

CITY OF MOONEE VALLEY

SUBMISSION TO THE ESSENDON AIRPORT DRAFT MASTER PLAN 2008-2013



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INTRODUCTION

1. This submission is made on behalf of the City of Moonee Valley (**Council**), being the local government authority with responsibility for the area surrounding the Essendon Airport (**airport**) and the responsible authority for the administration and enforcement of the Moonee Valley Planning Scheme (**Scheme**).
2. Attached as Appendix B are copies of submissions received from members of the Moonee Valley community sent to Council.

Developments since the 2003 Master Plan

3. As noted in the appendix to the 2003 Master Plan, Council has previously expressed its view that the airport had a questionable long term future. Council's opposition to the continued operation of the airport is set out in clause 21.14 of the Scheme and is supported in Melbourne 2030.
4. In that regard, Council's 2003 submission expressed concerns regarding the introduction of Australian Noise Exposure Forecast (**ANEF**) contours to areas surrounding the airport for the first time, and the potential development restrictions ANEF contours might lead to through the use of a planning control such as the Airport Environs Overlay.
5. Council maintains that its constituents should not be adversely affected, either in terms of amenity, nor in terms of reasonable development expectations, on account of the continued operation of the airport, or by the introduction of new airside service operations.
6. Having regard to the strategic location of the land, and consistent with clause 21.14 of the Scheme, it is considered that landside developments at the airport are more consistent with the strategic planning directions outlined in State planning policy (including Melbourne 2030) than aviation operations can ever be. Furthermore, the site represents a valuable supply of land that is perfectly suited to the provision of commercial and residential land uses, subject to the preparation of a fully considered Master Plan.

7. Whilst Council recognises that EAPL supports its view that an Airport Environs Overlay should not be introduced, Council remains of the view that the airport should be closed and the land devoted to use for traditional urban purposes. In this regard Council is broadly supportive of the proposed landside development proposals, although it is concerned that the manner in which development is proceeding is insufficiently transparent or accountable. The strategic underpinnings of the approach to landside development at the airport need to be justified to State and local constituents, so as to achieve an activity centre that is integrated with its surrounds.
8. In this regard Council is concerned that some of the promises made in the 2003 Master Plan have not been kept. At page 17 of Attachment 4 to the 2003 Master Plan, EAPL responded to Council's submissions regarding the need for development guidelines to be prepared in consultation with local government and the community. EAPL advised that it would issue future Major Development Plans to Council for consultation.
9. However, Council never received any advance consultation in respect of the existing commercial development in the English Street Precinct, including the recent supermarket (for example). Further, such developments are not specifically described in the 2003 Master Plan itself. How is orderly and integrated strategic planning to be achieved if there is no consultation at this basic level?
10. It is considered that the failure to properly consult Council in relation to the commercial development in the English Street precinct has undermined confidence in the approach of EAPL to development of the airport. The use of flexible planning tools under the zone controls in the Land Use Plan may be appropriate where assessment criteria are transparent, or where, as is generally the case in Victoria, decisions are subject to merits review by an independent body. This independent review protects public trust in the administration of land use planning decisions.
11. The Major Development Plan process prescribed under Part 5 of the *Airports Act* 1996 appears to have been by-passed in relation to the English Street Precinct. Given this ad hoc, obscure and arguably illegal procedure, it is submitted that if any degree of public confidence is to be generated through the Master Plan process, EAPL should now adopt a more rigorous and transparent suite of planning controls to guide the decision making process under the Land Use Plan, using concept plans or development plans as attachments (for example as a schedule to a Development Plan Overlay). This issue will be explored further below.

KEY ISSUES

12. The key issues to be addressed in Council's submission are as follows:
1. The impact of changes to the airside (aviation) operations on the amenity of the surrounding area;
 2. Assessment of infrastructure impacts associated with land side development at the airport, and development contributions by EAPL;
 3. The veracity of the Land Use Plan;
 4. Procedural fairness and accountability of decision making by EAPL under the Land Use Plan.

CHANGES TO AIRSIDE OPERATIONS AND NOISE IMPACTS

13. Broadly speaking Council notes that the major changes proposed to the airside operations include:
- the re-development of the Victorian Police Airwing and Air Ambulance Centre (**VPA&AAC**) in the northern part of the Aviation Precinct;
 - the pursuit of opportunities in the corporate jet sector of the general aviation industry¹ over the planning period;
 - the development of up to 11 new hangars²;
 - the recent development of an upgraded runway lighting system costing \$5 million; and
 - the possibility of a new control tower.
14. The re-development of the VPA&AAC is not referred to in the 2003 Master Plan and as far as Council is aware, no proposed variation to the 2003 Master Plan was exhibited as contemplated by section 84 and 84A of the Airports Act. Indeed, the 2003 plan (at page 53) suggests aviation activities in the north-west area were to be phased out and hangars consolidated into a smaller and more central aviation precinct. The Aviation Plan set out in the 2003 Master Plan appears to have been discarded in favour of a larger and more intense airside operation.

¹ Refer page 60 of Draft Master Plan.

² Refer page 60 of Draft Master Plan.

15. Council's primary concern is that EAPL seeks to offset a forecast decline in its traditional aviation operations by attracting and facilitating larger and noisier aircraft, through alterations of existing regulatory restrictions. Council believes that the inevitable and desirable future urban consolidation and intensification of residential land use around the airport site (including the residential development proposed in the Hart Precinct) should not be prejudiced by planning decisions which purport to intensify the aviation activities at the airport.
16. The Master Plan acknowledges that the airport is struggling to compete with smaller airports for the general aviation market. The Master Plan suggests EAPL are looking to the corporate jet market to offset this decline. With this comes a demand to accommodate larger jets and more flexible operating conditions. If, however, the key rationale of EAPL's aviation growth plans is a desire to attract higher margin corporate jet patronage, Council submits that the need to accommodate such growth is questionable both in economic terms and in terms of the sound strategic planning of the area. If the federal government were forced to choose between facilitating more housing or corporate jet movements at the airport, the choice is relatively simple.
17. Corporate jet travel is neither an essential service, nor one which should be encouraged in an area which is exposed to sensitive residential interfaces. In the carbon constrained economy, the economic case for committing the City of Moonee Valley to such jet travel over the longer term cannot be stated with any degree of certainty. EAPL's economic modelling cannot pre-empt the impact of an Emissions Trading Scheme on the aviation sector.
18. Council maintains its long held view that the airport should close in the short to medium term. Council is of the belief that the long-term future of the airport site rests with landside development opportunities rather than aviation. Should residential development occur in the Hart Precinct in the longer term, Council would be concerned that the continued aviation operations would represent a major hurdle to such development proceeding, whereas Council is broadly supportive of the concept of a residential land use outcome within this precinct.

19. In this regard, Council is concerned that EAPL has endorsed the development of new hangars without consulting Council and has chosen to model noise exposure forecasts based on a more intense mix of aircraft. The tone of references in the draft Master Plan to the refusal of Boeing Business Jets and existing restrictions imposed by the curfew and Maximum Take Off Weights (**MTOW**) suggest EAPL wishes to do away with such restrictions.³ This language is of significant concern to Council.
20. EAPL should provide an unequivocal statement of intent as to any future changes to existing restrictions prior to submitting the draft Master Plan to the Minister. Council requests that EAPL guarantee that it not seek to alter the existing curfew status or the MTOW restrictions.
21. Furthermore, EAPL should renew its previously stated commitment to the Noise Consultative Committee by providing additional funding so as to allow it to report to the community on a quarterly basis.

Recommendation 1-3

In reporting to the Minister pursuant to section 80 of the Airports Act, EAPL should:

1. *record that Council is opposed to the ongoing use of the site for aviation purposes;*
2. *answer the questions listed in Attachment A, Section A to this submission;*
3. *advise the Minister that Council requests an opportunity to address the Minister on the matters raised in this submission prior to any decision being made in respect of the approval or otherwise of the Master Plan.*

INFRASTRUCTURE IMPACTS ASSOCIATED WITH LANDSIDE DEVELOPMENT

22. By way of background Council refers EAPL and the Commonwealth Minister for Infrastructure, Transport, Regional Development and Local Government (**Minister**) to its submission to the 2004 Major Development Plan for the development of the Bulla Precinct. That submission raised a number of concerns regarding the need for proper assessment of traffic impacts associated with the use of Bulla Road.

³ See in particular page 35 of the draft Master Plan.

23. Council acknowledges that the Major Development Plan procedure prescribed in Part 5 of the Airports Act as being the most logical and appropriate stage for issues of design detail to be addressed. However, Council is concerned that infrastructure upgrades and the need for development contributions towards the upgrade of surrounding infrastructure services is not afforded any explicit consideration in the draft Master Plan.
24. In Council's view the Master Plan should identify a procedure for addressing such key issues at this strategic planning phase so as to ensure infrastructure needs receive appropriate attention well in advance of development proceeding. Alternatively, the infrastructure issues should be addressed by use of a more prescriptive planning control in the Land Use Plan. This approach will better ensure a transparent and coordinated approach to the assessment of development within each precinct.
25. Council notes the statements with the Draft Master Plan in respect of the need to improve:
- ramp access to English Street;
 - public transport connections to Matthews Avenue and the airport site generally;
 - sediment treatment in the existing stormwater network; and
 - stormwater detention.
26. Council notes that in approving the Major Development Plan for the Bulla Precinct subject to conditions in 2004, the then Commonwealth Minister for Transport 'urged' EAPL to develop an Integrated Public Transport Plan for the entire airport.
27. Council believes that a detailed assessment of existing capacity in the surrounding infrastructure networks needs to be assessed by EAPL prior to intensification of landside development at the airport. In this regard it is Council's position that EAPL should submit an Infrastructure Needs Assessment within the next 6 months for the purposes of engaging Council and relevant infrastructure authorities in developing a coordinated approach to these critical infrastructure issues. Further, that it is noted that where deemed necessary, upgrade of infrastructure will be undertaken at the expense of EAPL to the satisfaction of the Responsible Authority.

Recommendations 4- 6

In reporting to the Minister pursuant to section 80 of the Airports Act, EAPL should:

4. *answer the questions set out in Appendix A, Section B to this submission*
5. *provide an assurance to Council and the Minister that:*
 - *a comprehensive assessment will be carried out of existing capacity constraints in the surrounding stormwater network and that no polluted waters are released from the site into the network*
 - *an hydrological analysis will be provided in respect of proposed land side development impacts on stormwater infrastructure (it is not considered adequate to simply propose stormwater detention in this regard);*
 - *it will submit a comprehensive rainwater harvesting plan for each precinct which addresses how rainwater is to be captured and used on-site (rather than merely be retarded) so as to minimise the impact of stormwater on the surrounding drainage network;*
 - *it will submit traffic management studies or SIDRA analysis in relation to any proposed development of the various precincts;*
6. *be required to provide an Integrated Public Transport Plan as would normally be required for any major commercial development in an activity centre (see clause 12.08 of the Moonee Valley Planning Scheme), including details of proposed funding arrangements.*

THE VERACITY OF THE LAND USE PLAN AND INTEGRATION WITH COUNCIL'S LOCAL PLANNING POLICY FRAMEWORK

28. As but one example of Council's concerns with the Land Use Plan, proposed clause 21 does not appear to have been amended to accommodate the change of direction in the draft Master Plan. Whereas (for example) the draft Master Plan envisages dispersed airside operations including the re-developed VPA&AAC in the north-west section of the Aviation Precinct, clause 21 harks back to the need to consolidate aviation facilities into a centralised area and makes no reference to the new airside development proposals⁴. Similar observations can be made about other clauses in the local section of the Land Use Plan.

⁴ See clause 21.04-01 at page 8 of 19.

29. Whilst the local policy framework in the Land Use Plan should be refined, Council is concerned that such amendments not occur after the Master Plan is approved.
30. In the version of the Master Plan provided to Council the proposed local policy for the English Street Precinct is missing. Therefore, Council has not been able to review this aspect of the local policy framework.
31. In terms of the applicable zoning matrix, Council appreciates that the use of the Business 2 Zone to the English Street Precinct with Special Use Zones proposed for the Airside precincts (including the Hart Precinct) is consistent with the 2003 Master Plan. However, as outlined above it is Council's view that zone controls alone are a blunt instrument which do not of themselves ensure that decision making will be accountable, or that development will proceed in a coordinated and orderly manner.
32. So as to promote the coordinated, transparent and accountable development of the airport site, it is now considered appropriate to consider the use of other planning tools. The incorporation of more detailed conceptual and design plans into the Land Use Plan will help to avoid confusion over the nature and timing of development, how development contributions will be addressed, public transport and the like. Broadly speaking, there is insufficient detail about how these critical issues will be addressed in the exhibited Land Use Plan and insufficient accountability for consent decisions which have previously been made.
33. Since no review rights apply to affected persons and since (to Council's knowledge), there are no means of accessing the reasons for decisions under the Land Use Plan, Council is concerned that the decision making framework is less than transparent. This can be cured by being more prescriptive in the Land Use Plan about the timing and nature of development.
34. One example of where the flexible approach to decision making under the Land Use Plan has led to a poor planning outcome is the signage arrangements for the Bulla Precinct interface with the Calder Highway Interchange. Council believes the signage of these bulky goods outlets is overly cluttered, and fails to enhance this important gateway to the city.
35. Signage arrangements could have been addressed in a more transparent manner through the Land Use Plan or Major Development Plan process. Such signage should have been planned for in an holistic manner using design guidelines and concept plans with a view to ensuring the safety and visual amenity of the freeway interchange was enhanced and by preventing ad hoc development. Regrettably, it

would appear that Council's concerns about signage, as expressed in its 2004 submission to the Bulla Precinct Major Development Plan have come to fruition.

36. The decision guidelines at clause 65 of the Land Use Plan confirm that EAPL is not required to consider impacts on the surrounding area as part of its discretion, yet the airport cannot exist in a vacuum. It must address the need to accommodate off-site impacts of landside and airside development on the public realm and surrounding infrastructure.
37. A more transparent and prescriptive Land Use Plan should be developed using controls similar to a Development Plan Overlay which prescribe design parameters for the various precincts addressing:
 - urban design;
 - signage;
 - infrastructure provision including development contributions;
 - public transport; and
 - public open space.
38. Of course, Council is particularly concerned about the ad hoc approach to development in the English Street precinct, since it has not ever been made aware of any Major Development Plan being prepared for that precinct, as Council believes was required under Part 5 of the Airports Act. In this regard, Maddocks is instructed that Council was not consulted (for example) about the development of the new Coles supermarket in that precinct. The first mention of the supermarket is a retrospective reference in the draft Master Plan.
39. Clearly, such 'anchor' land uses have the potential to affect the strategic planning of adjoining land, infrastructure provision and the like. Council therefore urges EAPL to adopt a more transparent approach to future development across the airport site.

Recommendations 7 -8

In reporting to the Minister pursuant to section 80 of the Airports Act, EAPL should:

- 7. address how the use of more prescriptive controls (such as a Development Plan Overlay) addressing the matters of concern to Council as identified in this submission could improve public confidence in the decision making process under the Land Use Plan;*
- 8. address the questions set out in Appendix A, Section C to this submission.*

PROCEDURAL FAIRNESS & ACCOUNTABILITY

40. As will be clear from the previous submissions, Council has concerns about the lack of transparency in the decision making procedures under the existing Land Use Plan, given that decisions made by EAPL are not subject to independent third party review. In the case of an 'Airport Operators Consent' issued pursuant to the Land Use Plan, there is no transparent procedure for the inspection of a permit register, or the enforcement of permit conditions.
41. From an accountability perspective, stakeholders may reasonably ask what is the point of contributing to the development of the Master Plan if:
 - EAPL is prepared to carry out large scale development without developing a Major Development Plan;
 - EAPL is entitled to make decisions on permit applications under the Land Use Plan for which it is not accountable; or if
 - there is no provision in the Land Use Plan or the Airports Act which provides for any degree of Ministerial or Departmental oversight of decision making under the Land Use Plan after the Master Plan is approved.
42. Moreover, the proposition that an airport operator controlled by entities with vested pecuniary interests in the commercial development of the airport should be able to grant itself development permission under a statutory decision making framework is one contrary to law. There is nothing in the Airports Act which suggests that the airport operator should decide for itself whether any particular development should proceed. It is submitted that the legislative scheme requires the Minister to retain primary responsibility for decision making under the Land Use Plan.

43. In the absence of independent review, the vesting of delegated discretion to an entity controlled by private enterprise offends against established principles of procedural fairness, which require that administrative decisions are free from apprehended or actual bias. The absence of independent review does nothing to cure perceptions of bias which will permeate decisions made by EAPL.
44. In considering a draft Master Plan, the Minister should have regard to the degree to which public confidence will be promoted by the decision to approve the Master Plan in circumstances where the consent authority's controlling shareholders have vested pecuniary interests in minimising the regulatory burden.
45. It is considered that this question of procedural fairness, inherent in the structure of the Land Use Plan has the potential to, as a matter of law, vitiate any decision to approve the Master Plan under Part 5 of the Airports Act.
46. It is Council's position that a much greater degree of Ministerial oversight is required for decisions made under the Land Use Plan. Council believes that the question of accountability can and should be built into the Master Plan itself. This is particularly so given the very mixed purposes of development envisaged at this airport.
47. Council has identified the use of an alternative planning control such as a Development Plan Overlay, whereby a structure or concept plan may be incorporated into the Land Use Plan for each precinct area incorporated into the Land Use Plan. Such an approach would serve to provide stakeholders with a greater degree of certainty in relation to decisions made by EAPL for the simple reason that Ministerial oversight had extended to the design phase, and had set parameters to promote coordinated development, rather than ad hoc and unaccountable decision making.

Recommendation 9

In reporting to the Minister pursuant to section 80 of the Airports Act, EAPL should answer the questions set out in Appendix A, Section D to this submission.

APPENDIX A

QUESTIONS TO BE ADDRESSED BY EAPL

A	Noise impacts of aviation activities
	1. Are the modified ANEF contours set out at page 40 of the draft Master Plan based only on noise from aircraft which comply with the existing take off weight restrictions and curfew?
	2. Will EAPL guarantee the residents of Moonee Valley that it will not seek permission to: <ul style="list-style-type: none">▪ increase the permitted Maximum Take Off Weight (MTOW) currently applicable to the airport?▪ alter the existing curfew status?
	3. Have emergency and air ambulance flights been incorporated into the ANEF contours? There is no specific mention of emergency flight movements in the forecasts at page 36.
	4. In the 2003 submission Council identified 1700 houses affected by the ANEF contours. How many dwellings will be affected by the amended contours, assuming larger aircraft are included in the modelling?
	5. Does EAPL have any evidence of support from the current Commonwealth Minister for Transport for any alteration to the regulations which govern weight restrictions or the curfew status at Essendon Airport?
	6. Did EAPL decide to upgrade the lighting of the runways to accommodate heavier aircraft?
	7. There is no reference in the draft plan to the Essendon Airport Noise Consultative Committee as referred to at page 47 of the 2003 Master Plan. Why not?
8. Will EAPL commit to funding the Noise Consultative Committee so that it is able to meet and report on a quarterly basis?	

B	Infrastructure
	1. If residential development proceeds in the Hart Precinct, will EAPL rule out the possibility of seeking direct access to the west of the airport site through the local road network in Strathmore?
	2. Will EAPL engage suitably qualified professionals to prepare an Infrastructure Needs Assessment to assess the likely impacts of land side development on: <ul style="list-style-type: none"> – drainage infrastructure; – traffic networks (including access arrangements for development in the Hart Precinct); – public transport demand; and – urban design (including signage). <p>It is noted that any stormwater emanating from this site will need to be assessed in terms of capacity and quality of the water and where deemed necessary, upgrade of external infrastructure at the expense of EAPL is to be undertaken to the satisfaction of the Responsible Authority.</p>
	3. Will EAPL submit a SIDRA traffic analysis and/or traffic management plan for its land side development proposals which outlines costings for necessary road infrastructure upgrades?
	4. Does EAPL acknowledge a need to provide financial contributions to infrastructure upgrades associated with landside development including contributions for drainage, roads, public transport services and public open space?
	5. Will EAPL submit an Integrated Public Transport Plan and fund public transport services to the airport site.
C	Land Use
	1. What process governed the approval of recent developments in the English Street precinct?
	2. Are there any record of Ministerial approval of developments in the English Street Precinct, or any Major Development Plan for that precinct?
	3. Will EAPL amend the Land Use Plan by introducing a Development Plan Overlay for each precinct?
	4. Will EAPL commit to funding of public transport infrastructure to connect the commercial precincts with the Matthews Avenue public transport corridor?
	5. Has EAPL assessed the impact of its upgraded runway lighting on any future residential development in the Hart Precinct?
6. Has EAPL assessed the interface of the proposed aircraft parking area in the Hart Precinct in terms of noise, visual impact and the like? How does EAPL	

	propose to address this interface issue?
D	Procedural Fairness
	1. Since EAPL is controlled by entities with vested commercial interests in the development of the airport, how will it ensure that decision making under the Land Use Plan is not affected by apprehended or actual bias?
	2. Will EAPL consider the use of a more transparent planning control (for example a Development Plan Overlay) to guide development and the provision of key infrastructure?
	3. Does EAPL propose any independent review and/or monitoring of decision making under the Land Use Plan?