

# Chapter 3

## Consultation and representation

3.1 This chapter considers the evidence in relation to community consultation and representation, with regard to both current arrangements and proposed arrangements under the bill.

3.2 Overall, many submitters to the inquiry supported the general aim of the bill with regard to greater community consultation in relation to aircraft noise. There was also considerable support for a more formalised consultation process brought about through the engagement of a CAA and an Ombudsman.

3.3 Noting the complexity of current arrangements with regard to aircraft noise, a number of submitters took the view that the bill would provide the necessary clarity concerning roles and responsibilities. The ACT Department of Environment, Planning and Sustainable Development (ACT Department) indicated its support for the bill on the basis that its provisions would provide greater clarity with regard to the responsible authority for aircraft noise issues. It indicated that in the past, accountability for addressing aircraft noise complaints has, at times, been 'unclear between Canberra Airport, Air Services Australia, the Australian Airports Association and the Australian Government Department of Infrastructure and Regional Development'.<sup>1</sup>

3.4 However, Airservices, the DIRDC and CASA raised a series of concerns with the bill. All three agencies argued that, in its current form, the bill will not achieve its stated objectives, but rather lead to duplication and a range of unintended consequences, potentially including a safety and cost impost.<sup>2</sup> The Australian Airports Association (AAA) also argued that the bill does not recognise the existing framework in place for managing aircraft noise, and suggested that it fails to demonstrate an understanding of the significant impacts of some of the proposed amendments.<sup>3</sup>

### Community consultation and the role of Airservices Australia

3.5 Section 9(2) of the Air Services Act states that Airservices is obliged to 'exercise its powers and perform its functions in a manner that ensures that, as far as it is practicable, the environment is protected from...the effects of the operation and use of aircraft'.<sup>4</sup> In addition, section 10 states that:

Airservices must, where appropriate, consult with government, commercial, industrial, consumer and other relevant bodies and organisations (including

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1 ACT Department of Environment, Planning and Sustainable Development, *Submission 12*, pp. 1–2.

2 Airservices Australia, *Submission 9*; Department of Infrastructure, Regional Development and Cities, *Submission 11*.

3 Australian Airports Association, *Submission 10*, p. 2.

4 *Air Services Act 1995*, para. 9(2)(a).

the [International Civil Aviation Organisation] and bodies representing the aviation industry).<sup>5</sup>

3.6 Under the current arrangements, Airservices works in partnership with others in the aviation industry to minimise the impact of aircraft noise on communities around airports. As part of this role, Airservices is required to ensure that flight departures and arrivals are designed to minimise noise impacts. It is also required to provide information about aircraft noise, monitor aircraft noise around major airports, and provide a national Noise Complaints and Information Service (NCIS).

3.7 Airservices indicated in its submission that there are a number of existing mechanisms in place to provide protections for communities related to aviation infrastructure proposals and noise impacts. It argued that the bill proposed a range of consultation provisions that 'either already exist or would increase the regulatory burden with no demonstrable outcome and at an additional cost'.<sup>6</sup> This is because Airservices already engages the community on flight path changes, airspace design, infrastructure projects, safety, and environmental issues through a number of community, industry and government forums and mechanisms.<sup>7</sup>

3.8 DIRDC also raised concern that the proposed amendments may make the current consultation arrangements 'more cumbersome and less effective'. It noted that the Air Services Act and specifically, the Ministerial Statement of Expectations under section 12A of the Air Services Act require Airservices to 'undertake effective stakeholder engagement with the community and industry on the development of significant changes by Airservices to air traffic'.<sup>8</sup> DIRDC made the point that a legislative requirement to oblige Airservices to establish community consultation groups would duplicate airport responsibilities and:

...creates the possibility of an open-ended number of new community groups needing to be formed to cover communities meeting the undefined concept of noise from "air traffic flyover impact". This would impose an unnecessary, major regulatory and cost impost on the aviation industry, passed on to the travelling public, if Airservices were required to increase charges to implement this open-ended requirement.<sup>9</sup>

3.9 It was also argued that Airservices is already required to undertake community consultation with regard to flight paths through the development of an Environmental Impact Statement (EIS) in accordance with the EPBC Act. In fact, Airservices' environmental obligations are defined in both the Air Services Act and Commonwealth environmental legislation.

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5 *Air Services Act 1995*, s. 10.

6 Airservices Australia, *Submission 9*, p. 3.

7 Airservices Australia, *Submission 9*, p. 3.

8 Department of Infrastructure, Regional Development and Cities, *Submission 11*, p. [1].

9 Department of Infrastructure, Regional Development and Cities, *Submission 11*, p. [2].

3.10 As part of its environmental assessment under the EPBC Act, Airservices is required to provide a detailed assessment of the risks in relation to community noise, aircraft emissions and other environmental impacts as defined under the EPBC Act.<sup>10</sup>

### **Proposed consultation obligations**

3.11 In light of ongoing concerns regarding the extent to which communities are able to engage in aircraft noise forums and influence the decision making process, the bill proposes to establish a requirement upon Airservices to consult with communities affected by aircraft noise. As part of proposed amendments to section 10 of the Air Services Act, Airservices would be required to establish community consultation groups and make public the details about those arrangements and outcomes.

3.12 These provisions were supported by a number of submitters who took the view that by imposing a requirement upon Airservices to consult with affected communities, they would be heard.

3.13 However, concerns were raised that there are a range of consultation processes and mechanisms already in place which would be duplicated by the bill's requirement that Airservices establish its own consultation groups.<sup>11</sup> A number of submitters, including the AAA did not see any added value to the community in such a proposal, given that it could confuse local communities if multiple forums were established to deal with similar issues, amounting to an additional impost on limited resources.<sup>12</sup> Furthermore, Airservices submitted that the bill, as currently drafted, failed to 'specify how the proposed consultation groups would fit with existing consultation frameworks and appears to unnecessarily duplicate existing arrangements which are generally considered to be working well'.<sup>13</sup>

3.14 In order to understand how the current consultation arrangements operate, and contextualise the concerns raised in relation to them, the committee sought evidence on the effectiveness of existing consultation forums before considering the provisions of the bill and how they may impact current consultation processes.

### **Community Aviation Consultation Groups**

3.15 Community Aviation Consultation Groups (CACGs) have been established at most of the 21 federally leased airports. These groups enable community engagement on airport-related matters, including aircraft noise concerns. They are not decision-making bodies, but rather, are designed for consultation purposes, to ensure that

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10 Airservices Australia, *Airservices Environmental Assessment Process for Changes to Aircraft Operations (excluding on-ground works)*, [http://www.airservicesaustralia.com/wp-content/uploads/13-167FAC\\_Environmental\\_assessment\\_PI.pdf](http://www.airservicesaustralia.com/wp-content/uploads/13-167FAC_Environmental_assessment_PI.pdf) (accessed 5 July 2018).

11 See for example, Australian Airports Association, *Submission 10*, p. 3

12 Australian Airports Association, *Submission 10*, p. 3.

13 Airservices Australia, *Submission 9*, p. 3.

'community views are effectively heard by the airport and to give members the opportunity to obtain information about what is happening on-airport'.<sup>14</sup>

3.16 The *National Aviation Policy White Paper: Flight Path to the Future* (Aviation White Paper) released in December 2009 outlined a framework for reform which would formalise CACGs to:

...ensure that local communities have direct input on airport planning matters, with appropriate arrangements for engagement with outer industry stakeholders such as airlines and Airservices Australia where necessary.<sup>15</sup>

The Australian Government will require all airports subject to the planning framework in the Airports Act...to establish and lead Community Aviation Consultation Groups. The Community Aviation Consultation Groups will address planning and development issues and a range of other operational matters, such as aircraft noise, which may affect airports' relations with their neighbours.<sup>16</sup>

3.17 The Aviation White Paper noted that while airports would be responsible for determining membership of the CACGs, they were expected to ensure a representative cross-section of community interests.<sup>17</sup>

3.18 Thereafter, in its 2010 report, the References Committee recommended that Airservices serve as a permanent member of all federal airport CACGs.<sup>18</sup> In its 2011 response, the Australian Government noted that the Aviation White Paper had recognised stakeholder views that CACGs could work better if Airservices and CASA were represented on them. It further noted that this is 'already taking place'.<sup>19</sup> Furthermore, the Australian Government upheld the view that mechanisms had already been implemented to improve community consultation and engagement in relation to airport operations and developments. It cited the CACGs as a key example of this, noting that the References Committee's proposal for an advocate position

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14 Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, December 2009, p. 163, [https://infrastructure.gov.au/aviation/publications/files/Aviation\\_White\\_Paper\\_final.pdf](https://infrastructure.gov.au/aviation/publications/files/Aviation_White_Paper_final.pdf) (accessed 4 July 2018).

15 Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, December 2009, p. 23.

16 Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, December 2009, p. 163.

17 Australian Government, *National Aviation Policy White Paper: Flight Path to the Future*, December 2009, p. 163.

18 Rural and Regional Affairs and Transport References Committee, *Effectiveness of Airservices Australia's management of aircraft noise*, Recommendation 1, 2 July 2010, p. 69.

19 Australian Government, *Government response to Senate Rural and Regional Affairs and Transport References Committee Inquiry Report on the effectiveness of Airservices Australia's Management of Aircraft Noise*, February 2011, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Rural\\_and\\_Regional\\_Affairs\\_and\\_Transport/Completed\\_inquiries/2008-10/aircraft\\_noise/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/2008-10/aircraft_noise/index) (accessed 4 July 2018).

would 'constitute a duplicate of the role intended for community representatives' within the CACGs.<sup>20</sup>

3.19 Airservices' policy on community consultation is contained in its Communication and Consultation Protocol which is currently under review. It notes that while Airservices does not have formal membership of the CACGs, it is represented at each of the CACGs and that 'we actively participate in these meetings to engage with the community on issues that might affect them, including changes to procedure'.<sup>21</sup>

3.20 The DIRDC Guidelines for CACGs state that CACGs are a 'mechanism to ensure appropriate community engagement on airport planning and operations'.<sup>22</sup> It notes that membership of a CACG should include persons who can contribute views representative of, amongst other things:

...community organisations, resident groups or individuals, ensuring the representation of residents affected by airport development and operations.<sup>23</sup>

### ***Evidence regarding effectiveness of CACGs***

3.21 The AAA made the point that each of the 21 federally leased airports is subject to the *Airports Act 1996* (Airports Act) which requires them to undertake extensive public consultation, including a need to establish a CACG.<sup>24</sup>

3.22 According to the AAA, Airservices attends and actively participates in the CACGs. At the forums, Airservices will provide updates on relevant activities and address issues of aircraft noise that may have arisen from changes to flight paths. AAA cited a 2015 departmental review into the efficacy of the consultation arrangements which found that 'overall CACGs meet the objectives of facilitating open discussion and supporting strategic dialogue between airports, communities and governments'.<sup>25</sup>

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20 Australian Government, *Government response to Senate Rural and Regional Affairs and Transport References Committee Inquiry Report on the effectiveness of Airservices Australia's Management of Aircraft Noise*, February 2011.

21 Airservices Australia, *Communication and consultation protocol*, July 2016, p. 4, [http://www.airservicesaustralia.com/wp-content/uploads/Communication-and-consultation-protocol\\_WEB.pdf](http://www.airservicesaustralia.com/wp-content/uploads/Communication-and-consultation-protocol_WEB.pdf) (accessed 6 July 2018).

22 Department of Infrastructure and Regional Development, *Community Aviation Consultation Groups (CACG) Guidelines*, Issued February 2011, Revised November 2016, p. 1, [https://infrastructure.gov.au/aviation/airport/planning/files/CACG\\_Guidelines\\_2016.pdf](https://infrastructure.gov.au/aviation/airport/planning/files/CACG_Guidelines_2016.pdf) (accessed 6 July 2018).

23 Department of Infrastructure, Regional Development and Cities, *Community Aviation Consultation Groups (CACG) Guidelines*, Issued February 2011, Revised November 2016, p. 5.

24 Australian Airports Association, *Submission 10*, p. 1.

25 Department of Infrastructure, Regional Development and Cities cited in Australian Airports Association, *Submission 10*, p. 3.

3.23 However, evidence from a number of community groups suggested that CACGs are not operating as envisaged. Mr Frank Rivoli, Secretary of the Hume Residents Airport Action Group served on the Melbourne CACG as a community representative for a four year period from 2012. Mr Rivoli explained the reasons for community frustration with the CACGs process:

Our concerns are not being addressed seriously. Aircraft noise answers are usually on the basis that there's nothing that can be done about aircraft noise. It's a product of aviation. Airservices says, 'We're doing our best to manage but our responsibility is to the safety of air travellers and so on'.<sup>26</sup>

3.24 Mr Rivoli informed the committee that since 2014, the Melbourne CACG has not made a single recommendation which resulted in any 'worthwhile things for the community, apart from some proposals to change some building proposals'. Mr Rivoli further noted that in addition to the CACG process at Melbourne airport, there is a noise abatement committee organised by the airport but which contains no community representative.<sup>27</sup>

3.25 Similarly, Mr John Cincotta, Member of the Dingley Village Community Association, informed the committee that at CACG meetings, information sharing takes place but that there is no consultation. He noted that, as a consequence, 'there are no initiatives or change that comes from the community engagement'.<sup>28</sup>

3.26 The Moorabbin Airport Residents Association Incorporated (MARA) is an active member of the CACG for Moorabbin Airport. It reported that 'consultation with community representatives is minimal' and that many stakeholders in attendance at CACG meetings are not local residents but rather business owners who operate on airport land and are generally not supportive of resident appeals for reduced noise and improved safety.<sup>29</sup>

3.27 Airservices recognised that there is scope for improvement with regard to the quality of its community consultations. It submitted that 'there are opportunities to improve engagement at CACGs' and that it understood 'some airports struggle to attract community participation and information is not always disseminated effectively from members to the broader community'.<sup>30</sup> Mr Harfield explained that the current consultation mechanisms, including CACGs 'aren't necessarily representative of the community as a whole'.<sup>31</sup> Drawing on the most recent experience with the

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26 Mr Frank Rivoli, Hume Residents Airport Action Group, *Proof Hansard*, 22 June 2018, p. 4.

27 Mr Frank Rivoli, Hume Residents Airport Action Group, *Proof Hansard*, 22 June 2018, p. 5.

28 Mr John Cincotta, Dingley Village Community Association, *Proof Hansard*, 22 June 2018, p. 16.

29 Moorabbin Airport Residents Association Inc, *Supplementary Submission 42*, pp. 3–4.

30 Airservices Australia, *Submission 9*, p. 3.

31 Mr Jason Harfield, Airservices Australia, *Proof Hansard*, 22 June 2018, p. 38.

Hobart Airport, Mr Harfield explained that Airservices had relied on 'some of these mechanisms incorrectly and didn't do the appropriate consultation'.<sup>32</sup>

### *Hobart Airport CACG*

3.28 In April 2018, the ANO released an investigation report into complaints about the introduction of new flight paths in Hobart. Seven months earlier, in September 2017, Airservices had implemented changes to flight paths for aircraft arriving and departing Hobart Airport. According to the ANO, it became apparent that local residents had not received any warning of the implementation of the changes, which included a change to the Standard Instrument Departure (SID) and Standard Arrival Route (STAR), for each end of the main runway. Over a period of 6 weeks, 50 complaints were received on the changed flight paths. The ANO observed that:

The complaints reflected the community's concerns about quality and effectiveness of community consultation, the quality of information provided to the public, the handling of their complaints and action taken by Airservices in response to community concerns.<sup>33</sup>

3.29 In observing that Airservices had relied on the Hobart CACG to consult with the community on the flight path changes, the ANO stated that it found this approach 'problematic'. It made the point that CACGs cannot 'reach to all residents potentially affected by Airservices' initiated changes'. The ANO continued:

This is particularly so given the stated purpose of CACGs which centres on "airport operations". They do not always offer an opportunity for affected residents to provide feedback to Airservices on its proposals for change.<sup>34</sup>

3.30 The ANO made the point that different CACGs operate in different ways:

Not all CACG meetings are publicised. Not all minutes of meetings are published. Not all CACGs publish details of membership so that residents can raise issues to be pursued on their behalf by CACG members. Airservices has no control over CACG Chair or membership appointments. It has no control over venue, scheduling, agenda or process. It is unwise, at best, for Airservices to abandon determination of its own community consultation program by making a forum over which it has so little influence the primary site of its community engagement.<sup>35</sup>

3.31 Furthermore the ANO concluded that, rather than amounting to 'inadequate consultation' as described by Airservices itself, presenting information at the CACG

32 Mr Jason Harfield, Airservices Australia, *Proof Hansard*, 22 June 2018, p. 38.

33 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 1, [http://ano.gov.au/reportsstats/reports/Hobart\\_Noise\\_Improvements\\_Apr2018\\_Review\\_ASA\\_Response.pdf](http://ano.gov.au/reportsstats/reports/Hobart_Noise_Improvements_Apr2018_Review_ASA_Response.pdf) (accessed 5 July 2018).

34 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 22.

35 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 22.

on two occasions amounted to the 'absence of consultation' on the part of Airservices.<sup>36</sup> The ANO recommended that Airservices:

...abandon its stated policy of making the [CACGs] the primary site of its community consultation and instead, with the input and leadership of a skilled practitioner of community engagement, develop a community consultation strategy and guidelines to inform individual detailed strategies for individual changes.<sup>37</sup>

3.32 The ANO made 12 other recommendations directed at Airservices to, amongst other things, 'develop and support a sophisticated approach to community consultation in line with and informed by modern standards of community engagement'. The ANO recommended the utilisation of a 'skilled practitioner of community engagement' who could provide leadership and support to Airservices to promote 'better performance in community consultation' processes.<sup>38</sup> Additionally, the ANO recommended that before commencing community consultations, Airservices should become acquainted with 'the context and recent history of that community' and take those matters into account 'in its decision making and in its engagement design'.<sup>39</sup> Finally, the ANO made the point that Airservices should base:

... its consultations from a critically analytical perspective so as to ensure that all relevant matters have been considered and the information provided to the community is timely, correct, relevant, transparent, comprehensive, consistent and logically sound.<sup>40</sup>

3.33 Prior to the release of the ANO report, Airservices publicly acknowledged in October 2017 that it did not consult local communities appropriately in Hobart.<sup>41</sup> Mr Harfield noted in May 2018 that:

Hobart is an area that is continuing to grow and the air traffic's growing but it's something we have to look at across the entire country because we're experiencing year-on-year growth of three to four per cent in air traffic continually. We're expecting to see a 60 per cent increase in traffic over the next 15 years and we've got to continue to maintain the safety and efficiency of the system. That doesn't take into account that, with this change in implementing it, we made a mistake at the start and didn't do the appropriate consultation. We're not taking away from that. Now, going

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36 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 22.

37 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 51.

38 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 51.

39 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 51.

40 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 51.

41 Mr Jason Harfield, Airservices Australia, *Estimates Hansard*, 22 May 2018, p. 64.



forward, we're going back out to the community...We're working with the community and consulting, pushing that track further east away, which requires air space changes and a number of things. But we're working through that with the community as we speak.<sup>42</sup>

### **Other consultation forums – Fly Neighbourly Agreements**

3.34 Another consultation forum relates to the Fly Neighbourly Agreements. A Fly Neighbourly Agreement (FNA) is an agreement between aircraft operators and communities or authorities with an interest in reducing the disturbance caused by aircraft within a particular area. According to CASA, an FNA is a voluntary agreement under which aircraft operators agree to operate in a particular manner. It may include self-imposed limits on operating heights, the frequency of operations and areas of operation.<sup>43</sup> CASA further noted that:

The nature, scope and terms of an agreement are matters for the parties to the agreement to determine. Arrangements for monitoring of and compliance with the agreement are also matters for the parties involved.<sup>44</sup>

3.35 The FNA for Moorabbin Airport was established in 2011 and specifies requirements for circuit training hours, altitude, noise abatement, runway use, aircraft operations, the Moorabbin Airport Training Area (MATA), engine use, helicopter operations and matters for pilots.<sup>45</sup>

3.36 The committee heard submitters' concerns about the effectiveness of the MATA FNA. MARA reported that the FNA 'is actually of little help to residents' because it 'does not address the frequency of operations over the same residential area – the root cause issue for residents'.<sup>46</sup>

3.37 Mr Cincotta informed the committee that it would make no difference if the agreement didn't exist:

What it doesn't address is that there are 700 to 1,000 movements a day, 8 am to 10 pm, at 10 to 15 second intervals. So the root cause of the issue is the number of movements from older-type planes. They fly at lower heights compared to a Tullamarine or a Sydney airplane. The planes flying at 1,000 feet doesn't address the issue, so it's ineffective.<sup>47</sup>

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42 Mr Jason Harfield, Airservices Australia, *Estimates Hansard*, 22 May 2018, p. 66.

43 Civil Aviation Safety Authority, *Fly Neighbourly Agreements – Information and Guidelines*, <https://www.casa.gov.au/file/149191/download?token=uvAQUKId> (accessed 16 July 2018).

44 Civil Aviation Safety Authority, *Fly Neighbourly Agreements – Information and Guidelines*.

45 Airservices Australia, *Moorabbin Airport: Noise Information Pack*, August 2013, <http://www.airservicesaustralia.com/wp-content/uploads/Moorabbin-Airport-Noise-Information-Pack.pdf> (accessed 23 July 2018).

46 Moorabbin Airport Residents Association Inc, *Submission 42*, p. 3.

47 Mr John Cincotta, Dingley Village Community Association, *Proof Hansard*, 22 June 2018, p. 13.

3.38 The effectiveness of the FNA for the City of Melbourne was also questioned. This FNA, which was negotiated by the Melbourne City Council and agreed to in 2016, establishes curfews for services from the CBD helipad 'to between the hours of 7 am and 8 pm Monday to Friday, and 9 am to 8 pm on weekends and public holidays'.<sup>48</sup> It also limits to training flights in the CBD to between 11 am and 1 pm.<sup>49</sup>

3.39 Mr Ian Mitchell from the East Melbourne Group (EMG) explained that the Melbourne FNA was established with the intention to limit helicopter activity in the area. Mr Mitchell stated that since its establishment, the EMG had witnessed an increase in air traffic and that the FNA was 'not really successful' because many joy flight businesses make decisions based on the needs of their business rather than the community.<sup>50</sup>

3.40 Microflite Helicopter Services (Microflite), who primarily operate tourist services from a helipad based in the Melbourne CBD, explained that it was the first of two companies to enter into the FNA.<sup>51</sup> Its CEO, Mr Jonathan Booth, added that his company tries to minimise the impact its operations has on the community by using tourist aircraft that limit their noise signature, flight paths that limit the time spent over built-up areas, and aircraft that fly above:

...industrial areas, river ways, train lines, out over the bay and things like that. We also limit the time, duration and quantity of scenic flights. We have a smaller scenic-flight window that we allocate our aircraft to and we also make the scenic flights longer, which puts an artificial cap on them, because it creates an entry price point. It limits the amount of flights that we do in that market.<sup>52</sup>

3.41 Mr Booth expressed disappointment with the EMG's view that the FNA was not working because he believed it to be successful. He noted that it had impacted Microflite's operations, profitability and economics.<sup>53</sup>

### **Other forums – Airport Master Plans and Major Development Plans**

3.42 Airservices informed the committee that significant community consultation also occurs through the Major Development Plans process in accordance with requirements under the Airports Act. This consultation process takes place when 'airspace changes are required due to airport infrastructure projects, such as the new parallel runways at Brisbane, Melbourne and Perth'.<sup>54</sup> Airservices submitted that Major Development Plans are 'extensive' and include 'advertising, a 60 day public

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48 Mr Jonathan Booth, Microflite Helicopter Services, *Proof Hansard*, 22 June 2018, p. 27.

49 Mr Jonathan Booth, Microflite Helicopter Services, *Proof Hansard*, 22 June 2018, pp. 30–31.

50 Mr Ian Mitchell, East Melbourne Group, *Proof Hansard*, 22 June 2018, p. 21.

51 Mr Jonathan Booth, Microflite Helicopter Services, *Proof Hansard*, 22 June 2018, p. 30.

52 Mr Jonathan Booth, Microflite Helicopter Services, *Proof Hansard*, 22 June 2018, p. 27.

53 Mr Jonathan Booth, Microflite Helicopter Services, *Proof Hansard*, 22 June 2018, p. 27.

54 Airservices Australia, *Submission 9*, p. 3.

comment period, and a requirement to give community views due regard'.<sup>55</sup> Major Development Plans are approved by the Minister for Transport.<sup>56</sup>

3.43 The AAA asserted that airport Master Plans and Major Development Plans provide a public consultation mechanism that enables the community to:

...provide input into proposed projects (such as new runways) that may result in changes to airspace and flight paths. Airports devote significant time and resources to these public consultation arrangements to address any concerns that may be raised by the community.<sup>57</sup>

3.44 However, the effectiveness of airport Master Plans and Major Development Plans were questioned by a number of submitters. For example, the Hume Residents Airport Action Group expressed concern with the Major Development Plan for Melbourne Airport. It argued that consultative groups were not provided with documentation, which is contrary to community consultation requirements.<sup>58</sup>

3.45 MARA submitted that the Moorabbin Airport's most recent Master Plan was factually incorrect in stating that the:

...potential for noise to impact upon neighbouring areas is considered low due to the distance to surrounding residential areas and the nature of commercial and aviation activities carried out at the airport.<sup>59</sup>

3.46 MARA argued that this statement was incorrect due to the daily volume of student pilots and aircraft flying circuits over residential areas. MARA expressed the view that the Moorabbin Airport, Airservices or any other government agency lack 'any control over the type and amount of noise generated from aircraft flying at low altitude over residential areas'.<sup>60</sup> Subsequently, residents in the area are 'consistently hammered by an unacceptable level of aircraft-related noise'.<sup>61</sup>

### **Community Aviation Advocate**

3.47 The bill proposes to insert a new section 160A into the EPBC Act to provide for a CAA. The role of the CAA would be to assist, inform and advocate on behalf of communities likely to be affected by proposed changes in the management of aircraft noise or airspace.

3.48 Senator Rice indicated that the advocate position would be taken up by someone with the skills in 'understanding what the issues being faced by the

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55 Airservices Australia, *Submission 9*, p. 3.

56 Airservices Australia, *Submission 9*, p. 3.

57 Australian Airports Association, *Submission 10*, p. 3.

58 Hume Residents Airport Action Group, *Submission 19*, p. 1.

59 Moorabbin Airport Residents Association Inc, *Submission 42*, p. 2.

60 Moorabbin Airport Residents Association Inc, *Submission 42*, p. 2.

61 Moorabbin Airport Residents Association Inc, *Submission 42*, p. 2.

community are and is able to communicate those issues and actually make sure that those issues are being adequately addressed by Airservices'.<sup>62</sup>

### ***Evidence in support of a Community Aviation Advocate***

3.49 A number of community groups and individuals supported the prospect of a legislated CAA position for a number of reasons.

3.50 Mr Rivoli expressed the view that by giving the position legislative power, the advocate would be able to inform communities of decisions and work to strengthen the ties between airport development stakeholders and local communities.<sup>63</sup> Mr Trevor Neal, Secretary of the Residents Against Western Sydney Airport argued that a formal advocate would be more likely to be able to assist in identifying solutions to problems in the community when compared to current processes. Mr Neal continued:

We find it incredibly frustrating that nobody at department or government level wants to acknowledge that there's a problem. It's all about the financial benefits that might come to the community, without taking into account the environmental and residential impacts. So if we have an advocate...that's within the legislative process, I think there is more opportunity to find solutions than we've got open to us at the moment.<sup>64</sup>

3.51 Similarly, Mr David Woodward, Subcommittee Member of the EMG argued the point that providing for an advocate in legislation would provide 'the power that many of us in the community don't have'.<sup>65</sup>

3.52 Mr Cincotta argued that an advocate would be particularly helpful in circumstances where Airservices is resistant to making changes to its current operations. He argued that involved communities wanted Airservices to be required to liaise with the community and ascertain the root causes of issues in order to be able to come up with practical solutions. He argued that at present, the culture of Airservices 'isn't there in terms of working with communities'.<sup>66</sup>

### ***Evidence against a Community Aviation Advocate***

3.53 Airservices argued that the role of the advocate is ill-defined and that the bill does not contain any specific requirements or qualifications for the position other than that the appointee must be independent of aviation interests. Airservices also suggested that the bill does not describe the powers and responsibilities of the advocate and fails to indicate whether the advocate has to report back to the Minister for Environment. Furthermore, it is not clear how the advocate would interact with pre-existing community consultation processes. Airservices concluded that:

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62 Senator Rice, *Proof Hansard*, 22 June 2018, p. 16.

63 Mr Frank Rivoli, Hume Residents Airport Action Group, *Proof Hansard*, 22 June 2018, p. 6.

64 Mr Trevor Neal, Residents Against Western Sydney Airport Inc, *Proof Hansard*, 22 June 2018, p. 6.

65 Mr David Woodward, East Melbourne Group, *Proof Hansard*, 22 June 2018, p. 22.

66 Mr John Cincotta, Dingley Village Community Association, *Proof Hansard*, 22 June 2018, p. 13.

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Past experience indicates the limited effectiveness such a position is able to achieve and highlights the complexity where there is no single solution that is able to be delivered to the satisfaction of all parties.<sup>67</sup>

3.54 Mr Harfield, although sympathetic with the bill's objective, opined that Airservices does not consider the establishment of an advocate as the most appropriate way of achieving a better consultation mechanism.<sup>68</sup> He listed the following existing requirements on Airservices to engage in community consultation:

- the requirement to consult with the community and relevant stakeholders on any particular change, as specified under section 10 of the Air Services Act;
- section 9 of the Air Services Act specifying that Airservices 'must regard the safety of air navigation and, as far as is practicable, minimise the effects of aircraft operations on the environment';
- community consultation forums; and
- the ANO.<sup>69</sup>

3.55 DIRDC took the view that the proposed amendment is discriminatory because Airservices is not the only party that provides proposals for airspace changes to CASA. It noted that others, such as airport and airline operators, also put forward proposals and they are not included under the provision. In addition, DIRDC noted the likelihood of a diversity of views from those affected by any changes in aircraft or airspace management. It explained that:

In these circumstances the community advocate may end up having to "advocate" a position that conflicts with the positions of other parts of the community that they are representing to the Minister for the Environment and Energy.<sup>70</sup>

3.56 This concern was also shared by both Airservices and the ANO, as both argued that it would be unclear which members of the community the advocate would represent.<sup>71</sup> Using flight paths as an example, the ANO explained that:

...people at different points along the flight paths might have different concerns, or the flight path change might be providing an advantage to one section of the community and a disadvantage to another section of the community. How does someone whose role is to be an advocate deal with that essential conflict?<sup>72</sup>

3.57 In addition, DIRDC made the point that community groups are already consulted as part of current airspace change proposal arrangements and that they are

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67 Airservices Australia, *Submission 9*, p. 4.

68 Mr Jason Harfield, Airservices Australia, *Proof Hansard*, 22 June 2018, p. 39.

69 Mr Jason Harfield, Airservices Australia, *Proof Hansard*, 22 June 2018, p. 44.

70 Department of Infrastructure, Regional Development and Cities, *Submission 11*, p. 3.

71 Mr Jason Harfield, Airservices Australia, *Proof Hansard*, 22 June 2018, p. 45.

72 Ms Narelle Bell, Aircraft Noise Ombudsman, *Proof Hansard*, 22 June 2018, p. 42.

better placed to pick and perform their own community representation role rather than having a particular advocate imposed by regulation as proposed under the bill.<sup>73</sup> DIRDC also queried how an advocate 'would operate in practice to deliver clearer benefits'. It suggested that a more beneficial option is to look 'at the existing arrangements and seeing what improvements could be made'.<sup>74</sup>

3.58 The Australian Mayoral Aviation Council (AMAC) raised concern that the bill was not clear as to whether the proposal for an advocate was for an individual appointment for a specific period to operate nationally or whether a person is to be appointed separately in relation to each and every event that triggered such representation of community interest:

In either case the Bill remains silent on how the appointee is to function and just how the CAA is to relate to the community to be impacted as well as with the agency responsible to triggering the intervention of a CAA.

In other words is it proposed that the CAA should have particular status and access or is the appointee to have no greater status than a member of the general community but happens to have a level of understanding and/or standing within the aviation sector?

In addition, how is the CAA to communicate with, obtain input from, and provide information to, the broader community being represented?<sup>75</sup>

### **ANO findings and recommendations**

3.59 The committee considered the findings and recommendations of the ANO's two more recent reports on Hobart Airport in 2018 and Perth Airport in 2015.

3.60 As previously indicated, shortcomings with the existing CACGs process were highlighted in the ANO 2018 investigation into complaints about flight path changes at Hobart Airport.

3.61 The Ombudsman recommended that Airservices abandon its position that CACGs be the primary facilitator of community consultation and instead, advocated for Airservices to engage a 'skilled practitioner of community engagement' to develop consultation strategies and guidelines designed specifically to inform individual changes to airport flight paths. Similarities can be drawn between this ANO recommendation and the CAA position outlined in the bill.

3.62 Airservices has specific obligations with regard to community consultation on aircraft noise matters and an array of protocols and standards are in place that requires it to engage with and take account of community concerns. However, the ANO found that Airservices had not complied with its own protocols and standards with regard to

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73 Department of Infrastructure, Regional Development and Cities, *Submission 11*, p. [3].

74 Mr Brendan McRandle, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 49.

75 Australian Mayoral Aviation Council, *Submission 28*, p. 4.

the Hobart flight path changes.<sup>76</sup> The ANO's recommendations, such as the engagement of community consultation expertise, seek to ensure that Airservices fulfils these obligations.

3.63 In its 2015 report with regard to Perth Airport, the ANO made 25 recommendations which identified:

- a need for more explicit information about the status of proposals for change when presented to the public;
- a need for adequate consultation, based on timely, complete and comprehensible information being available to the public, prior to the introduction of changes;
- capacity for assessments of the impacts of change to better reflect the issues that will most affect the public's response to possible changes;
- a need for improved responsiveness by Airservices to ANO requests for information; and
- an improved approach for published material to address directly the concerns of those who will be affected by changes, both those who might benefit and those who might be disadvantaged.<sup>77</sup>

3.64 Amongst a number of recommendations regarding community consultation, the ANO recommended that:

Airservices should consider the social, economic and cultural context of the communities it is consulting and ensure consultation strategies enable accessibility, understanding and an opportunity for genuine engagement in the issues within those communities.<sup>78</sup>

3.65 In response to the ANO's report, Airservices indicated that it would update its Communication and Consultation Protocol, in consultation with the ANO, to include a number of key principles for community and stakeholder engagement.<sup>79</sup>

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76 Aircraft Noise Ombudsman, *Investigation into complaints about the introduction of new flight paths in Hobart*, April 2018, p. 24.

77 Aircraft Noise Ombudsman, *Investigation into Complaints about the Perth Noise Improvement Proposals*, November 2015, p. 2, [http://www.ano.gov.au/reportsstats/reports/Perth\\_Noise\\_Improvements\\_2015\\_Review\\_ASA\\_Response.pdf](http://www.ano.gov.au/reportsstats/reports/Perth_Noise_Improvements_2015_Review_ASA_Response.pdf) (accessed 31 July 2018).

78 Airservices Australia, *Airservices Australia's Management response to the ANO Report – "Investigation into Complaints about the Perth Noise Improvement Proposals"* (November 2015), p. 2, [http://www.ano.gov.au/reportsstats/reports/Perth\\_Noise\\_Improvements\\_2015\\_Review\\_ASA\\_Response.pdf](http://www.ano.gov.au/reportsstats/reports/Perth_Noise_Improvements_2015_Review_ASA_Response.pdf)

79 Aircraft Noise Ombudsman, *Investigation into Complaints about the Perth Noise Improvement Proposals*, November 2015, Recommendation 18, p. 33.

### **Committee observations**

3.66 The committee recognises that the provisions of the bill considered in this chapter may provide a more formal and prescribed pathway for engagement. To this extent, the bill may go some way to addressing the first concern of affected communities which is that of a regulatory framework for community consultation. As expressed by Mr Woodward from the EMG, if the relevant provisions of the bill are enacted:

We will be heard. Whether it resolves our issue is another question, but the first step is to be heard.<sup>80</sup>

3.67 Notwithstanding this point, the question remains as to whether the mechanism proposed by the bill will add another layer to an already complex process, without providing an adequate means for communities to engage and be heard.

3.68 It was made clear to the committee that the Air Services Act already provides a number of mechanisms to facilitate meaningful community engagement, and that there is considerable scope for Airservices to better utilise these mechanisms.

3.69 The point was made that many of the bill's aspirations for genuine community consultation and representation can be realised within the existing legislative framework as it provides scope for the establishment of consultative groups and an array of other methods and mechanisms to achieve timely, transparent and constructive community engagement.

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80 Mr David Woodward, East Melbourne Group, *Proof Hansard*, 22 June 2018, p. 25.