

Terms of Reference for the review of the *Warnervale Airport (Restrictions) Act 1996*

Background

Warnervale Airport is owned by Central Coast Council. The *Warnervale Airport (Restrictions) Act 1996* (the Act) imposes restrictions on the future development and operation of the airport.

A Department review of the Act in 2017 found its broad objectives – to limit future operations, protect the amenity of the surrounding area and ensure open decision-making – remain valid. The review recommended the Act be retained but identified the need for some amendment particularly in the areas of aircraft movement restrictions, triggers for review procedures, definition of terms and a more transparent planning and review framework.

Following the review, a compliance investigation by the Department determined that the former Wyong Council extended the runway thereby triggering the daily flight limit contained in the Act.

Objective

The overall objective of the *Warnervale Airport (Restrictions) Act Review 2019* (the Review) is to remove the current uncertainty created when the airport runway was extended thereby triggering the flight movement restriction provisions of the Act.

The Review is to make recommendations to the Minister for Planning and Public Spaces on necessary legislative amendments to remove the current uncertainty.

Matters out of Scope

The future use of the land upon which the airport is situated and the comparative economic benefits of any alternate uses of that land are not to be investigated or considered. The future use of the airport is a matter for the airport owner.

The economic benefits of the airport in its current form are not to be investigated or considered. The economics of the airport and its operation are matters for the airport owner.

Matters to be investigated

Consistent with the 2017 review recommendations the review should generally include consideration of legislative amendments required to facilitate the operations of the Airport in a manner consistent with that prior to when the flight movement restrictions were triggered.

The threshold issue to be investigated and appropriate recommendation made is:
Whether the Act remains relevant and necessary.

Terms of Reference

If the review concludes that the Act remains relevant and necessary, then the following matters should be examined:

- *Review of flight movement restriction provisions* (existing Part 2) – to assess whether restrictions are required and if retention is preferred to then give consideration to flights counted (and how), curfews, monitoring and related matters.
- *Runway length restriction provisions* (Part 3) – to set current length and require any extension to be subject to an expansion proposal review (under Part 4). (note, historically the existing runway length has been a matter of dispute).
- *Expansion proposal triggers* – Consideration and documentation of the range of developments that would trigger the Act's procedures for reviewing expansion proposals (existing Part 4). This recognises that expansion of Airport operations may require modifications to the runway length (current provision) as well as other aviation safety requirements such as lighting, ground and navigational aids.
- *Expansion proposal review framework* – Establishment of a more effective and transparent expansion proposal review framework (Part 4). This should be supported by terms that specify the information that is to be provided in applications made under the Act, the grounds upon which the Minister will determine any such application, and the procedures to be undertaken. The review should identify and document other relevant statutory requirements such as under the EP&A Act, State and Commonwealth environmental protection legislation and Commonwealth air navigation legislation.
- *Updating and alignment of administrative matters, definitions and investigative powers* – recommendations on administrative amendments to address anomalies, alignment of definitions with relevant state and federal legislation and introduce investigative powers (Part 5).
- *Flexibility* – recommendation on any key parameters of the Act that should be capable of variation (e.g. by prescription in regulations).
- *Review the interaction and consistency of the Act with other legislation* – undertake comparison with other relevant legislation with particular emphasis on identifying areas of duplication.
- *Statutory frameworks for similar airports* – undertake a comparative analysis of the statutory frameworks that apply to airports of similar scale in NSW and other Australian jurisdictions.

Public Submissions

The review should seek and consider submissions by any interested individual or entity.

Governance

The reviewer should meet with the Minister and the Central Coast Mayor at the commencement of the review and to present the draft report. Fortnightly meetings will be held with senior executives of the Department and Council to update on progress.

The Department will provide secretariat service to the reviewer.

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