



Australian Government

Department of the Environment and Energy

Ref:

Committee Secretary
Senate Standing Committees on Rural and Regional Affairs and Transport
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Secretary

The Department of the Environment and Energy has primary responsibility for the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). The Air Services Amendment Bill 2018 proposes amendments to both the *Air Services Act 1995* (the AS Act) and the EPBC Act.

The Department provides the following submission to the Inquiry into the Air Services Amendment Bill 2018.

Proposed amendments to the *Environment Protection and Biodiversity Conservation Act 1999*

The Department does not support the aspects of the proposed Bill that seeks to amend the EPBC Act as this would impose a new requirement that potentially duplicates existing processes and would introduce a new regulatory function for the Department on a matter for which it does not have direct responsibility (i.e. aircraft noise).

- The proposed amendment to the EPBC Act introduces a requirement for the Environment Minister to appoint a Community Aviation Advocate to assist the community. This would be required where the Minister receives advice from Airservices Australia that consultations on a proposed change to management of flight paths or airspace which would have, or would likely have, a significant impact on the human or natural environment, community amenity or residential areas.
- The Department understands that the community is already supported by Community Aviation Consultation Groups to advise communities on airport related matters, including in relation to environmental matters. The Department believes the proposed amendment duplicates the purpose of existing arrangements.
- In addition, there is a current lack of clarity in current drafting of the Bill regarding how the proposed provision would operate. This could create significant uncertainty as to the Environment Minister's obligations and the role of the proposed Community Aviation Advocate.
- The states and territories have primary responsibility for regulation of noise.
- The management of airports and airspace management is the responsibility of Air Services Australia (ASA), the Civil Aviation Services Authority (CASA) and the Department of Infrastructure, Regional Development and Cities (DIRDC).

- Under limited circumstances, the Minister provides advice to Commonwealth agencies under section 160 of the EPBC Act. This includes in relation to:
 - managing aircraft operations in airspace; and
 - adopting or implementing a major development plan at an existing Commonwealth leased airport.

Actions are then regulated under the relevant agencies. This approach avoids the need for separate regulation under the EPBC Act, which would be duplicative and could cause confusion.

The Department also makes the following comments in relation to proposed changes to the term 'environment' in the AS Act.

Proposed amendments to the *Air Services Act 1995*

The proposed change potentially creates an inconsistency in relation to the term 'environment'. This may impact on the advice being provided to the community on obligations under the EPBC Act.

- The term 'environment' is not currently explicitly defined in the AS Act.
- The proposed amendment to the AS Act is to substitute the phrase 'human and natural environment, community amenity and residential areas' where the term 'environment' is used.
- The proposed amendment effectively introduces a definition of 'environment' in the AS Act, which is reflected in the proposed section 160A of the EPBC Act, and which could be interpreted as inconsistent with the existing definition of 'environment' in the EPBC Act.

Thank you for the opportunity to contribute this inquiry.

Kind Regards

James Tregurtha
Acting First Assistant Secretary