

Melbourne Airport Environs Strategy Plan 2003

MELBOURNE AIRPORT ENVIRONS STRATEGY PLAN

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Abbreviations

AEO - Airport Environs Overlay

AEO1 - Schedule No1 to the Airport Environs Overlay

AEO2 - Schedule No2 to the Airport Environs Overlay

ANEF - Australian Noise Exposure Forecast

APAM - Australian Pacific Airports (Melbourne) Pty Ltd

AS 2021 - Australian Standard, *Acoustics - Aircraft Noise Intrusion - Building Siting and Construction*, published 10 August 2000

DoTRS - Federal Department of Transport and Regional Services

HORSCAN - House of Representatives Standing Committee on Aircraft Noise

LPPF - Local Planning Policy Framework

Melbourne Airport Environs Area - Area declared by Governor in Council in accordance with Sec 46S(1) of the *Planning and Environment Act 1987*

MSS - Municipal Strategic Statement

SPPF - State Planning Policy Framework

VCAT - Victorian Civil and Administrative Tribunal

VPP - Victoria Planning Provisions

Introduction

In 1999, the then Minister for Planning agreed to prepare a strategy plan for the Melbourne Airport Environs Area Strategy Plan.

The purpose of the Strategy Plan is to provide an updated and progressive framework of planning controls and initiatives to manage the interests of both the Melbourne Airport and the significant airport environs. The current planning controls require updating in several respects: they do not properly reflect the most current information on aircraft noise exposure; the controls require clarification in how they should be applied to different noise exposed areas; and there is a need for more transparent assessment criteria.

Changes have also occurred in the regulation and operation of airports, which has seen the long-term lease for the Melbourne Airport sold to a private operator. The role of the lessee as a referral authority under the airport environs controls is reviewed. The reform of the Victoria Planning System has also changed the planning tools available for the management of airport environs. The Strategy Plan recommends a new separate planning provision for Melbourne Airport and it proposes initiatives outside the planning system. Proposals include promoting broader public awareness of aircraft noise exposure and the development of construction guidelines to more easily meet noise attenuation standards.

The Melbourne Airport Environs Strategy Plan will help ensure that Melbourne Airport retains its key competitive advantages of 24-hour curfew-free operation; an integrated passenger terminal complex; extensive rural environs; and appropriately manage the impact of aircraft noise on adjacent residential areas. The Melbourne Airport Environs Strategy Plan will build on the previous work associated with the introduction of the Melbourne Airport Environs Area controls and develop the current Victoria Planning Provisions in relation to the airport and the municipal local planning policy frameworks for the airport environs.

The preparation of the Melbourne Airport Environs Strategy Plan has been a transparent process, guided by a Steering Committee established by the Minister, with Ms Liz Beattie MP, Member of the Legislative Assembly for Tullamarine appointed as its Chair. The committee membership included representatives from the following:

- community members and Councillors from the municipalities of Melton, Brimbank, Hume and Moonee Valley;
- the Melbourne Airport operator, Australia Pacific Airports (Melbourne) Pty Ltd; and
- the Commonwealth Department of Transport and Regional Services and the Victorian Department of Infrastructure and the then Department of State and Regional Development.

The proposed Melbourne Airport Environs Strategy Plan provides progressive and long-term management of the airport environs. The Government supports the main thrust of the Strategy and considers it a key step in addressing the interface between airport operations and land management for the significant airport environs.

The Victorian Government recognises that Melbourne Airport is an important gateway to the State and a major destination in the national and international aviation network. It provides important links to the world for Victorian exports and tourism and is an important contributor to employment. The Commonwealth also supports transport systems which are safer, more efficient, internationally competitive, sustainable and accessible. The proposed Melbourne Airport Environs Strategy Plan enhances the performance of the airport, while addressing impacts on neighbouring communities. The implementation of the Strategy will be developed in stages, with amendments to planning policy to be given priority.

Melbourne Airport Environs Controls

Land use planning for the Melbourne Airport environs commenced in the 1980s and led to the preparation of the initial Melbourne Airport Strategy (MAS), which was endorsed by all levels of Government in December 1990. The MAS introduced a degree of certainty and consistency in airport planning for the community, all levels of government and Melbourne Airport.

The introduction of the MAS also led to the formation of the Melbourne Airport Land Use Study Committee, which undertook some of the actions identified in the Melbourne Airport Strategy. The Committee reported in June 1992, and its recommendations have become the basis of the current planning controls for the Melbourne Airport environs. A key recommendation was the introduction of the Melbourne Airport Environs Areas (MAEA) Overlays 1 and 2.

The Minister for Planning approved the Melbourne Airport Environs Areas (MAEA) Overlay 1 on an interim basis in 1992, applying to the former municipalities of Broadmeadows, Bulla, Keilor and Melton. Overlays 1 and 2 were exhibited as planning scheme amendments in 1992, leading to an Independent Panel process in 1993. The Panel made significant recommendations, which were not resolved or adopted. The interim status of the MAEA Overlay 1 continued until the adoption of planning schemes in 1999, under the new Victoria Planning Provisions.

The Victoria Planning Provisions of 1996 provided two schedules within the Airport Environs Overlay, based on the principles of the 1992 Melbourne Airport Environs Area controls. Municipalities with these controls were subsequently required, when preparing new planning schemes, to include provisions to reflect the extent of the Melbourne Airport Environs in Schedules 1 and 2.

In December 1998 the *Planning and Environment Act 1987* was amended to introduce provisions relating to the preparation of a Melbourne Airport Environs Strategy Plan. The provisions seek to secure controls for the airport environs through the preparation of a Strategy, endorsed by both houses of Parliament. The existing planning scheme provisions will continue to apply until such time as the Strategy is endorsed. However amendments to local planning schemes are to be assessed for consistency with the approved Strategy.

In response to the need to prepare a Melbourne Airport Environs Strategy Plan a focus group was established in February 1999 to identify issues of concern and assist with the development of the project brief for the strategy plan. The Strategy was prepared by a Steering Group with appropriate representation.

Current Planning Controls

The current suite of planning controls for the Melbourne Airport environs is contained in the Planning Schemes of the Melton Shire Council, Brimbank, Hume and Moonee Valley City Councils. These controls are underpinned by the State and Local Planning Policy Frameworks, along with the Airport Environs Overlay.

The State Planning Policy Framework makes substantial reference to the economic and transport importance of Melbourne Airport and the need for land use planning to ensure that the airport environs are compatible with the on-going operation of the airport.

Each of the four municipalities having land within the Melbourne Airport Environs acknowledges the role of the Melbourne Airport in its Municipal Strategic Statement (MSS).

It is anticipated that individual municipalities will acknowledge the Melbourne Airport Environs Strategy at the time they review their MSS.

The current framework of planning control for the airport environs has been in place since 1992. Since this time the application of the controls has changed, but the policy content has not been adequately reviewed. This was the case when local planning schemes were amended to conform to the current Victoria Planning Provisions but did not address the shortcomings which had been identified in the controls.

Need for Review

Since the introduction of airport environs controls in 1992 events have led to the situation where the controls are inconsistent and outdated. The legitimacy of the existing controls is questioned by stakeholders. The recommendations of the Independent Panel 1993 on use controls were not resolved. The extent of the overlays was interpreted and applied differently by the former municipalities. The preparation of the Melbourne Airport Master Plan following the sale of the Melbourne Airport lease has also highlighted inadequacies of existing controls.

The operation of the airport environs controls now provides years of experience to reflect on and assess the effectiveness of these controls. The Victorian Planning System provides appropriate tools to facilitate better land use planning for the environs of Melbourne Airport.

Issues addressed by the Steering Committee include the following:

- The location of the Overlay boundaries;
- The need for controls or other measures outside the Overlay;
- Ordinance provisions relating to the Overlay;
- The need for maintaining a referral authority; and
- Whether compensation to parties affected by aircraft noise is justified.

Strategy Plan Recommendations

1 Overlay Boundaries

Key Direction

- 1.1 That the extent of the control boundaries of the Melbourne Airport Environs Overlay be based on the Ultimate Capacity ANEF.
- 1.2 That the boundaries of Schedule 1 and Schedule 2 be amended to reflect the 20 and 25 ANEF contours. The Schedule boundaries to follow the ANEF contours except for lots in residential zones, where the boundary is to extend to include the whole lot.

The Report

The report recommends that the Melbourne Airport Environs Overlay boundaries be based on the most recently approved Ultimate Capacity ANEF contours. The Overlay Schedules should follow the relevant ANEF contour, apart from land within residential zones where the boundaries should extend to the nearest cadastral boundary outside the contour so that the whole lot is included.

Schedule 1 of the Melbourne AEO would apply to the area within the 25 ANEF contour and Schedule 2 would apply to the area between the 20 and 25 ANEF contours.

The report referred, in some detail, to the airport noise modelling standards used in Australia. It noted that the Australian Noise Exposure Forecast (ANEF) model is recognised as the most appropriate planning tool available to land use planners when assessing impacts of aircraft noise within airport environs. Commonwealth Government policy requires the use of the ANEF system for determining likely noise exposure around Australian airports. This system and the associated *Land Use Compatibility Advice for Areas in the Vicinity of Airports* are detailed in Australian Standard AS 2021 - 2000.

The Melbourne Airport Ultimate Capacity ANEF identifies potential noise impacts on the airport environs for different runway configurations, up to the ultimate operating capacity of the airport to the year 2051. The forecast methodology is conservative (worst case scenario) as it includes the impacts of all 3 runway configurations, while not all configurations will eventuate. The extent of this conservatism is not uniform and depending on the alignment of the third runway, the extent of the Overlay schedules may contract significantly in some areas and only marginally in others.

It was accepted that the ANEF contours represent a composite of worst case scenarios up to the ultimate 4 runway capacity of Melbourne Airport, with 371,000 aircraft movements. This compares to the 181,000 aircraft movements in 2000/01 with 2 runways. Importantly, the ANEF contours were endorsed by Air Services Australia for technical accuracy.

The ANEF contours are required by the Commonwealth *Airports Act 1996* to be reviewed every five years, as part of preparing revised airport master plans. Future changes to the ANEF contours may require revision of the Airport Environs Overlay. The historical trend has been for areas subject to aircraft noise to contract. Combining this trend with the conservative noise modelling, the report indicates that the forecast provides a conservative basis for airport environs planning.

The report questions the basis of the current AEO boundaries, which originate from recommendations by the Melbourne Airport Land Use Study Committee in 1992. The Melbourne Airport Environs Areas 1 and 2 do not accurately reflect the 20 and 25 ANEF contours. Rather, the boundaries included a tolerance, equivalent to half an ANEF contour interval. The AEO boundaries were also extended to the nearest convenient cadastral boundary. The resulting difference between the noise contour and the AEO boundary is significant at some locations, particularly in rural areas.

The report recommends that the AEO boundaries conform to the 1998 ANEF contours within rural areas. In residential zones the AEO boundaries should extend to the nearest cadastral boundary. This would avoid unnecessary complications in administering the Overlay in relation to individual residential lots.

Adopting this change will significantly reduce the area and the number of dwellings covered by the existing overlays. It will facilitate consistency with Australian Standard 2021 – 2000 and provide clarity in the policy basis for applying planning controls.

It was noted that the Federal Government has been working to standardise the ANEF modelling process and the current approved (1998) contours for ultimate capacity forecast for Melbourne Airport does not incorporate a tolerance in the boundaries.

Discussion

The Australian Noise Exposure Forecast (ANEF) for Melbourne Airport was approved in 1998 and is due for revision by December 2003. Melbourne Airport confirms that the ANEF will be revised next year as part of the Airport Master Plan review. It is intended that the Master Plan review will be exhibited from early May 2003 for 90 days. Submissions would be considered in August 2003 and lodged with the Department of Transport and Regional Services in September 2003. In the event that the revised ANEF produces amended contours, the AEO boundaries and Victorian Planning Provisions would require further amendment in 2003.

It is in the interests of the State and Melbourne Airport to have the Melbourne Airport Environs Strategy approved before the Master Plan 2003 is exhibited.

Government Response

The recommendation to define the extent of the control boundaries of the Melbourne Airport Environs Overlay on the basis of the most recently approved Ultimate Capacity ANEF is supported. This amendment would provide a clear policy basis for the Overlay boundary, and it provides consistency with Australian Standards.

The current 1998 ANEF was subject to a public process as part of the Melbourne Airport Master Plan. The 1998 ANEF is public knowledge and the 20 and 25 ANEF contours are an appropriate basis to define Schedules 1 and 2 of the Melbourne Airport Environs Overlay. The proposal that Schedule boundaries follow ANEF contours except for lots in residential zones, where the boundary is to extend to include the whole lot, is supported.

Actions

Government will undertake the following actions:

1. Airport Environs Overlay Schedules 1 and 2 for Melbourne Airport will be amended to conform to ANEF contours 20 and 25. Overlay schedules will be amended in the planning schemes of the Cities of Hume, Brimbank, Moonee Valley and the Shire of Melton.

2 Management of Aircraft Noise Outside the 20 ANEF

Key Direction

- 2.1 That the 20 ANEF be used to define the extent of the Melbourne Airport Environs Overlay controls and that planning controls not be applied to areas outside the 20 ANEF.
- 2.2 That information regarding aircraft noise within 15 km of Melbourne Airport is disseminated to the community.

The Report

The report considered whether there was a need to extend planning controls outside the 20 ANEF contour to provide a buffer area to accommodate possible future variations in airport planning, or as a mechanism to alert people of the impact of aircraft noise adjacent to ANEF contours.

The reaction of individuals to aircraft noise is very variable. Significantly, most complaints of aircraft noise come from residents outside the 20 ANEF, and more than 50% of complaints come from residents outside the 15 ANEF. It was reported that some of the complaints are due to variations in the normal aircraft operation procedure such as a change to flight track or height, rather than the noise level. In 2000/01 Melbourne Airport received approximately 117 noise complaints.

It was noted that Australian Standard 2021 - 2000 does not require noise attenuation measures outside the 20 ANEF contour. The Community Report provides a 'Dose / Noise Curve' figure which illustrates the variable nature of community reaction to aircraft noise. At the 20 ANEF benchmark, 10% of the community is seriously affected by aircraft noise while 45% are moderately affected. The 1993 Independent Panel (which considered the 1992 report of the Melbourne Airport Land Use Study Committee) considered that extending planning controls outside the 20 ANEF would need to be based on sound principles, implying that such justification was not evident.

The report notes that the use of ANEF contours as planning control boundaries can encourage the interpretation of the contours as rigid lines, and that areas outside are not impacted by aircraft noise. The Steering Committee accepted Australian Standard 2021 – 2000 as the appropriate basis for planning controls and therefore the 20 ANEF contour should continue to be used as the benchmark for planning controls. In relation to the concept of an additional buffer outside the 20 ANEF to accommodate future variations in

airport planning, the conservative estimates for the Ultimate Capacity ANEF for Melbourne Airport already make this provision.

The report also noted that if the planning controls were extended to 15 ANEF contour it would impact on a significant number of properties, increasing from 11,769 to 45,531 dwellings. The expansion would affect three municipalities previously not subject to the Airport Environs Overlay (Whittlesea, Maribyrnong and Macedon Ranges).

In light of the variable community response to aircraft noise and the proportion of complaints originating from outside the 20 ANEF contour, the report recommends the dissemination of information on aircraft noise outside the 20 ANEF contour. This information would improve awareness of this issue for prospective residents, as well as informing existing residents of future aircraft noise forecasts.

The Steering Committee considered that the extent of notification should be consistent with the Australian Standard guide (Clause 1.3), which discusses the application of standards for buildings within 15 km of an international airport. This area is considered as a primary area and during the last three years 75% of noise complaints have originated within this area. Thus, this area would capture the majority of noise-affected properties. The depiction of the 15 km area should use a soft edge at the boundary to avoid misinterpretation of noise impact. It is noted that the 15km radius around Melbourne Airport extends outside the boundaries of the gazetted environs study area and would affect 5 additional municipalities: Macedon Ranges, Whittlesea, Moreland, Darebin and Maribyrnong.

The report concluded that the method of notification should be in the form of advisory maps and information made available from local Councils, Melbourne Airport and the State Government. The material should be made available widely, and the possibility of using street directories and phone books was encouraged. The option of using the planning system to advise the broader community was considered inappropriate.

The Steering Committee noted that notification of noise exposure within a 15km radius of an international airport has not been applied elsewhere in Australia. The notification recommendation was viewed as innovative, enhancing the protection of Melbourne Airport as a curfew free airport through better community understanding and awareness of aircraft operation and noise exposure. Better community awareness would be particularly helpful at future airport planning milestones such as decisions on new runways.

Discussion

The State Planning Policy Framework (SPPF) currently provides that planning for the Melbourne Airport environs should strengthen the role of the airport as a key focal point within the State's economic and transport infrastructure. In respect of aircraft noise standards for airport environs planning, the SPPF refers to the Melbourne Airport Ultimate Capacity (1998) and the ANEF, endorsed in 1998. The SPPF does not identify which ANEF contours should form the basis of planning controls. To give proper effect to the Steering Committee's recommendation that the 20 ANEF contour be used to define the extent of the Melbourne Airport Environs Overlay, the SPPF should be amended to clearly state this policy and make reference to the ANEF level. The appropriate wording for an amendment was not drafted as part of the report.

The recommendation that no planning controls be applied outside the 20 ANEF would, similarly, require a statement of policy in the SPPF. Appropriate wording for this provision will need to be drafted. The provision will clarify that, in the case of lots within a residential

zone, the boundary will extend to the whole lot. This is consistent with the intention of the report.

Dissemination of information to the broader community on aircraft noise falls outside the planning system. This proposal would involve exploring which information tools could be applied and who would be responsible for delivering this information. It is known that the Commonwealth is seeking comments on *Draft Guidelines for Selecting and Providing Airport Noise Information*. An option under consideration is the use of an interactive information tool on flight numbers and paths.

Government Response

The principle of using the 20 ANEF contour to define the Melbourne Airport Environs Overlay (MAEO) is supported. The practice of referring to the most current ANEF in the SPPF should continue, and the 2003 review of the Melbourne Airport Master Plan could lead to further changes.

The recommendation of specifically excluding planning controls outside the 20 ANEF is considered appropriate and is consistent with the above principle of using this contour to define the MAEO.

The recommendation to disseminate information on aircraft noise within 15 km of Melbourne Airport is supported. The development of information tools would be a project, involving appropriate parties, to explore the most appropriate delivery and responsibility.

Actions

Government will undertake the following actions:

2. The State Planning Policy Framework (SPPF) be amended to provide that the 20 ANEF contour be the basis for defining the Melbourne Airport Environs Overlay.
3. The State Planning Policy Framework be amended to clarify that Airport Environs Overlay planning controls not be applied outside the 20 ANEF contour.
4. A project is initiated to explore information tools and responsibilities for disseminating information on aircraft noise to the community within a 15 km radius of Melbourne Airport. The project will be managed by the Department of Sustainability and Environment and include representation from the Commonwealth Department of Transport and Regional Services, Australian Pacific Airports (Melbourne), EPA Victoria and Councils. The outcome of this project to be reported to the Minister for Planning.

3 Airport Environs Overlay Provisions

Key Directions

- 3.1 That the purposes of the Airport Environs Overlay be amended to clarify the differing planning controls intended for Schedules 1 (AEO1) and 2 (AEO2).

The Report

The Steering Committee found that the operation of the Overlay provisions require clarification of policy intent in how they apply to the two Schedules. The original intent was to have two levels of planning control based on Australian Standard 2021. These planning controls would prohibit defined sensitive uses in Schedule 1 and enable a permit to be obtained for sensitive uses in Schedule 2. The current Overlay includes the following purpose:

“To limit the number of people residing in the area or likely to be subject to significant levels of aircraft noise”.

As the Overlay purposes apply to both Schedules, a level of uncertainty has emerged in relation to how the purpose of limiting the number of people exposed to significant levels of aircraft noise should be applied to Schedule 2. The report considered the original intended controls for the Schedules (recommended by Melbourne Land Use Study Committee 1992). The original intention was to restrict uses within Schedule 1 which may limit airport operations, while sensitive uses could occur within Schedule 2 areas provided that noise attenuation measures be applied where appropriate.

In practice, the intention of having two levels of planning controls has been undermined by a reliance on the purpose of limiting the number of people residing within both Overlays. A number of decisions have been made by the Victorian Administrative Appeals Tribunal against permitting sensitive uses within Schedule 2 areas on the basis that it would be contrary to the Overlay purpose of limiting the number of people residing in noise affected areas.

Discussion

The principle of making a distinction in the purposes of the Airport Environs Overlay, as it applies to Schedule 1 and Schedule 2 would be based on sound planning policy. The recommendation of amending the purpose of the current Airport Environs Overlay would however extend well beyond the Melbourne Airport Environs areas, which have not been the subject of the detailed review (the Airport Environs Overlay affects 23 planning schemes).

Government Response

The Government supports an amendment to clarify the purposes of the Airport Environs Overlay, as it applies to Schedule 1 and Schedule 2. An amendment to the AEO would apply only to Melbourne Airport at this time.

Amendments to the Airport Environs Overlay, which impact on other airport environs, is beyond the scope of the Melbourne Airport Environs Strategy Plan. Nevertheless, the principle may be appropriate for lower order airports and should be considered as part of future reviews of the general Airport Environs Overlay provisions.

Actions

Government will undertake the following actions:

5. That a distinction in the purpose of the Overlay, as it applies to Schedule 1 and Schedule 2 be made in the case of Melbourne Airport.

4 Melbourne Airport Environs Overlay

Key Directions

- 4.1 That a separate Airport Environs Overlay be introduced for Melbourne Airport.

The Report

The report recognised that the amendments proposed to the general Airport Environs Overlay in the current Victoria Planning Provisions (VPP) would impact on planning policy on airport environs for all Victorian airports. The Melbourne Airport Environs Strategy discusses issues which are unique to the environs of Melbourne Airport. The development of appropriate planning control measures would be unduly constrained by the need to conform to the standard VPP Overlay. Incorporating specific provisions relating to Melbourne Airport in the standard Airport Environs Overlay would be inconsistent with the generic purpose of that Overlay. For these reasons a separate Melbourne Airport Environs Overlay is recommended, based broadly on the standard Airport Environs Overlay.

Discussion

The introduction of an additional overlay is generally not consistent with the general principles of VPP based planning schemes which seek to provide a consistent set of Statewide planning scheme controls and provisions. However, the establishment of a specific overlay related to the environs of Melbourne Airport is justified by the strategic importance of the airport. The development of a specific overlay would also enable the development of a transparent and user friendly set of planning controls.

Government Response

Managing aircraft noise issues within the Melbourne Airport environs has been the subject of on-going deliberations since the 1980s. The extent of investigations is considerable and the Ultimate Capacity ANEF for Melbourne Airport provides sound, conservative data on the noise impacts generated at the airport at its ultimate capacity in 2051. The amount of data for Melbourne Airport is more comprehensive and covers a longer forecast than that prepared for other airports. Importantly, Melbourne Airport is recognised as the major airport infrastructure for Victoria and South East Australia. Its role in the Victorian economy and its competitive advantages compared to other airports is paramount.

The proposal to introduce a Melbourne Airport Environs Overlay is supported.

Actions

Government will undertake the following actions:

6. An amendment will be made to the Victoria Planning Provisions to introduce a Melbourne Airport Environs Overlay. A Ministerial amendment will introduce new Overlay schedules.

5 'Deemed to Comply' Provisions

Key Directions

- 5.1 That the State Government formulate 'deemed to comply' construction standards as an alternative to full assessment of noise exposure and attenuation requirements.

The Report

The report considers that the provisions of Schedule 2 are not effective in requiring noise abatement measures being applied to sensitive land uses. The general Airport Environs Overlay enables the responsible authority and the airport operator as the referral authority, to place noise abatement requirements on defined uses which require a planning permit. However, Schedule 2 applies only to uses which require a permit subject to the underlying zone. Therefore, sensitive uses such as 'dwelling' located within a residential zone would not require a permit and therefore not be subject to the provisions of Schedule 2.

The Overlay Schedules are based on ANEF zones of Australian Standard 2021-2000. In considering those provisions, the Steering Committee concluded that all land uses deemed 'conditionally acceptable', should be subject to an assessment of the level of noise exposure and required noise attenuation measures. If the Overlay controls are to remain consistent with AS 2021-2000 then uses deemed 'conditionally acceptable' between the 20-25 ANEF (which falls within the area identified in Schedule 2), should be subject to acoustic assessment in accordance with the Standard.

The report recommends that a practical approach to noise attenuation measures for Schedule 2 be explored. The desirable level of noise attenuation depends on a range of factors including actual noise exposure and building construction materials. Traditional construction materials may achieve a noise reduction to accord with AS 2021-2000. The report therefore recommends the formulation of minimum development standards which, if met, would be 'deemed to comply' with the Australian Standard and not require further acoustic assessment.

Discussion

The concept of developing minimum construction standards for the purposes of noise attenuation has been raised for consideration by the Aviation Working Group of the Standing Committee on Transport. It is expected that this matter will be reported to the Australian Transport Council, Planning Officials Group and the Australia New Zealand Environment Council. If this initiative is supported the Commonwealth would have lead responsibility. A program for this initiative could be developed by the Aviation Working Group.

Government Response

The Government supports the initiative of exploring the merits of 'deemed to comply' construction standards as an alternative to full assessment of noise exposure and attenuation requirements. The efforts of Aviation Working Group on this initiative is supported.

Actions

Government will undertake the following actions:

7. The Minister write to the Commonwealth Minister for Transport and Regional Services requesting that the 'deemed to comply' initiative include consultation with and reporting to the Australian Transport Council, Planning Officials Group and the Australian New Zealand Environmental Council.

6 Referral Authority

Key Directions

- 6.1 That the 'referral authority' status of the Melbourne Airport lessee be replaced with a requirement to notify the lessee on planning applications.
- 6.2 That a set of prescriptive standards be used to guide the implementation of the Overlay provisions.

The Report

A referral authority is an organisation formally recognised under the *Planning and Environment Act 1987* (s. 55) and is given the opportunity to comment, and veto, planning applications that may impact on the activities of that organisation. Under the provisions of the initial Melbourne Airport Area Overlays in 1992, the referral authority was the Federal Airports Corporation, a wholly Commonwealth Government-owned enterprise. With the privatisation of the Melbourne Airport in 1997, the Commonwealth sold the long-term lease for the operation and management of the airport to Australia Pacific Airports (Melbourne) Pty Ltd. The current Airport Environs Overlay provides that for the purposes of applications being referred to the airport owner, the owner is the lessee of the Melbourne Airport in accordance with the *Commonwealth Airports Act 1996*.

The Steering Committee considered that operators of private airports have interests that go beyond those of many referral authorities. These interests include the commercial development of airport land, potentially in competition with similar commercial uses located within the Airport Overlay. It was considered that a potential conflict of interest could exist in the roles of the airport lessee as a private operator of a commercial portfolio, and as a referral authority for land uses within the Overlay environs, which includes commercial uses.

Most other referral authorities' interests are limited to their core business such as the provision of water, sewerage or major roads. In the case of the airport lessee, the report

emphasises that there is no suggestion of inappropriate action; rather it is a matter of perception and principle.

The report recognises that Australian Standard 2021-2000 provides the basis for implementing the airport overlay controls. In particular, the Australian Standard provides the guidance to assess planning permit applications. The interpretation and application of the Australian Standard can be carried out by the responsible authority and therefore the need for a referral authority is questioned.

The Steering Group considered the merits of preparing decision guidelines for the assessment of applications made under the overlay in the interests of providing clarity and certainty to both the airport lessee and permit applicants. The use of a local policy is thought to be the most suitable planning tool to introduce these decision guidelines. However, the preparation of local policies for the number of municipalities involved would require considerable time and resources. An alternative approach is the introduction of prescriptive standards, such as those developed by the airport lessee. Those standards have been in practice for some time and have withstood public scrutiny and review. The report recommends the use of these standards as part of the proposed Melbourne Airport Environs Overlay.

The prescriptive standards restrict subdivision for accommodation within Schedule 1, limits the number of dwellings per lot in Schedule 2, provides a minimum size for residential lots, and sets a maximum site coverage for residential lots involving two or more dwellings.

Discussion

The recommendation to replace the 'referral authority' status of the airport lessee with a requirement of responsible authorities to notify the lessee on relevant planning applications involves a change to the Victorian Planning Provision through a new overlay (the Melbourne Airport Environs Overlay). The details of instances where notification is required will be clarified.

Ensuring that Melbourne Airport operations are protected from incompatible land uses is a clear policy position of the Melbourne Metropolitan Strategy, *Melbourne 2030*. The Strategy aims to maintain the 24-hour curfew-free status of Melbourne Airport. It seeks to ensure that land-use decisions affecting airports are integrated and that appropriate land-use buffers are put in place.

The recommendation to restrict the subdivision of residential lots within Schedule 2 would require a change to each planning scheme. Each amendment should be prepared using a minimum lot area of 300 m² as a baseline then accommodate other considerations and include a complementary local policy.

Government Response

The Government endorses the principle of replacing the referral authority status of the airport lessee with a mandatory notification requirement.

The recommendations to limit subdivisions within Schedule 1 for accommodation purposes, and restricting the size of residential lots within Schedule 2 are supported. Applying the prescribed standards in Schedule 2, is also supported.

Actions

Government will undertake the following actions:

8. The replacement of the referral authority role of the airport lessee with a requirement to notify the lessee will be facilitated through the new Melbourne Airport Environs Overlay. The instances where notification is required will be resolved as part of the new overlay.
9. The additional subdivision controls, the need for a permit for a dwelling in Schedule 2, and the introduction of prescribed development standards will be facilitated through the new Melbourne Airport Environs Overlay.

7 Compensation

Key Direction

- 7.1 That compensation in relation to noise attenuation measures is further investigated following the adoption of the Strategy.
- 7.2 That compensation relating to 'injurious affection' or loss of development rights not be supported.

The Report

The report recognises earlier support for compensation in the case of noise attenuation treatment to bring existing properties into compliance with Australian Standards AS 2001-2000 and supports further investigation for this type of compensation. This suggestion was initially made by the Melbourne Airport Land Use Study Committee in 1992 and then supported by the Independent Panel in 1993.

The Steering Committee considered the matter of loss of amenity and property values occurring within the airport environs, caused by the operation of the airport. This type of impact is known as 'injurious affection' and in Victoria no compensation is payable for injurious affection. Similarly, the Commonwealth makes no provision for compensation for injurious affection (this matter has been the subject of Commonwealth enquiries: the reports of the House of Representatives Select Committee on Aircraft Noise [HORSCAN] and the report 'Falling on Deaf Ears'). It was noted that the Commonwealth does provide for noise amelioration programs for the Sydney and Adelaide airports, funded through a levy on aircraft landings.

The third type of compensation relates to loss of development rights through the imposition of planning controls. The Steering Committee noted that the *Planning and Environment Act 1987* does not provide compensation for loss of development rights and that such compensation for Melbourne Airport is not appropriate.

Discussion

The position of the Independent Panel of 1993 which supported compensation to facilitate noise attenuation treatment for affected properties is noted. Support for this compensation may require a State Government policy position. The noise amelioration program operated by the Commonwealth, in other States, could be considered for Melbourne Airport. While the Steering Committee did not specifically suggest that the applicability Commonwealth program be explored, enquiries to the Commonwealth could be made.

The concept of injurious affection has wide implications if the principle was applied to Melbourne Airport. It would have significant implications for the development of other public uses such as freeways and sewerage plants. It is considered to be outside the scope of the Melbourne Airport Strategy.

In relation to compensating for loss of development rights, the *Planning and Environment Act 1987* is clear where compensation can apply and it does not extend to the loss of development rights. The Act provides that compensation can be considered, particularly where land is reserved for a public purpose. The Act sets out the objectives for planning in Victoria and the planning framework. The Act does not provide inherent development rights. It should be noted that changes to planning controls often enhance development rights for property owners, providing windfall gains. In the case of the proposed controls for Melbourne Airport, the amendment would see additional controls in some instances within the Overlay and reduced controls through a smaller sized Overlay.

Government Response

The Government supports the recommendation to further investigate compensation to facilitate noise attenuation treatment. The Government agrees that compensation for injurious affection is outside the scope of the Melbourne Airport Strategy and that compensation for loss of development rights is inappropriate.

Actions

Government will undertake the following actions:

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| 10. Monitor the issue of compensation in relation to noise amelioration measures, particularly at the national level. |
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Approval and Implementation

The Melbourne Airport Environs Area Strategy Plan has been approved the Minister for Planning. It sets out proposed planning policy and other initiatives relating to the Melbourne Airport environs. The Strategy is required to be presented to both Houses of Parliament for approval by resolution.

It is proposed that the Minister will prepare revised planning controls, contained within the Victoria Planning Provisions.

Other initiatives for airport environs management, falling outside the planning system, require investigation and partnership with interested groups. The Minister, through the Department of Sustainability and Environment, will lead the work on further initiatives.

Appendix 1. Summary of Steering Committee Report & Strategy Plan Position

	Steering Committee Report	Strategy Plan Position
1	Overlay Boundaries	
1.1	<p>That the extent of the control boundaries of the Melbourne Airport Environs Overlay be based on the Ultimate Capacity ANEF.</p> <p><i>Steering Committee Report, Chapter 3, pg 13</i></p>	<p>Defining the boundaries of the Melbourne Airport Environs Overlay on the basis of the most recently approved Ultimate Capacity ANEF is supported. Such a change has a clear policy basis and it provides consistency with Australian Standards.</p>
1.2	<p>That the boundaries of Schedule 1 and Schedule 2 be amended to reflect the 20 and 25 ANEF contours. The Schedule boundaries to follow the ANEF contours except for lots in residential zones, where the boundary is to extend to include the whole lot.</p> <p><i>Steering Committee Report, Chapter 3, pg 13</i></p>	<p>The principle of using the 20 and 25 ANEF contours to define Schedules 1 and 2 of the Airport Environs Overlay for Melbourne Airport is sound and supported. The current 1998 ANEF was subject to a public process as part of the Melbourne Airport Master Plan and is public knowledge.</p> <p>The intended method of applying Schedule boundaries over lots within residential zones is practical and appropriate.</p>
2	Management of Aircraft Noise Outside the 20 ANEF	
2.1	<p>That the 20 ANEF be used to define the extent of the Melbourne Airport Environs Overlay controls and that planning controls not be applied to areas outside the 20 ANEF.</p> <p><i>Steering Committee Report, Chapter 4, pg 18</i></p>	<p>The principle of using the 20 ANEF contour to define the Melbourne Airport Environs Overlay (MAEO) is supported and the practice of referring to the most current ANEF in the State Planning Policy Framework should continue.</p> <p>The recommendation to clearly state a position of excluding planning controls outside the 20 ANEF is appropriate.</p>
2.2	<p>That information regarding aircraft noise within 15 km of Melbourne Airport is disseminated to the community.</p> <p><i>Steering Committee Report, Chapter 4, pg 18</i></p>	<p>The principle of disseminating community information regarding aircraft noise within a wider radius of Melbourne Airport is supported. This initiative requires investigation to explore the most appropriate delivery and responsibility.</p>
3	Airport Environs Overlay Provisions	
3.1	<p>That the purposes of the Airport Environs Overlay be amended to clarify the differing planning controls intended for Schedules 1 (AEO1) and 2 (AEO2).</p> <p><i>Steering Committee Report, Chapter 5, pg 20</i></p>	<p>The Government agrees that this amendment would clarify the intended purposes of the Airport Environs Overlay, as it applies to Schedule 1 and Schedule 2. The amendment is supported in relation to only Melbourne Airport at this time.</p>

	Steering Committee Report	Strategy Plan Position
4	Melbourne Airport Environs Overlay	
4.1	<p>That a separate Airport Environs Overlay be introduced for Melbourne Airport.</p> <p><i>Steering Committee Report, Chapter 5, pg 21</i></p>	<p>The Government recognises the importance of Melbourne Airport in terms of transport infrastructure and its role in the Victorian economy. The operational and economic circumstances of Melbourne Airport are unique, along with the extent of the airport environs, and the depth of available data. The introduction of a separate Melbourne Airport Environs Overlay is therefore supported.</p>
5	'Deemed to Comply' Provisions	
5.1	<p>That the State Government formulate 'deemed to comply' construction standards as an alternative to full assessment of noise exposure and attenuation requirements.</p> <p><i>Steering Committee Report, Chapter 5, pg 21</i></p>	<p>The concept of a 'deemed to comply' arrangement as an alternative to full assessment of noise exposure and attenuation requirements is supported. This initiative is understood to be under consideration by the Aviation Working Group. Consultation with that Group is proposed.</p>
6	Referral Authority	
6.1	<p>That the 'referral authority' status of the Melbourne Airport lessee be replaced with a requirement to notify the lessee on planning applications.</p> <p><i>Steering Committee Report, Chapter 6, pg 24</i></p>	<p>The Government agrees that the role of the airport operator is of a nature that is not compatible with the role of 'referral authority'. The replacement of this role with a requirement to notifying the airport lessee on appropriate planning applications is supported (introducing further planning controls, described below, protects the interests of the lessee).</p>
6.2	<p>Introducing prescriptive standards to guide the implementation of the Overlay provisions. This includes limiting subdivisions within Schedule 1 for accommodation purposes, and restricting residential lots size within Schedule 2. Development standards are proposed for Schedule 2.</p> <p><i>Steering Committee Report, Chapter 6, pg 24</i></p>	<p>The introduction of clear assessment criteria is supported. These guidelines are similar to those being applied in practice.</p>
7	Compensation	
7.1	<p>That compensation in relation to noise attenuation measures is investigated further.</p> <p><i>Steering Committee Report, Chapter 7, pg 26</i></p>	<p>The Government supports the recommendation to further investigate compensation to facilitate noise attenuation treatment. The Commonwealth noise amelioration program may be of interest.</p>
7.2	<p>That compensation relating to 'injurious affection' or loss of development rights not be supported.</p> <p><i>Steering Committee Report, Chapter 7, pg 26</i></p>	<p>The Government agrees that the matter of injurious affection is outside the scope of the Melbourne Airport Strategy, while compensation for loss of development rights is inappropriate.</p>

Appendix 2. ANEF contour plan

