



17th May 2018

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

rrat.sen@aph.gov.au

Dear Sir/Madam,

AIR SERVICES AMENDMENT BILL 2018

This submission, in strong support of the Bill, is made by the East Melbourne Group, Melbourne's oldest resident's association, which works to connect the community of East Melbourne and Jolimont and to protect and improve its heritage and amenity.

The noise from increasing overflights is causing significant health and amenity impacts in Inner Melbourne, as well as safety and security concerns and there is powerful support from residents for legislative measures which will provide some relief.

The Problem

The problem arises from several sources; from helicopters flying and hovering over Inner Melbourne; from fixed wing aircraft on training or joy flights - some as low as 500 feet - and increasingly from heavy commercial aircraft approaching Tullamarine. The cumulative impacts are huge. People's quiet enjoyment of their houses and gardens is seriously affected and many residents have voiced their concerns.

In addition to frequent low helicopter flights over our area, these aircraft often hover for extended periods to film events at the MCG or for traffic reporting and news. The noise and vibration caused by helicopters impact on people both outside and inside our houses.

Aircraft fly over East Melbourne throughout the week and at night but the frequency increases on weekends, with up to 150 light aircraft and helicopters over the area on some days. Many of these do multiple circuits. Old fixed-wing aircraft have been given an exemption from noise standards. On some days we have large passenger aircraft passing overhead every few minutes, adding up to well over 130 per day on some days.

In addition to the noise concerns, there are significant safety and security risks as aircraft can operate with no control over a major city. To allow light aircraft to fly over or near packed sporting stadiums seems totally inappropriate given prevailing worldwide terrorist security concerns. Also, why are training flights over heavily populated areas considered appropriate?

Noise measurements taken by residents, as AirServices have refused to take such measurements, show that noise levels are as bad as they are for people living next to an airport. The issue is causing severe stress for many people. In an area with an ageing population there are many people with chronic illnesses whose suffering is made worse by the constant aircraft noise, sometimes starting before 6am and continuing past midnight.

Numerous requests and complaints by individual residents as well as community groups to AirServices Australia, the Aircraft Noise Ombudsman, NCIS, CASA and the airport operators as well as aircraft operators over the last five years has not resulted in any improvement.

The existing legislation provides no meaningful restriction on aircraft noise. Under the *Airports Act 1996*, Section 131B, there is an offence relating to serious environmental harm. The reference in this section to environmental pollution includes a reference to air, water or soil pollution, but does not include a reference to noise pollution.

Affected citizens should be included in the decision-making process and the matter should not simply be left to aircraft operators and regulators to take actions which inflict pain and suffering on others.

Surely people should be able to have a relatively quiet and safe environment in our own homes. Residents who live near a freeway are protected from noise by sound barriers, yet nothing is done to protect residents such as us from aircraft noise. Many other countries, by contrast, have acted to reduce such problems. Paris bans joy flights over the central area and protective measures are being implemented in the USA and in Europe.

The existing legislation and policy leave significant gaps in the role, responsibilities and assessment processes being conducted by the various aircraft regulatory authorities to assess impacts on the broader community loss of amenity. Impacts on the natural and the human environment and health/safety are not being given enough weight. AirServices Australia as the responsible regulator must be made more accountable to the communities affected by civil aviation.

Regulatory changes which have detrimentally impacted on our community

The two primary issues causing that impact on residents of Inner Melbourne appear to be due to:

- i) Introduction of smart tracking, and
- ii) VFR and IFR ex Moorabbin and Essendon airports

i) Introduction of smart tracking

Smart Tracking is a technology which allows aircraft to use GPS information to fly with a high degree of accuracy and with only a small variation in the actual routes flown from one aircraft to

another. Smart Tracking was implemented permanently for the first time in Australia in Brisbane in March 2012, with other airports following since.

The Environmental Analysis undertaken by AirServices Australia, in association with the introduction of Smart Tracking, appears to have been patently inadequate and was an inappropriate approach taken to fast-track the introduction of this technology, without due consultation with potentially impacted communities.

The *Environment Protection and Biodiversity Conservation Act 1999 (EPBC)* states an Environmental Analysis enables environment protection in general terms and without specific mention of Human Environment. Since Assessment of the impact of flightpaths fundamentally concerns Human Environment, it imposes assessment by the more rigorous Environmental Impact Statement.

The conclusion of the Assessment conducted for Melbourne Airport which states “*Communities underneath the centre of existing corridors will experience almost no change in noise from individual over flights as a result of aircraft making an RNP approach*” is misleading. Since Smart Tracking concentrates flights (less separation between aircraft) it inherently intensifies noise. Therefore, in limiting the comparison to “individual flights”, the conclusion is meaningless; a comparison only meaningful by comparing a stream of aircraft in each situation; that is, several dispersed flights compared to an equal number of aircraft in a Smart Track pipeline.

Commencing in 2014, a substantial intensification in arrivals from the eastern approach to Melbourne airport via runway RWY 34 eg SYD, LAX, CBR, AKL and HBA.

East Melbourne previously never experienced this intensity of flights, now it regularly suffers on days of RWY 34 use, a peak period (1600h – 2200h) flyover every three minutes and approximately every six minutes at other times. On these days essentially from 0500h -2400h, there is no relief.

The AirServices website states that Smart Tracking can be used to follow existing noise corridors (highways) or to avoid noise sensitive areas in favour of overflying industrial land or other non-residential areas, but this has not been done in Inner Melbourne.

This issue is not restricted to Australia, with major problems being experienced when a similar system was introduced in USA, resulting in complaints across the country and the Federal Aviation Industry has been forced to change its processes and consult with affected communities. For example, The U.S. Court of Appeals for the District of Columbia Circuit found that the FAA was "arbitrary and capricious" in revising flight procedures without considering the impact on affected communities.

ii) VFR and IFR ex Moorabbin and Essendon airports

To ease access to the scenic areas of Melbourne within Melbourne airport CTR, in 2010-12 AirServices, without consultation with affected communities, relaxed enforcement of the requirement to lodge flight plans and Requests to Enter and Requests to Depart the CTR. Previously it required traffic to enter and depart ATC radar surveillance.

Concurrently, VFR transiting Inner Melbourne ceased using the formal (mapped) Transit Routes that followed existing noise corridors such as freeways.

This easing of access resulted in the spawning of a helicopter scenic flight industry out of Essendon airport and from the Yarra River pontoons. Such flights including multiple orbits of the CBD previously would have required each flight to make multiple requests for departure and entry to the CTR. The logistics of this for a 20-minute flight deterred expansion.

On fine weekends the air above is now abuzz with light aircraft and helicopters.

Citizens of Inner Melbourne have experienced a tenfold increase in VFR traffic since 2012, comprising sightseeing, recreational, student pilot, event coverage, advertising, balloon, traffic reporting and Yarra helicopter taxis; with associated loss of enjoyment and solitude impacting visitors to Melbourne, residents and event attendees.

ASA refuses to engage with us on the basis that East Melbourne is not in Controlled Airspace and therefore not within their jurisdiction. This is totally unacceptable.

Key weaknesses in the existing regulatory framework

It is difficult for individual citizens and communities to be able to effectively advocate for change as their voice is ignored because their rights are not effectively enshrined in the current regulatory framework. Hence, citizens and communities are largely disenfranchised.

There is no explicit recognition of the impacts of aircraft noise on citizens, for instance, the *Airports Act 1996*, Section 131B excludes aircraft noise as an offence relating to serious environmental harm. Similarly, there is no provision in any legislation that takes into account aircraft noise once an aircraft is in flight mode. Nor is there any reference to the impact on the human environment resulting from aircraft noise when such provisions exist for noise emanating from motor vehicles, neighbourhood noise, industrial noise etc. The current legislation does not effectively link to the provisions of the *Environment Protection and Biodiversity Conservation Act 1999*.

AirServices is unable, through the existing legislation, to manage aircraft in relation to community amenity or impact of aircraft noise on residential areas subject to flyover. Also, under the current legislation AirServices is not obliged to consult about aircraft noise impacts and publish details of that consultation. Hence there is little or no real accountability and transparency to communities, nor to Ministers.

There is also no explicit advice to the Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* relating to the consultations in which AirServices is engaging and there is no mechanism to request that the Minister appoint a Community Aviation Advocate to represent the affected parts of the community.

Complainants are ignored because the legislative provisions do not require such consideration, an issue which has previously been brought to the attention of your Committee. Indeed, none of the complaints from individuals and groups in our community to AirServices or the Aircraft Noise Ombudsman have ever been satisfactorily resolved.

The current Aircraft Noise Ombudsman is conflicted in that the position is not independent, the office holder reports to the AirServices Board. The position needs to be independent and report to the Ministers.

The AirServices Board does not adequately consist of representatives with an extensive environmental expertise and a representative of a community group affected by aircraft noise.

How the Air Services Amendment Bill 2016 will ameliorate the problem

For some time, the need for legislative change has been recognized to redress the inadequate balance between the interests of the aviation industry and the rights of people to the peaceful enjoyment of their living environment, without material impact from overflights.

In 2011 the then Senator Moylan introduced an Aircraft Noise Bill. The provisions of this Bill would have addressed many of the problems outlined above. This Bill got within one vote of being passed in the House of Representatives and it has served as a substantial basis for the current Bill.

The current *Air Services Amendment Bill 2018* will address the major regulatory failures by:

- Setting clear requirements for consultation and reporting on the part of AirServices Australia where it is contemplating new or amended flight paths not only adjacent to airports but to communities affected by fly over.
- Making these processes more transparent and accountable to the Ministers and to the broader community. Also, it will establish an independent Aircraft Noise Ombudsman and utilise an independent Community Aviation Advocate to support and advocate on behalf of affected communities.
- Bolstering the skill representation of the AirServices Board.
- Requiring AirServices Australia to prepare a plan for management of flight paths and air space. In respect of central Melbourne, this includes prohibiting flights of helicopters and fixed wing aircraft below 2,000m above sea level within 5km of central Melbourne, with exemptions for emergency services aircraft, defence aircraft, aircraft flying to and from hospitals and other aircraft that it is in the public interest to exempt.
- Requiring AirServices to minimise impact of aircraft noise on the human and natural environment, community amenity and residential areas. This includes the direct and indirect effects of aircraft noise and defines the scope of those effects.

It is important to recognize that the Bill does not preclude flights over Inner Melbourne or anywhere else, nor does it destroy commercial aviation. It is a balanced mechanism for managing the impacts, regulating altitudes and flight paths and ensuring that a holistic view is taken, which includes consideration of the human impact on affected communities.

The East Melbourne Group, on behalf of the citizens of East Melbourne, strongly endorse the Bill and recommend it be passed into legislation. Should the Committee wish to discuss our submission we would be pleased to do so.

Yours sincerely,

Ian S. Mitchell
President