parks and valet car parks, golf courses and turf farms, but excluding runways, taxiways, aprons, roads, vacant land, buffer zones and grass verges, and land identified in the airport Master Plan for these purposes;

unless these areas are occupied by the Commonwealth or an authority constituted under Commonwealth law which is excluded from paying rates by Commonwealth policy or law.

The airport lessee is required to use all reasonable endeavours to enter into an agreement with the relevant government authority with regard to these payments. Agreed outcomes are necessarily premised on good faith and the demonstration of reasonableness between the airport and the local government authority.

I acknowledge some government authorities recognise the important economic contribution made by federally-leased airports and actively support their operations. Recently however some government authorities have sought to create unique airport rateable land categories and have proposed land valuations at rates far in excess of those applied to comparable off-airport landowners.

In accordance with the principle underlying the clauses of the long term lease agreements, it is the Commonwealth's position that the airport lessee companies are under no statutory or contractual obligation to pay amounts which are in excess of those applied to comparable off-airport landowners or tenants.

Hobart Airport is a significant piece of infrastructure which contributes to the local, regional and national economy. I would encourage you to consider engaging positively with Hobart Airport.

I trust this information is of assistance in clarifying this issue.

Yours sincerely

Mike Mrdak

15 August 2014

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 108

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Application of Commonwealth and State law on federally leased airports
Proof Hansard Page: 99 (19 October 2015)

Senator Heffernan, Bill asked:

…
CHAIR: The other thing is we have received from Mr Mrdak evidence earlier that in relation to the floodplain clause 30 of the lease regarding state laws does not apply. Only the Airports Act applies. We now have a letter that sort of contradicts that proposition, that the tenants of the lease have to comply with state law. Would you like to see that as well?
Mr Mrdak: I am happy to and we will provide advice on that, yes.
…

Answer:

While we do not have the particular letter referenced, the Department is aware of a letter from Bankstown Airport Limited (BAL) to its tenants about the maintenance of essential fire services.

The maintenance of essential fire services such as fire extinguishers, hydrant systems, emergency lighting and communication systems is an important aspect of building management for Airport Lessee Companies. The Department understands letters recently provided to tenants on Bankstown Airport serve to ensure all tenants are aware of the requirements concerning essential fire services.

Generally, State laws are applied at Commonwealth owned airports to the extent they are capable of applying, unless they are excluded by a Commonwealth law. The *Airports Act 1996* (the Airports Act) and the Airports (Building Control) Regulations 1996 are applicable in relation to any building activity Bankstown Airport and impose requirements with respect to fire safety features of a building as preconditions for the issue of a building approval or certificate of occupancy. NSW laws imposing similar requirements in relation to building activities or initial occupancy of a building do not apply in relation to Bankstown Airport due to provisions of the Airports Act, which exclude the application of State laws relating to land use planning and building controls. However, in relation to matters other than land use, planning and building controls – such as subsequent or ongoing use and occupation of a building on Bankstown Airport - NSW laws concerning fire safety and services are not excluded. Regulation 1.03(d) of the Airports (Building Control) Regulations 1996 expressly indicates that the application of State laws relating to the protection of persons against fire is not affected.

Fire safety in New South Wales is regulated under the *Environmental Planning and Assessment (EPA) Act 1979* and Part 9 of the Environmental Planning & Assessment Regulation 2000 (EPA Regulation), which requires essential fire safety measures to be maintained.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 109

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Proposed Instrument Landing System at Gold Coast Airport
Proof Hansard Page: Written

Senator Williams, John asked:

Please update me on the proposal to install the Instrument Landing System at the Gold Coast Airport.

Answer:

The proposed Instrument Landing System (ILS) installation involves three separate approval processes for:

- works on Commonwealth leased airport land under the *Airports Act 1996* (Airports Act);
- works on NSW state land under the *Air Services Act 1995* (Air Services Act); and
- approval of a new flight path under the Air Services Act and the *Civil Aviation Act 1988* (Civil Aviation Act), taking into consideration advice from the Minister for the Environment under s.160 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

On 25 September 2015, Gold Coast Airport Pty Ltd (GCAPL) lodged a draft Major Development Plan (MDP) to install an ILS at Gold Coast Airport with the Hon Warren Truss MP, Deputy Prime Minister and Minister for Infrastructure and Regional Development, for his consideration and decision. The draft MDP seeks approval under the Airports Act for the installation of the ILS infrastructure on Commonwealth-leased airport land only. The draft MDP is currently under assessment.

Off-airport works on NSW land leased by GCAPL are subject to a separate approvals process managed by Airservices Australia under s.19 of the Air Services Act. As part of this approval process, Airservices referred the proposed works on NSW land to the Commonwealth Department of the Environment (DoE) under s.68 of the EPBC Act for assessment of the environmental impacts. DoE determined the proposed works on NSW land are not a controlled action and no further approvals under the EPBC Act are required. If the draft MDP is approved, Airservices will negotiate a sublease with GCAPL for the construction of ILS infrastructure on this land.

The new flight path has been referred by Airservices to DoE for advice on the potential noise impacts of the new flight path. Airservices is currently awaiting this advice, which will be provided under s.160 of the EPBC Act. If the draft MDP is approved, the new flight path will then be finalised under the provisions of the *Air Services Act a*nd *Civil Aviation Act*, taking into account the advice from DoE.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 110

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: Sydney Airport Slot Compliance
Proof Hansard Page: Written

Senator Gallacher, Alex asked:

(i) What role does the Department have in ensuring compliance with use of air landing slots at Sydney airport?
(ii) How is compliance enforced?
(iii) Is this compliance regulation robust?
(iv) Is there a compliance committee?
(v) How often does it meet?
(vi) When did it last meet?
(vii) When will it next meet?

Answer:

(i) The Department of Infrastructure and Regional Development chairs the Sydney Airport Slot Compliance Committee and provides secretariat support.

(ii) The Sydney Airport Compliance Scheme 2012 defines which movements are taken to be off-slot and the circumstances in which compliance action may be taken. Compliance is monitored by the Compliance Committee.

A movement will be potentially off-slot if it is made out of tolerance - more than 15 minutes from the scheduled time for flights of up to three hours, or more than 30 minutes from the scheduled time for longer flights.

Airlines provide explanations for any movements outside tolerance limits to the slot manager. The Department conducts an initial review of airline responses to assess which movements fall outside the control of an airline operator are therefore exempt, before providing all data to the Compliance Committee members for consideration.

Airline operators must operate 80% of slots within a slot series in order to be compliant. A movement will not be treated as off-slot if the reasons for the misalignment with the scheduled time are outside the operator's control. The numbers of off-slot movements are tallied for each slot series and action can be pursued if more than 20% of the series are off-slot, with a scale of increased penalties if the proportion of off-slot movements is more than 30%, 40% or 50%. The Compliance Committee may direct the Slot Manager to issue an infringement notice to an operator who has committed a civil contravention.

(iii) The *Sydney Airport Demand Management Act 1997* provides penalties for unauthorised gate movements. The Sydney Airport Compliance Scheme 2012 defines which movements are taken to be off-slot and the circumstances in which compliance action may be taken. The most serious penalties apply to a no-slot movement, where an operator knowingly or recklessly operates without a slot for that day. Penalties also apply to certain off-slot movements, which are movements operated at times outside the tolerance allowed without reasonable excuse.

To date, no penalties or infringements have been applied to any airline operators for non-compliance. The Department is confident that movements are not occurring without slots and continues to work with the Slot Manager, airlines and airport with a view to minimising the number of off-slot movements.

(iv) Yes. In addition to the functions listed above, the committee is also to develop, administer and amend the Sydney Airport Compliance Scheme. The committee is chaired by the Commonwealth and membership must include representatives of Sydney Airport, airlines (currently Qantas, Virgin, Rex, and the Board of Airline Representatives Australia (BARA) and Airservices Australia. The Slot Manager attends committee meetings as an observer.

(v) The committee must meet at least once in a calendar year.

(vi) The Committee last met in person on 16 January 2014. The Committee has the option to pass a resolution without holding a meeting. The Committee passed a resolution in April 2015 regarding compliance for Northern Winter 2013 and Northern Summer 2014.

(vii) The date of the next meeting is yet to be confirmed.

Rural & Regional Affairs and Transport Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Supplementary Budget Estimates 2015 - 2016

Infrastructure and Regional Development

Question no.: 111

Program: 2.4 Air Transport
Division/Agency: Aviation and Airports
Topic: National Airports Safeguarding Framework (NASF) Guidelines
Proof Hansard Page: Written

Senator Xenophon, Nick asked:

A pilot association is concerned about a number of aspects of the National Airports Safeguarding Advisory Group (NASAG) Guideline B, which relates to building-induced turbulence at airports.

Accepting that creating the National Airports Safeguarding Networks ('NASF') was a significant achievement, are you planning to build on that process with a post-implementation review (or some other mechanism) to ensure that the Framework and Guidelines remain relevant and up to date?

Answer:

The National Airports Safeguarding Advisory Group (NASAG), comprising Commonwealth, State and Territory transport and planning officials, is responsible for the monitoring of the National Airports Safeguarding Framework (NASF). NASAG meets at least three times a year and provides feedback on the implementation of and possible enhancements to the NASF guidelines.

To date NASAG's ongoing oversight of NASF has resulted in technical clarifications to Guidelines C (wildlife strike hazards) and E (lighting distraction) in October 2014 to assist with effective implementation by jurisdictions. In November 2015 NASAG also agreed to commence enhancements to Guideline B.