

Chapter 4

Aircraft Noise Ombudsman

4.1 The bill proposes to establish an independent Aircraft Noise Ombudsman responsible to review the handling of complaints by Airservices, report to the relevant agencies and ministers, and report on the effectiveness of community consultation initiatives undertaken by Airservices.

Current arrangements

4.2 Airservices has responsibility for managing complaints and enquiries about aircraft noise and operations through its NCIS. The NCIS is the 'Australian aviation industry's main interface on aircraft noise issues for the community'.¹ Amongst other things, its role is to explain aircraft movements and flight plans and to consider possible changes to air traffic management as well as to advise if they are not possible, or refer them for further investigation. However, the NCIS is not empowered to change flight schedules.² If members of the public are dissatisfied with the NCIS, they may lodge complaints and enquiries with the ANO.³

4.3 The ANO was established in September 2010 as an independent administrative office in response to recommendations in the Aviation White Paper. In January 2015, the ANO, Airservices and Defence signed a Memorandum of Understanding and amended the ANO Charter to extend the role of the ANO to provide an independent complaint and review mechanism for Defence.⁴

4.4 The purpose of the ANO is set out in the Aircraft Noise Ombudsman Charter:

1. The Aircraft Noise Ombudsman (ANO) is an independent administrative office that:
 - a) reviews the handling of complaints or enquiries made to Airservices Australia (Airservices) or the Department of Defence (Defence) about Aircraft Noise;
 - b) monitors and reports on the effectiveness of community consultation processes relating to Aircraft Noise undertaken by Airservices and Defence;
 - c) monitors and reports on the effectiveness of the presentation and distribution of Aircraft Noise-related information; and

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

2 Airservices Australia, *Noise Complaints and Information Service, Complaints Management*, http://www.airservicesaustralia.com/wp-content/uploads/11-147FAC_Complaints_management_WEB.pdf (accessed 6 June 2018).

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

4 Australian Airports Association, *Submission 10*, p. 4.

d) provides targeted reviews of specific aspects of Aircraft Noise management as requested by Airservices and Defence.

2. The ANO may make recommendations to the Board or the Chief of Air Force for improvements relating to these matters.⁵

4.5 ANO reviews have considered aircraft noise operations, procedures and practices that assist Airservices with its work to 'continuously refine and improve the way [it engages] with the community'.⁶

4.6 The ANO is independent of both 'Airservices and Defence executive management structure, and reports directly to the Airservices Board and Chief of Air Force as appropriate'.⁷

4.7 The current ANO, Ms Narelle Bell, outlined her role and the process for the management of complaints to the committee. With regard to the existing complaint management process, Ms Bell explained that if an individual complaint is made, the ANO's Charter provides that the complainant is first directed to Airservices.⁸ If an issue remains, the ANO then investigates and looks into the response provided by Airservices. Thereafter:

If we think that there is more to it we will ask questions and obtain additional information. We look to see whether thorough and logical reasons have been provided for whatever decision or response has been made. If we have a run of complaints in relation to an issue, we can deal with those altogether, as we did with the Hobart investigation, so that our review can be more broadly based. That's how we respond to individual complainants.⁹

Awareness and understanding of the ANO's role

4.8 It became clear to the committee during the inquiry that there are misconceptions about the ANO, highlighted by the fact the bill largely seeks to replicate the role.

4.9 The Hume Residents Airport Action Group questioned the ANO's role, expressing the view that it is restricted to the 'review of the administration process of noise complaints' and should be broadened.¹⁰

5 Aircraft Noise Ombudsman, *Aircraft Noise Ombudsman Charter*, November 2016, p. 3, http://www.ano.gov.au/about/docs/ANO_charter_2016.pdf (accessed 2 August 2018).

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

7 Aircraft Noise Ombudsman, *About Us*, 16 March 2017, <http://www.ano.gov.au/about/> (accessed 23 July 2018).

8 Ms Narelle Bell, Aircraft Noise Ombudsman, *Proof Hansard*, 22 June 2018, p. 43.

9 Ms Narelle Bell, Aircraft Noise Ombudsman, *Proof Hansard*, 22 June 2018, p. 43.

10 Mr Frank Rivoli, Hume Residents Airport Action Group, *Proof Hansard*, 22 June 2018, p. 2.

4.10 MARA noted that it had previously thought the ANO's role was to assist the community with aircraft noise issues.¹¹ It made the point that more needed to be done to inform the public about the role of the ANO. Miss Karen Hastings explained:

I think it's quite important that the purpose of this office be made clearer to the public due to the misconception that the office plays a role in managing actual noise complaints when its true role is actually handling the process of the complaints.¹²

4.11 The fact that the existing ANO was established to conduct independent administrative reviews of Airservices and the manner in which it handles aircraft noise-related activities, such as the handling of complaints as well as community consultation processes, was not well understood amongst many submitters to the inquiry. It would appear that some of them supported the provisions for a new ANO without a thorough appreciation for the role of the existing ANO.

4.12 The EM effectively outlines what is the existing role of the ANO. It states that the purpose of the proposed new ANO under the bill is to:

...review the handling of complaints and enquiries; report to relevant agencies or Ministers; monitor and report on the effectiveness of community consultations and other matters relating to aircraft noise; and make recommendations.¹³

4.13 For this reason, Airservices argued that the bill outlines a function that 'already broadly exists'.¹⁴ Similarly, the AAA noted that the ANO already carries out many of the key functions proposed in the bill.¹⁵

Governance considerations

4.14 The bill proposes to establish a regulatory requirement for an independent, government-funded ANO reporting to the Minister for Transport.

4.15 DIRDC expressed the view that the proposed amendment was:

...unnecessary considering the current ANO, who handles civil and military aircraft noise issues, is already independent and reports directly to the Airservices' Board or Chief of Air Force as appropriate on aircraft noise matters.¹⁶

4.16 DIRDC also asserted the view that the current governance arrangement is 'very effective' because the ANO reports directly to the Airservices Board, rather than

11 Mr Giuseppe (Joe) Biviano, Moorabbin Airport Resident Association, *Proof Hansard*, 22 June 2018, p. 16.

12 Miss Karen Hastings, Moorabbin Airport Residents Association, *Proof Hansard*, 22 June 2018, p. 11.

13 Explanatory Memorandum, Air Services Amendment Bill 2018, p. 4.

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

15 Australian Airports Association, *Submission 10*, p. 4.

16 Department of Infrastructure, Regional Development and Cities, *Submission 11*, p. 1.

the management team.¹⁷ This engagement with the Airservices Board ensures that 'issues are put before the highest level of governance arrangements in Airservices' as it is the Board that makes decisions about how to respond to ANO recommendations. DIRDC observed that, on the whole, the Airservices Board responds 'very positively to those reports'.¹⁸

4.17 Furthermore, DIRDC made the point that available evidence indicates that the ANO is acting independently, as exemplified by the production of significant reports with regard to a number of airports containing recommendations 'all of which the Airservices board has implemented'. Mr Jim Wolfe of DIRDC noted the response of the Airservices Board to ANO recommendations:

As I understand it, they have implemented every one of the recommendations made by the ombudsman. So I think it's a bit unfair on the ombudsman to suggest that somehow they're in some sort of constrained environment or their independence is being challenged. Of course, if there were evidence to the contrary of that, it would be a different consideration. But, as it stands now, to be honest, I think we get pretty positive feedback from both sides of the fence about the role of the Aircraft Noise Ombudsman.¹⁹

4.18 It was suggested to DIRDC that in fact, 'most ombudsman...do not report to the board of the main organisation that they are responsible to investigate'.²⁰ In response, DIRDC stated that it would depend on 'whether it's a Commonwealth statutory ombudsman or whether it's an industry ombudsman' and that the:

...concern would be if we believed that the Airservices board were not having regard to what the ombudsman's work and recommendations were. At the moment, we don't have any evidence of that.²¹

4.19 DIRDC added that the prospect of the ANO reporting to the Minister for Transport could reasonably raise concerns regarding the potential politicisation of the role.²²

4.20 However, a number of submitters raised concern with the current arrangements and in particular, the extent to which the ANO is independent. AMAC suggested that while the current role and responsibility of the ANO as well as the

17 Mr Brendan McRandle, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 50.

18 Mr Brendan McRandle, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 50.

19 Mr Jim Wolfe, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 51.

20 Senator Janet Rice, *Proof Hansard*, 22 June 2018, p. 51.

21 Mr Jim Wolfe, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 51.

22 Mr Brendan McRandle and Mr Jim Wolfe, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 51.

establishment of the position itself provides a mechanism for process review, it raised concern about the 'direct role' that Airservices and Defence have in 'both the selection of the ANO and in identifying the resources that will be made available to the ANO'. The AMAC continued:

Since actions taken and decisions made by those two agencies are at the centre of the ANO's review function, it is only proper that decisions regarding the appointment, resourcing and reporting by the ANO should not be tied to those same agencies whose actions are most often the subject of review.

Similarly it would not be appropriate for the office of the ANO to be attached to the Department responsible for the aviation portfolio since decisions made there may also become the subject of review.²³

4.21 The AMAC further argued that the ANO's capacity to delegate functions should not be restricted to government agency employees. It suggested that the way in which the Commonwealth and some state ombudsman are appointed should provide a basis for the administrative and reporting framework most appropriate for the ANO.²⁴

4.22 Airservices acknowledged that the governance arrangements in place with regard to the ANO are not consistent with those of other Commonwealth or state Ombudsmen and 'potentially raise questions about independence or at least could create a perception that independence is questionable'. In recognising that this can 'create mistrust and cynicism within the community which detracts from the ANO's investigative work and analysis', Airservices indicated that it was open to considering other governance models or arrangements that could 'enhance the ANO's independence and effectiveness'.²⁵ However, DIRDC asserted that an ombudsman funded by the airline industry, via Airservices, 'is a fairly normal way of ombudspersons being funded'.²⁶

23 Australian Mayoral Aviation Council, *Submission 28*, p. 1.

24 Australian Mayoral Aviation Council, *Submission 28*, p. 2.

25 Airservices Australia, *Submission 9*, pp. 4–5.

26 Mr Brendan McRandle, Department of Infrastructure, Regional Development and Cities, *Proof Hansard*, 22 June 2018, p. 51.

