

# Planning Panels Victoria

## Melbourne Airport Environs Safeguarding Standing Advisory Committee

### Part B Final Report

*Planning and Environment Act 1987*

**15 November 2021**

*Planning and Environment Act 1987*

Standing Advisory Committee Report pursuant to section 151 of the PE Act

Melbourne Airport Environs Safeguarding Standing Advisory Committee

Part B Final Report reporting on:

The effectiveness of the Melbourne Airport Environs Area, the Melbourne Airport Environs Strategy Plan 2003, the Melbourne Airport Environs Overlay and other related planning provisions, in safeguarding Melbourne Airport's ongoing, curfew-free operation and its environs.

15 November 2021



Lester Townsend, Chair



Peter Edwards, Member



Liz Hui, Member

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## Glossary and abbreviations

Term	Meaning
AEO	Airport Environs Overlay
AEO1	Schedule No 1 to the Airport Environs Overlay
AEO2	Schedule No 2 to the Airport Environs Overlay
ANEF	Australian Noise Exposure Forecast
APAM	Australia Pacific Airports (Melbourne) Pty Ltd – the operator of Melbourne Airport
AS2021	Australian Standard AS2021-2015, Acoustics - Aircraft Noise Intrusion - Building Siting and Construction, current version was published 25 March 2015
Brimbank	Brimbank City Council
CACGMA	Melbourne Airport Community Aviation Consultation Group
CASA	Civil Aviation Safety Authority
CNS	Communication, navigation and surveillance
DELWP	Department of Environment, Land, Water and Planning
DITRDC	Department of Infrastructure, Transport, Regional Development and Communications
Hume	Hume City Council
Kingston	Kingston City Council
MACAG	Melbourne Airport Community Action Group
MAEO	Melbourne Airport Environs Overlay
MAEO1	Schedule No 1 to the Melbourne Airport Environs Overlay
MAEO2	Schedule No 2 to the Melbourne Airport Environs Overlay
Melbourne Airport Environs Area	Area declared by Governor in Council in accordance with Section 46S(1) of the Planning and Environment Act 1987
Melton	Melton City Council
Moreland	Moreland City Council
NASF	National Airports Safeguarding Framework
OLS	Obstacle Limitation Surface for an airport is a surface ascertained in accordance with the procedures in Annex 14 to the Chicago Convention as defined in the <i>Air Navigation Act 1920</i>
PANS-OPS	Procedures for Air Navigation Systems Operations – A surface ascertained in accordance with the procedures in document number 8168 OPS—611, Procedures for Air Navigation Services, Aircraft Operations, published by the International Civil Aviation Organisation on 11 November 1993.
PE Act	Planning and Environment Act, 1987
PPF	Planning Policy Framework
Practitioner’s Guide	A Practitioner’s Guide to Victorian Planning Schemes (Version 1.4, April 2020)
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions

## About this Report

In April 2021 the Melbourne Airport Environs Safeguarding Standing Advisory Committee (the Committee) prepared an Issues and Options Paper. Its purpose was to seek specific comments on draft changes to the VPP that might improve airport safeguarding, the need for which were subject of submission during Committee Hearings in February 2021. At the end of those Hearings, it was clear further consultation and discussion was required.

Round table discussions with parties to the February Hearing and other invited stakeholders were held on 30 and 31 August and 1 September 2021 on the text of potential controls and policy changes.

This aspect of the Committee's work has been undertaken by:

- Lester Townsend, Chair
- Peter Edwards
- Elizabeth Hui.

The Committee has been assisted by Chris Brennan, Project Officer, Planning Panels Victoria.

Further general information about airport safeguarding can be accessed at:

[www.planning.vic.gov.au/policy-and-strategy/airports-and-planning](http://www.planning.vic.gov.au/policy-and-strategy/airports-and-planning).

## Executive summary

Part B of the Committee's Terms of Reference task it to report on:

The effectiveness of the Melbourne Airport Environs Area, the Melbourne Airport Environs Strategy Plan 2003, the Melbourne Airport Environs Overlay and other related planning provisions, in safeguarding Melbourne Airport's ongoing, curfew-free operation and its environs.

It is State policy to protect Melbourne Airport's 24 hour, curfew-free operations at its ultimate four-runway layout. *Plan Melbourne 2017-2050* – Melbourne's metropolitan planning strategy – and state policy provide for protection of the airport's curfew-free status and supports the airport's expansion whilst protecting urban amenity.

The National Airports Safeguarding Framework (NASF) aims to enhance safety, viability and growth of aviation operations and drive improvements in planning outcomes and supports the integration and co-ordination of planning related to airport operations. The State Government agreed to the NASF in May 2012. In 2015, NASF was included as a reference document (now policy document) in the Victorian Planning Provisions (VPP) and relevant planning schemes.

Despite the NASF having been embedded in the Victorian planning system since 2015, it became apparent through this process that there remains significant misunderstanding, and ignorance around its purpose and application.

Noise related issues were the principal concern of councils, developer bodies and residents but the NASF covers a range of issues:

- aircraft noise
- risk of building generated windshear and turbulence at airports
- risk of wildlife strikes in the vicinity of airports
- risk to aviation safety of wind turbine installations (wind farms)/wind monitoring towers.
- risk of distractions to pilots from lighting in the vicinity of airports
- risk of intrusions into the protected operational airspace of airports
- protecting aviation facilities – communication, navigation and surveillance
- protecting strategically important helicopter landing sites
- managing the risk in public safety areas at the ends of runways.

In mid-2020 the Committee sought submissions on safeguarding issues and in February 2021 the Committee conducted Hearings. Following the conclusion of the Hearing, the Committee prepared an Issues and Options Paper containing questions regarding how the NASF would be best incorporated into the planning controls and draft changes to policy and controls. These items were interrogated at the round table discussion held on 30 and 31 August and 1 September 2021.

Since the round table was held; Amendment VC173 (gazetted 26 October 2021) has updated the extent of the Melbourne Airport Environs Overlay (MAEO) to reflect the *Melbourne Airport Master Plan 2018* for the airport.

The key issues related to noise and the proposed planning controls were identified including:

- how the NASF guidelines should be used
- how N contours should be used
- density restrictions in the MAEO
- development of non-sensitive uses.



In relation to noise, using N contours – a way of measuring noise impacts from airports – generated the most discussion. Use of N contours, if applied without qualification may result in the quarantining or sterilising of significant tracts of developable land. In the strategic planning sphere, the NASF requires that noise issues are ‘considered’ and the associated Guideline A uses terms such as ‘avoid’ as opposed to ‘prohibit’. The fundamental issue is to ensure that future development appropriately considers aircraft noise and to develop an effective strategy to ensure appropriate amenity continues.

The following table broadly summarises the position of the parties in relation to each of these key issues.

Issue	Party				
	APAM*	Councils	Developers	Residents' groups	Practitioners
NASF	Should be incorporated into planning policy	Should remain as a guideline only	Should remain as a guideline only	-	There was a focus on N contours and how they should be used
N contours	Should be incorporated into planning policy as an overlay	Should be used for information only, as a mapping tool	Should be used for information only, as a mapping tool Concerned that use of N contours may increase development costs	Consider N contours may be more understandable than ANEF (Australian Noise Exposure Forecast)	Should not be used for land use planning decisions Useful information to prospective land users
Density restrictions in planning controls	Retain	Change to allow higher density	Change to allow higher density	Some groups wished to retain, others wished to allow for increased density	-
Development of non-sensitive uses	Broad consensus that appropriate development of non-sensitive uses is acceptable and planning control language should reflect this				

\* Australia Pacific Airports (Melbourne) Pty Ltd

The ‘safety’ issues in the NASF have differing geographical areas of influence ranging from a few hundred metres to several kilometres from the airport. These can readily be managed through the application of an overlay and permit trigger requirement, which ensure these important issues are captured and considered through a development application process.

Significant debate centred around whether Australia Pacific Airports (Melbourne) Pty Ltd (APAM) should be a determining referral authority in relation to safety issues; the Committee concludes that it should be a referral authority.

A key tenet was to increase the awareness and understanding of how airport operations impact on the broader community, in particular for people purchasing or renting property in noise affected areas. Introducing a mapping tool and providing advice on planning reports could be implemented in the short term with changes to require notice to potential owners and tenants in the long term.

Incorporating a series of overlays for the NASF guidelines, together with the development of practice notes should improve the overall understanding of how airport operations impact, and more importantly how they can be effectively managed, the broader environment.

In response to the issues raised in submissions, the Committee concludes:

- The Committee’s task is to advise on how NASF can be further implemented in the VPP.
- The principles set out in A Practitioner’s Guide to Victorian Planning Schemes define how planning scheme drafting should be approached.

- The fact that the airport is managed by a private entity is immaterial to safeguarding considerations.
- Issues of airport safeguarding need to be balanced at a strategic level. For this to happen relevant safeguarding issues need to be expressed in policy.
- Individual planning applications need to be judged on whether they deliver acceptable outcomes. For this to happen appropriate safeguarding controls need to be introduced into planning schemes.
- The relevant parts of the NASF need to be embodied in PPF strategies. The Committee does not support strategies that take the decision maker to the NASF for relevant advice.
- In addition to changes to 18.04-1S (Planning for airports and airfields) and 18.04-1R (Melbourne Airport), there is merit in making policy changes to Clauses:
  - 11.02-1S (Supply of urban land)
  - 13.05-1S (Noise abatement).
- The Melbourne Airport Environs Overlay and Airport Environs Overlay should be adapted to deal with all relevant safeguarding issues. This is seen as the most transparent and understandable approach.
- The safeguarding overlays should:
  - Express their safeguarding purpose generally in the form: *To ensure that the risk to aviation safety from [NASF Guideline topic] is limited.*
  - Avoid requiring a planning permit where possible.
  - Include a Decision guideline generally in the form: *The National Airports Safeguarding Framework Guideline [number].*
- N contours should be:
  - considered for strategic land use decisions
  - should not be used for statutory planning decisions, except in relation to noise protection in apartments.
- In Clause 18.04-1 (Planning for airports and airfields):
  - Make it clear that areas outside the UGB affected by N contours should not be rezoned for sensitive uses.
  - Clarify the area potentially affected by aircraft noise includes undeveloped and developed areas within the UGB areas affected by N contours.
  - Include strategies for land within the 20 ANEF contour to limit the intensification of sensitive uses and avoid zoning changes that would provide for noise-sensitive developments.
- Just because land falls within an N contour does not automatically mean that noise mitigation will be required. The N contour indicates the number of events over a certain noise level only, there is no information regarding the magnitude of excess over the contour level.
- Prohibiting Dwellings in the MAEO1 would potentially mean dwellings are prohibited in some residentially zoned land. This is not an appropriate planning outcome.
- The current density limits in MAEO2 should be maintained.

## Recommendations

The Committee envisages that its recommendations might be introduced in stages:

- **short term:**
  - make the changes to the PPF incorporating N contours into planning schemes and present them in VicPlan
  - make changes to the MAEO parent provision and schedules 1 and 2

- change Clause 52.15 (Heliport and Helicopter Landing Site), and introduce a Helicopter Landing Site Overlay, but do not apply it without further consultation
- make the operator of Melbourne Airport a referral authority
- formally commit to the other schedules.
- **medium term:**
  - apply the Helicopter Landing Site Overlay following consultation
  - introduce a Practice Note
  - review the Melbourne Airport Environs Strategy Plan
  - refine and introduce the other schedules.
- **longer term:**
  - provide information to potentially affected persons by:
    - Section 32 statements under the *Sale of Land Act 1962*
    - Section 30D statements under the *Residential Tenancies Act 1997*.

The Committee recommends:

1. **Review the Melbourne Airport Environs Strategy Plan and its statutory implementation to:**
  - a) **Ensure the Strategy Plan addresses current issues**
  - b) **Ensure the purpose and statutory function of Clause 51.04 9 (Melbourne Airport Environs Strategy Plan) is clear**
  - c) **Permit a broader role for the Melbourne Airport Environs Overlay and the Airport Environs Overlay.**
2. **Use the Melbourne Airport Environs Overlay to implement safeguarding for Melbourne Airport, and by implication the Airport Environs Overlay for other airports and update the *Ministerial Direction – The Form and Content of Planning Schemes* and local schedule templates to reflect recommended changes.**
3. **Develop a Planning Practice Note to explain safeguarding issues and approaches.**
4. **Review the potential impacts that aircraft noise might have on the development aspirations for:**
  - a) **Broadmeadows Activity Centre**
  - b) **Gladstone Park Activity Centre**
  - c) **Sunshine National Employment and Innovation Cluster.**
5. **Include N contours as a layer in VicPlan (and as an incorporated document in planning schemes so they can be given proper effect in planning decisions).**
6. **Provide information to potentially affected persons by:**
  - a) **In the short term:**
    - **A statement in planning reports**
  - b) **In the longer term:**
    - **Section 32 statements under the *Sale of Land Act 1962***
    - **Section 30D statements under the *Residential Tenancies Act 1997*.**
7. **Update the Planning Policy Framework for:**
  - a) **Clause 11.02-1S (Supply of urban land), as shown in Appendix C.1**
  - b) **Clause 13.05-1S (Noise abatement), as shown in Appendix C.2**
  - c) **Clause 18.04-1S (Planning for airports and airfields), ss shown in Appendix C.3.**
8. **In respect to managing the impacts of aircraft noise:**
  - a) **Include aircraft noise as a ‘noise reference area’ in Standard B40/Standard D16 as shown in Appendix C.4**
  - b) **Update the Melbourne Airport Environs Overlay head clause as shown in Appendix C.5**

- c) Update Melbourne Airport Environs Overlay Schedule 1 as shown in Appendix D.1
  - d) Update Melbourne Airport Environs Overlay Schedule 2 as shown in Appendix D.2.
9. In respect to windshear:
- a) Introduce a new overlay Melbourne Airport Environs Overlay Schedule 3 (Windshear protection) as shown in Appendix D.3
  - b) Review Clauses 62.02-1 and 62.02-2 to determine whether some currently exempt Buildings and works should require a permit in areas where windshear needs to be managed.
10. In respect to wildlife:
- a) Introduce a new overlay Melbourne Airport Environs Overlay Schedule 4 (Potential wildlife strike) as shown in Appendix D.4
  - b) Develop a risk management strategy outlined in the NASF Guideline C to provide a more detailed assessment tool for council planners and other relevant stakeholders and to determine the precise extent of the overlay.
11. In respect to lighting and pilot distraction
- a) Introduce a Melbourne Airport Environs Overlay Schedule 5 (Potential light glare risk to aircraft) as shown in Appendix D.5.
12. In respect of the Obstacle Limitation Surface and PANS-OPS:
- a) Introduce a Melbourne Airport Environs Overlay Schedule 6 (Aviation Obstacle Limitation Surface) as shown in Appendix D.6
  - b) Provide effective information about the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface by:
    - Including the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface in VicPlan
    - Incorporating a *Melbourne Airport Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface plan* in the VPP to give it statutory effect
    - Developing a mapping tool to allow maximum building heights determined by the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface to be presented as an indicative height above natural ground level.
13. In respect of Public Safety Areas at the end of runways:
- a) Introduce a Melbourne Airport Environs Overlay Schedule 7 (Protection of public safety) as shown in Appendix D.7.
14. In respect of protection of airspace from helicopter landing sites:
- a) Revise Clause 52.15 to address the protection of airspace from helicopter landing sites as shown in Appendix E.1.
  - b) Introduce a Helicopter Landing Site Control Overlay into the Victoria Planning Provisions as shown in Appendix E.2
  - c) Consult further with relevant stakeholders before applying the Helicopter Landing Site Control Overlay.
15. In respect of the referral status of Melbourne Airport:
- a) Make Melbourne Airport a Determining Referral Authority in respect of matters relating to airspace protection, windshear, wildlife strikes, lighting,, public safety areas and helicopter landing sites
  - b) Make Melbourne Airport a Recommending Referral Authority under the other schedules of the Melbourne Airport Environs Overlay.

### **Out of scope issues**

The Committee received a number of submissions that it has not been tasked to consider – its Terms of Reference state:

37. It is not the role of the Committee to review or consider:
  - a. A future update to the Melbourne Airport Environs Overlay map
  - b. The application of any aircraft noise metric other than the ANEF through the Melbourne Airport Environs Overlay
  - c. Any decision in relation to future runways at Melbourne Airport
  - d. Any decision in relation to aviation or airport operations
  - e. Financial compensation to property owners or occupants.

# 1 Introduction

## 1.1 Safeguarding Melbourne Airport

Victoria has long planned for the optimum use of Melbourne Airport as a curfew-free, four-runway operation. It is State policy to protect Melbourne Airport's ongoing, 24-hour, curfew-free operations at its ultimate, four-runway layout. The Committee's Terms of Reference state:

Melbourne Airport's curfew-free status provides an economic advantage to Victoria which must be protected.

The Committee has been asked to:

... advise on improvements to the planning provisions safeguarding Melbourne Airport and its environs including the Planning Policy Framework, zones, overlays, and any other related planning provisions, relevant guidance material and on any complementary safeguarding tools and processes.<sup>1</sup>

Issues with safeguarding airports are addressed in the National Airport Safeguarding Framework (NASF) which provides information to State, Territory and local governments to assist in regulating and managing factors which may affect airport operations, including but not limited to aircraft noise impacts.

The State Government agreed to the NASF in May 2012 at the meeting of the Standing Council on Transport and Infrastructure.

The NASF covers the following areas:

- Guideline A: Measures for managing impacts of aircraft noise
- Guideline B: Managing the risk of building generated windshear and turbulence at airports
- Guideline C: Managing the risk of wildlife strikes in the vicinity of airports
- Guideline D: Managing the risk to aviation safety of wind turbine installations (wind farms)/wind monitoring towers.
- Guideline E: Managing the risk of distractions to pilots from lighting in the vicinity of airports
- Guideline F: Managing the risk of intrusions into the protected operational airspace of airports
- Guideline G: Protecting aviation facilities – communication, navigation and surveillance (CNS)
- Guideline H: Protecting strategically important helicopter landing sites
- Guideline I: Managing the risk in public safety areas at the ends of runways.

Of these, only Guideline A dealing with noise is addressed in planning controls for Melbourne Airport, and then only for part of the area affected by aircraft noise.

The *Melbourne Airport Master Plan 2018* identifies issues related to the safeguarding guidelines. Currently no specific off-airport state planning controls apply for most of the guidelines however the Civil Aviation Safety Authority (CASA) and Federal legislation does. The operator of Melbourne Airport – Australia Pacific Airports (Melbourne) Pty Ltd (APAM) – identifies that these matters require state government attention in accordance with NASF guidelines. APAM suggested that a subset of overlay controls for each specific item be implemented.

The risk of wind turbine farms is included in the NASF but is not considered a significant issue for Melbourne Airport operations; it may be relevant to some regional airports. It is a matter that is routinely addressed in the approval process for wind farms.

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<sup>1</sup> Terms of Reference paragraph 17

## 1.2 Existing policy in planning schemes

The Planning Policy Framework (PPF) sets out planning policy in all planning schemes; it includes specific policies relating to airports:

- state-wide policy is at Clause 18.04-1S 'Planning for airports and airfields'
- Melbourne Airport specific policy is at Clause 18.04-1R 'Melbourne Airport'
- specific policy for some regional airports in certain schemes.

*Plan Melbourne 2017-2050* – the metropolitan planning strategy – recognises Melbourne Airport as Victoria's primary transport gateway for air passengers and air-freight exporters. Plan Melbourne provides for protection of the airport's curfew-free status and supports the airport's expansion, while protecting urban amenity.

The PPF sets out broad policy applicable to all airports. It also sets out a defined role for a number of airports, which the Committee has summarised in Table 1.

**Table 1: Role of different airports as set out in the Planning Policy Framework**

Airport	Role
Melbourne Airport	Effective and competitive operation at both national and international levels.
Avalon Airport	Full-size jet airport focussing on freight, training and services.
Essendon Airport	Role in providing specialised functions related to aviation, freight and logistics and its potential future role as a significant employment and residential precinct that builds on the current functions.
Moorabbin Airport	An important regional and state aviation asset used as a general aviation airport.  Future development at the site encourages uses that support and enhance the state's aviation industry and opportunities to extend activities at the airport that improve access to regional Victoria.
Point Cook Airfield	Maintain as an operating airport complementary to Moorabbin Airport.
New general aviation airport south-east of Metropolitan Melbourne	Preserve long-term options for a new airport by ensuring urban development does not infringe on possible sites, buffer zones or flight paths.

Policy objective and strategies that relate to all airports includes:

### 18.04-1S PLANNING FOR AIRPORTS AND AIRFIELDS

#### Objective

To strengthen the role of Victoria's airports and airfields within the state's economic and transport infrastructure, facilitate their siting and expansion and protect their ongoing operation.

#### Strategies

[Strategies for individual airport have been extracted into Table 1.]

Protect airports from incompatible land uses.

Ensure that in the planning of airports, land use decisions are integrated, appropriate land use buffers are in place and provision is made for associated businesses that service airports.

Ensure the planning of airports identifies and encourages activities that complement the role of the airport and enables the operator to effectively develop the airport to be efficient and functional and contribute to the aviation needs of the state.

Ensure the effective and competitive operation of Melbourne Airport at both national and international levels.

Plan the location of airfields, nearby existing and potential development, and the land-based transport system required to serve them as an integrated operation.

Plan the visual amenity and impact of any use or development of land on the approaches to an airfield to be consistent with the status of the airfield.

Plan for areas around all airfields such that:

- Any new use or development that could prejudice the safety or efficiency of an airfield is precluded.
- The detrimental effects of aircraft operations (such as noise) are taken into account in regulating and restricting the use and development of affected land.
- Any new use or development that could prejudice future extensions to an existing airfield or aeronautical operations in accordance with an approved strategy or master plan for that airfield is precluded.

#### **Policy documents**

Consider as relevant:

- *National Airports Safeguarding Framework* (as agreed by Commonwealth, State and Territory Ministers at the meeting of the Standing Council on Transport and Infrastructure on 18 May 2012)

Policy strategies for Melbourne Airport are:

#### **18.04-1R Melbourne Airport**

##### **Strategies**

Protect the curfew-free status of Melbourne Airport and ensure any new use or development does not prejudice its operation.

Ensure any new use or development does not prejudice the optimum usage of Melbourne Airport.

##### **Policy documents**

- *Melbourne Airport Master Plan 2018* (Australia Pacific Airports (Melbourne) Pty Ltd)
- *Melbourne Airport Strategy* (Government of Victoria/Federal Airports Corporation, approved 1990) and its associated Final Environmental Impact Statement

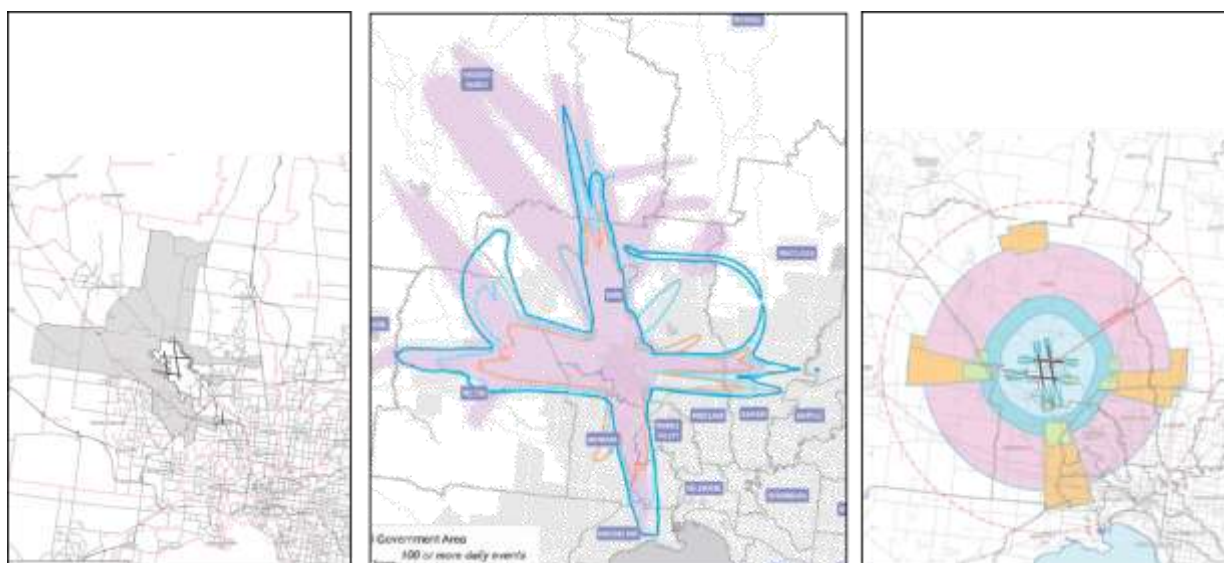
## **1.3 What is the extent of the impact of Melbourne Airport?**

The area that might need to be considered in safeguarding Melbourne Airport could be defined by the extent of:

- the Melbourne Airport Environs Area – a statutorily defined area
- the area affected by aircraft noise, both the ANEF and the more extensive areas covered by alternative noise metrics known as ‘N contours’
- the Obstacle Limitation Surface – the area where restrictions on the height of buildings apply.

These relatively large areas are shown in Figure 1 and described below.



**Figure 1: Extent of the impact of Melbourne Airport****Melbourne Airport Environs Area****Area affected by noise – N contours****Obstacle Limitation Surface****Melbourne Airport Environs Area**

The *Planning and Environment Act 1987* (PE Act) expressly deals with managing Melbourne Airport impacts at Part 3C, ‘Melbourne Airport Environs Strategy Plan’. These provisions were introduced in December 1998.

The PE Act enables the Governor in Council to declare an area of land to be the ‘Melbourne Airport Environs Area’. It is within this area that specific requirements apply to planning schemes. A map of this area is attached to the Committee’s Terms of Reference but does not otherwise seem to be publicly available on the internet. Figure 1 shows the extent of the Melbourne Airport Environs Area.

**Aircraft noise**

The main measure of aircraft noise is the Australian Noise Exposure Forecast (ANEF). The ANEF is a measure of annual noise exposure and considers amongst other things, average daily noise, noise intensity (level), duration and tonal content.

The ANEF does not readily translate to an understandable noise level in decibels – the standard measure for how ‘loud’ something is. A different measure ‘N contours’ tries to capture this by describing noise exposure by the number of times aircraft noise exceeds a certain decibel level per day. Figure 1 shows the extent of N contours for Melbourne Airport.

**Obstacle Limitation Surface**

The Obstacle Limitation Surface (OLS) is an imaginary boundary that defines airspace to be protected for safe airport and aircraft operations. The surface is not uniform but includes transitions from one height level to the next, some describe the surface as akin to an upside down tiered cake. Figure 1 shows the extent the OLS for Melbourne Airport.

**Other NASF issues**

The extent of other areas of NASF guidance generally fall within the geographic areas identified above.

## 1.4 The Melbourne Airport Environs Strategy Plan

The Minister for Planning may at any time prepare a Strategy Plan for the Melbourne Airport Environs Area (as declared by Governor in Council) or any part of that area, known as the 'Melbourne Airport Environs Strategy Plan' (Strategy Plan). The Strategy Plan does not take effect unless it is also approved by a resolution passed by each House of Parliament within 10 sitting days after it is laid before that House. The current Strategy Plan was approved in 2003.

An amendment to a planning scheme must not be approved in relation to the Melbourne Airport Environs Area if the amendment is inconsistent with the approved Strategy Plan. Despite its important status it is not clear that the Strategy Plan is well known.

A government department, public authority or municipal council must not carry out works in the Melbourne Airport Environs Area which are not in conformity with the approved Strategy Plan.

The Strategy Plan describes its purpose as:

... 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 Strategy Plan recommends a new separate planning provision for Melbourne Airport and 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 Strategy Plan explains:

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.

The Strategy Plan addresses:

- 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
- whether compensation to parties affected by aircraft noise is justified.

Under each issue the Strategy Plan sets out:

- key directions
- government response to the recommendations of the Melbourne Airport Environs Areas Advisory Committee Report, June 1993
- proposed actions.

The Strategy Plan deals with issues raised in 1992 and while these issues are still relevant, changed circumstances might warrant a fresh approach, and there would be merit in updating the Strategy Plan.

The Committee recommends:

1. **Review the Melbourne Airport Environs Strategy Plan and its statutory implementation to:**
  - a) **Ensure the Strategy Plan addresses current issues.**

## 1.5 Airport Environs Overlay and Melbourne Airport Environs Overlay

Two overlays in the Victoria Planning Provisions (VPP), which prescribe standard clauses that planning schemes can adopt, control development in areas affected by airport noise:

- Airport Environs Overlay (AEO)
- Melbourne Airport Environs Overlay (MAEO).

Each of these overlays has schedules that tailor controls to the specific circumstances. The overlays can control:

- the use of land
- subdivision
- buildings and works.

The *Ministerial Direction: The form and content of planning schemes* fully specifies the text for the overlay schedules:

21. If a planning scheme includes land in the Airport Environs Overlay or Melbourne Airport Environs Overlay, the planning scheme must include the relevant schedules set out in Annexure 2 and must incorporate the document titled Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia International Ltd by including it in the Schedule to Clause 72.04.

The overlay schedules are applied to land within the 20 to 25 ANEF and above 25 ANEF contours which are prepared by airport operators and endorsed by Airservices Australia for technical accuracy.

Having a separate overlay for Melbourne Airport is a Key Direction of the Strategy Plan:





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

The Committee sees that the implications of the Strategy Plan and the Ministerial Direction are that:

- separate overlays must be maintained for Melbourne Airport unless there is a change to the Melbourne Airport Environs Strategy Plan
- changes to MAEO or AEO schedules require a change to The Ministerial Direction: The form and content of planning schemes.

For simplicity this Paper refers to the MAEO, but if changes were made to this overlay, parallel changes to the AEO would also be appropriate.

Figure 2 shows the extent of the:

- MAEO1 (25 ANEF and above):
  -  outside the UGB ()
  -  inside the UGB
- The MAEO2 (20-25 ANEF)
  -  inside and outside the UGB

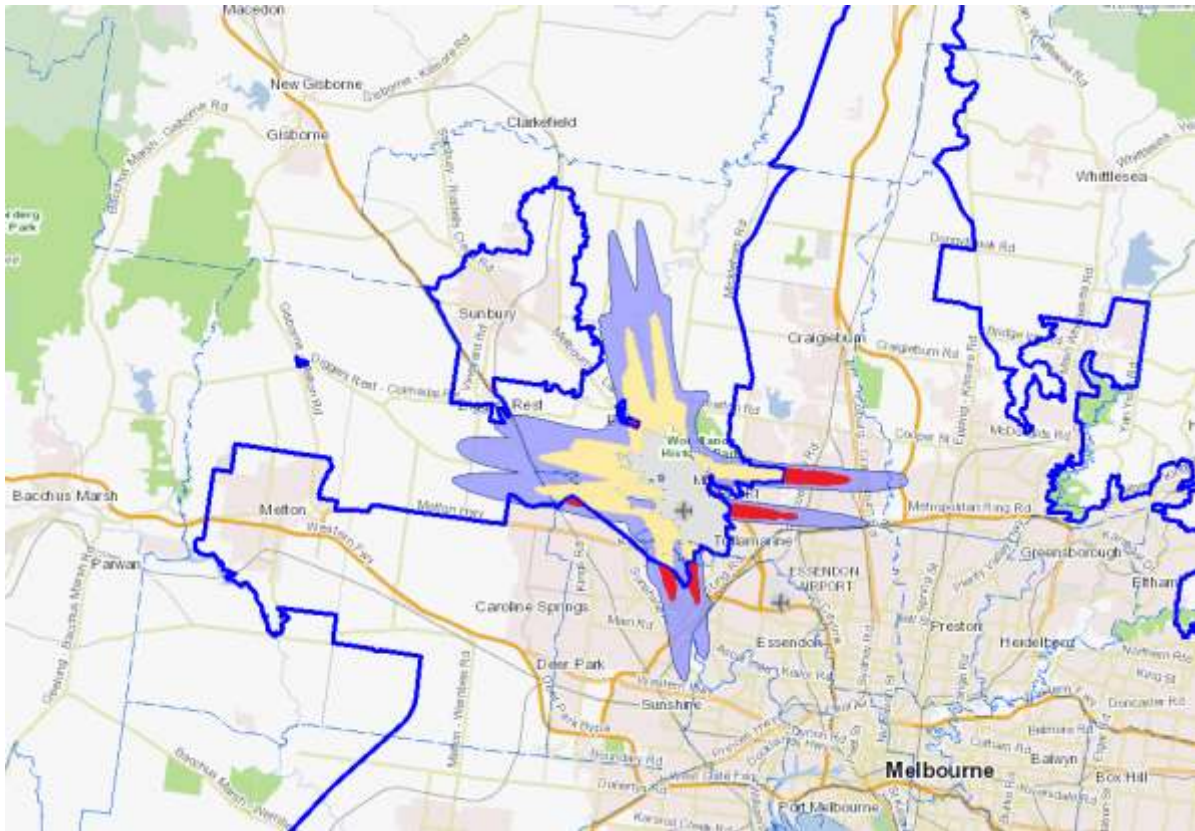
The overlay affects significant areas in Hume and the northern part of Brimbank.

The overlay affects areas of Hume, Brimbank, Melton and Moonee Valley.

The boundaries of these overlays were updated by Amendment VC173 on 26 October 2021 to reflect the 2018 masterplan for the airport.

Essentially more land is now deemed to be more adversely affected by aircraft noise.

Figure 2: MAEO1 and MAEO2 extent and UGB



VicPlan, coloured by the Committee

## 2 The approach of the Advisory Committee

### 2.1 The Committee's task

The Committee has been asked to advise on improvements to the planning provisions safeguarding Melbourne Airport and its environs.<sup>2</sup>

The Committee must consider:

...The National Airports Safeguarding Framework (Guidelines A-I) and how the framework may be further implemented in the Victorian Planning Provisions and relevant planning schemes.

In essence, the Committee has been asked to advise on incorporating the NASF guidelines into the planning scheme so that at a minimum they are considered when land use planning decisions are made.

The Committee does not see its role is to rewrite the policy intent of the PPF which seeks to protect the safety and efficiency of airports, and for Melbourne Airport in particular:

Protect the curfew-free status of Melbourne Airport and ensure any new use or development does not prejudice its operation.

Ensure any new use or development does not prejudice the optimum usage of Melbourne Airport.

It is a strategic choice to protect the curfew-free status and optimum usage of Melbourne Airport. The Committee has not been tasked with reviewing this strategic choice.

Nor does the Committee see its role as developing an alternative approach to safeguarding to that set out in the NASF.

The Committee concludes:

- The Committee's task is to advise on how NASF can be further implemented in the VPP.

### 2.2 About the Issues and Options Paper

Part B of the Committee's Terms of Reference task it to report on:

The effectiveness of the Melbourne Airport Environs Area, the Melbourne Airport Environs Strategy Plan 2003, the Melbourne Airport Environs Overlay and other related planning provisions, in safeguarding Melbourne Airport's ongoing, curfew-free operation and its environs.

In mid-2020 the Committee sought submissions on this aspect of its work. The Committee conducted Hearings on 1, 2, 3, 4, 5, 8 and 9 February 2021.

The Committee heard from submitters on the need to strengthen planning controls to better safeguard airports, to protect residents from aircraft noise and to achieve broader planning policy objectives. Evidence was presented on the need for changes to planning policy and the introduction of new overlays, but the detailed text of the overlays or policy changes was not presented.

Issues raised in submissions related primarily to noise and the need to prevent tall buildings (and the construction techniques used for these such as cranes) encroaching into airspace, but clearly all aspects of the NASF may be relevant to planning. The Issue and Options Paper looked at each of the NASF guidelines and asked whether a new or revised planning approach is appropriate.

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<sup>2</sup> Terms of Reference paragraph 17

A number of submissions reinforced the need for more discussion on safeguarding issues and on potential planning controls. The Issues and Options Paper was intended to provide a focus for further discussions.

The Issues and Options Paper drew on the submissions made to the Committee to present draft changes to policy and controls that may be appropriate if the NASF were to be given more effect in the planning system. For the NASF guidelines not already addressed, it sought comment on whether the guidelines should be addressed, and for relevant guidelines it seeks feedback on possible changes to policy and overlays.

The round table discussion was held with a focus on the drafting of the controls presented in the Issues and Options Paper.

## 2.3 Guidance for effective planning schemes

The Committee has been asked to advise on ‘improvements’ to the planning provisions safeguarding Melbourne Airport.

*A Practitioner’s Guide to Victorian Planning Schemes* (Version 1.4, April 2020) (Practitioner’s Guide) sets out six principles for the VPP. They describe the ideals against which the benefits and implications of any proposed change to the VPP and planning schemes should be measured:

### **Digital first**

Provisions are optimised for efficient access and processing of planning information, including through better technology, digital interfaces and the user experience, to move from document driven to database driven planning schemes.

### **User focused**

Provisions are user focused and provide transparent and understandable pathways to navigate the planning approval process. Planning schemes are structured so users can easily and intuitively access relevant information, using spatial means wherever possible.

### **Consistent**

Provisions are written and applied in a logical and consistent way, regardless of the content, so that a provision is easily understood and applied. Drafting rules and technology ensure that new and amended provisions are created in a way that maintains the integrity of the system and delivers the desired policy outcomes.

### **Proportional**

Provisions and approval processes only impose a level of regulatory burden proportional to the planning and environmental risk of the proposal. Simple and low risk applications are assessed against objective criteria through a code assessment process.

### **Land use focused**

Provisions focus on land use and development and do not conflict with or duplicate other legislation and regulatory instruments.

### **Policy and outcome focused**

Provisions ensure requirements have a clear policy basis and are planning outcome driven. Technology and information data is applied to achieve strategy clarity and to create and apply requirements in a precise way.

The Committee has been guided by these principles in considering proposed changes to the VPP.

The Committee concludes:

- The principles set out in *A Practitioner’s Guide to Victorian Planning Schemes* define how planning scheme drafting should be approached.

## 2.4 Melbourne Airport as a private entity

Underlying a number of submissions, especially those related to whether APAM should be a referral authority was the fact that APAM is a private entity.

A number of these submissions drew the Committee's attention to development that APAM has permitted on the airport that it was said it seeks to restrict elsewhere. The Committee is not sure that this is indeed the case.

The Committee believes that the important issue from a planning perspective is the preservation of optimum usage of the airport and its curfew-free status, as set out in policy. APAM is a commercial operation, but it is not just any commercial operation; it is a commercial operation entrusted to manage a key piece of strategic infrastructure. Submissions based on the fact that APAM is a private entity are essentially an argument against it based on its legal structure rather than planning merits. There was a suggestion in these submissions that the interests of APAM as a business could be balanced against the business interests of other entities, sometimes it seemed without consideration of the underlying planning policy to protect the operations of the airport, or the amenity of people affected by aircraft noise.

The Committee accepts there is a risk that APAM might 'overstep the mark' in its attitude to safeguarding, but notes that any decision it takes in a permit matter would be reviewable by the Victorian Civil and Administrative Tribunal (VCAT).<sup>3</sup> Any such overstepping could have an impact on the affected persons, but it is unlikely to affect the functioning of Melbourne. The broader danger for Melbourne is that we treat APAM's interests in optimising the operation of the airport as just another commercial aspiration and lose sight of the broader planning implications of a compromised operation of the airport which could affect the functioning of Melbourne.

The Committee accepts that there may be scope to change airport operations to reduce impacts on residents. These are issues beyond the scope of this Committee. Suffice to say that APAM and resident groups were aligned in wanting to reduce the noise impacts on residents, even if they were not aligned on how this could be done for existing residents.

As stated above, there might be other planning goals than a curfew-free operation of Melbourne Airport that could be pursued, but this is a strategic choice that ought not be driven by the current management arrangements for the airport.

The Committee concludes:

- The fact that the airport is managed by a private entity is immaterial to safeguarding considerations.

## 2.5 The need to balance considerations

### (i) Submissions

Brimbank City Council (Brimbank) was concerned that the imperative to safeguard Melbourne Airport's 24-hour operations needed to be balanced with the imperative to deliver housing growth in a responsible manner ensuring acceptable liveability, affordability and amenity outcomes. This imperative to deliver housing growth, it was said, should also recognise a corresponding need to develop land uses (such as community infrastructure, retail and the like) to support these new communities:

<sup>3</sup> Unless the matter is called in by the Minister

... it is not possible, and nor should it be desirable to unnecessarily restrict land use and development in varying degrees of proximity to Melbourne Airport where it can be demonstrated such land use and development can be achieved without compromising Melbourne Airport's operations and result in acceptable amenity outcomes.

Melbourne Airport Community Action Group (MACAG) submitted the balance that the planning framework seeks, comes at a cost to residents, in terms of amenity within their homes, gardens, schools, sports clubs, workplaces and so on, but also in terms of whether services and amenity can expand to meet the needs of the community as the population grows and the demographics shift over time.

YourLand Developments submitted that safeguarding requirements have the potential to:

... sterilize substantial areas of land in Melbourne's north and west, including several major activity centres, urban renewal sites and residential hinterland areas in between, in circumstances where the true impact ... [is] not understood.

APAM submitted:

27. People have a tendency to gravitate to what they know. Professionals are the same. Planners understand urban consolidation intuitively. Noise – and then aircraft noise ... where there are no clear guidelines or metrics for use other than the ANEF... this is foreign territory. This is evident in the strategic responses and in the planning evidence of Ms Rigo. The competing issues are not properly understood. A balance is not possible if the person undertaking the balance is not seized of, and even if they are, does not understand the nature of the competing issues.
28. The submissions of existing residents of noise affected areas underscores the legacy of some poor planning decisions.

## **(ii) Discussion**

The VPP set out the approach to balancing competing policy objectives at Clause 71.02-3:

Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations.

The Committee notes Brimbank's contention that the imperative of safeguarding Melbourne Airport's 24-hour operations needs to be balanced with the imperative to deliver housing growth in a responsible manner. It is not clear to the Committee how a decision maker can 'balance' competing imperatives: both would need to be achieved. Any balancing needs to be achieved at a strategic level – that may well involve limiting housing development in certain areas, potentially areas that are otherwise suitable for higher density development.

Of course it is never desirable to 'unnecessarily' restrict land use and development where such land use and development can be achieved without compromising policy or amenity outcomes. The issue is what restriction is necessary. This is a question that the NASF seeks to answer.

One argument against exposing more people to aircraft noise is that eventually there will be a significant proportion of the population who, either through political pressure or through the adverse impacts they suffer from the noise, will force a change in airport operations. The concern here is that the 24 hour curfew-free status of the airport could be compromised, or other operating restrictions applied. This is an important consideration, but it seems to overlook the primary issue which is the undesirability of exposing people to unreasonable amounts of aircraft noise in the first place.



People's response to aircraft noise varies and a level of noise that the majority might tolerate will be intolerable to a small percentage.<sup>4</sup> It seems to the Committee that this is where the first issue around balance needs to be resolved: that a level of noise exposure that limits the number of people who find the noise significantly disturbing must be determined. AS2021 has determined that this is the 20 ANEF. There is no scope for 'balancing' within the 20 ANEF. Planning policy should reflect this.

The second issue around balance involves balancing competing aspirations about the area that you want to live in. Aircraft noise might be seen as part of the 'price' you might pay for an otherwise well-located house. From a planning point of view, balancing the positive aspects that an area can deliver against exposure to noise is legitimate provided the level of noise exposure is acceptable, and the policy to maintain the 24-hour operation of Melbourne Airport is part of that exercise. This is the exercise contemplated by Clause 71.02-3.

Policy aspirations for higher density development in activity centres should not be used as a reason to subject more people to aircraft noise than is necessary. It should not be the case that we as a community decide to build higher density housing in areas with poor amenity. Having said that, higher density areas, and areas where the predominant housing form is apartments might be more resilient to aircraft noise. In these areas, aircraft noise might be just one of several noise sources to be managed and there is no exception, as a marketing brochure for a noise affected residential development spruiked, to:

Fall asleep listening to the gentle chirp of native frogs.

The Committee accepts that in some strategic planning exercises there may be a need to balance risks to the optimum operation of Melbourne Airport, safeguarding issues and other planning aspirations. But to do this effectively the safeguarding elements need to be 'on the table', that is articulated in policy.

In the consideration of development applications, for safeguarding to be considered the planning system needs to have a relevant head of power.

The Committee agrees with APAM and many parties that:

- 15(a) The current planning framework does not adequately articulate or implement existing planning policy which would see all airports safeguarded, but which would also see Melbourne Airport safeguarded to another level above.

The Committee concludes:

- Issues of airport safeguarding need to be balanced at a strategic level. For this to happen relevant safeguarding issues need to be expressed in policy.
- Individual planning applications need to be judged on whether they deliver acceptable outcomes. For this to happen appropriate safeguarding controls need to be introduced into planning schemes.

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<sup>4</sup> Refer to Figure 3 on page 32 of this report

## 3 General issues with the drafting of policy and overlays

### 3.1 Policy changes

#### (i) Policy structure

It is not the task of the Committee to determine whether airports should be safeguarded – existing policies make it clear that they should – it is to examine the effectiveness of existing planning provisions in safeguarding Melbourne Airport’s ongoing, curfew-free operation and its environs.

On a simple level the PPF could make more explicit reference to the matters identified in the NASF so that the scope of what is on the table is more easily identified. For areas affected by noise more specific changes that might be appropriate are discussed in Chapter 3.

The Committee thinks that moving safeguarding strategies closer to the top of the strategy list would give them more prominence, but accepts that it would not change their statutory importance.

The PPF sets out specific strategies for different airports and the Committee thinks that these could be more easily read by including them in a table. Strategies for Melbourne Airport are set out in regional policy, whereas other less important airports are in state policy. Arguably the reverse approach should apply with Melbourne Airport in state policy because its development is of state importance, whereas the other airports have a more regional influence. This raises issues beyond the scope of this Committee, but for clarity the Committee presents the regional policy for Melbourne Airport together with existing state policy.

The Committee notes that APAM’s comments on the draft policy presented in the Issues and Options Paper proposed a regional section for Melbourne Airport.

Whether there is a regional section or not for Melbourne Airport is seen as a drafting issue driven by the principles that would apply elsewhere in the PPF. The Committee is not in a position to resolve an informed view on this issue.

#### (ii) Role of NASF in Clause 18.04-1S

Clause 18.04-1S of the PPF lists the NASF as a policy document to be considered as relevant. Beyond this, there is no requirement to implement the recommendations in NASF guidelines.

For noise, implementing NASF Guideline A would result in noise impacts beyond the 20 ANEF contour being assessed and address the limitations of the current use of ANEF to assess aircraft noise impacts. The weight that a policy document should be given is not clear, and so the weight Guideline A should be given outside of the ANEFs is not clear.

The Practitioner’s Guide says of policy documents:

There are two types of documents that can support local policy in the PPF, incorporated and background documents. State planning policy also includes some legislative references and references to ministerial directions.

Policy (and other provisions) should generally be self-contained and include the information necessary to assess and decide an application. Where additional, more detailed guidance is absolutely necessary, it can be provided through an incorporated document.

If a policy relies on an incorporated document then it must be referenced in the policy as a policy document and a decision maker must consider it when making a decision.

The NASF is neither an incorporated nor background document in the relevant planning schemes.

The Committee's understanding of the drafting principles for the PPF is that if the NASF is to be anything more than a background document, then:

- it would need to be incorporated – not considered appropriate given the nature of the document
- have the relevant guidance presented as explicit policy statements in the Planning Policy Framework – this was the approach of the Committee in its Issues and Options Paper.

Consistent with a user focussed approach, the Committee believes that the relevant parts of the NASF should be presented in the PPF and so the need to refer directly to the NASF is reduced to a minimum.

The Committee concludes:

- The relevant parts of the NASF need to be embodied in PPF strategies. The Committee does not support strategies that take the decision maker to the NASF for relevant advice.

### **(iii) Changes to policies outside of airport policy**

In response to the Committee's Issues and Options Paper, APAM proposed including reference to airport issues in parts of the PPF other than transport, specifically in Clauses:

- 11.02-1S (Supply of urban land)
- 11.03-1S (Activity centres)
- 11.03-2S (Growth areas)
- 13.05-1S (Noise abatement)
- 13.07-1S (Land use compatibility)
- 18.01-1S (Land use and transport planning).

APAM suggested text changes and listing the NASF as a policy document in these clauses.

A number of submissions opposed this approach of 'infecting' other clauses with airport concerns. Ultimately whether such changes are required seems to rest as much on drafting 'rules' as it does on policy intent.

#### **Supply of urban land**

APAM submitted that Clause 11.02-1S (Supply of urban land) should be amended as follows:

Planning for urban growth should consider:

- Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
- Neighbourhood character and landscape considerations.
- The limits of land capability and natural hazards and environmental quality.
- The effects of aircraft operations (such as noise) in regulating and restricting the use and development of affected land.
- Service limitations and the costs of providing infrastructure.

Clause 11.02-1S (Supply of urban land) sets out a strategy that invites a consideration of opportunities and constraints. The Committee accepts that airport safeguarding is a constraint that ought to be explicitly listed in this strategy. The UGB is driven in part by protecting the airport, the policy underpinning this should be articulated.

#### **13.05-1S (Noise abatement)**

Clause 13.05-1S (Noise abatement) deals with noise issues. It is appropriate that it refers to aircraft noise.

## Other clauses

The Committee does not support changes to other clauses. It is not the case that aircraft noise or other safeguarding issues may not be relevant, it is the case that these issues should be considered as part of the broad range of issues that planning needs to integrate.

## Conclusion

Having reviewed APAM's suggestion the Committee concludes:

- In addition to changes to 18.04-1S (Planning for airports and airfields) and 18.04-1R (Melbourne Airport), there is merit in making policy changes to Clauses:
  - 11.02-1S (Supply of urban land)
  - 13.05-1S (Noise abatement).

### (iv) 51.04 9 (Melbourne Airport Environs Strategy Plan)

In response to the Committee's Issues and Options Paper APAM proposed changes to Clause 51.04 (Melbourne Airport Environs Strategy Plan).

This clause says (in its entirety):

#### Scope

To ensure consistency between this planning scheme and the Melbourne Airport Environs Strategy Plan pursuant to the requirements of Part 3C of the *Planning and Environment Act 1987*.

It is not clear to the Committee what work this clause does. It may be better to present this text (suitably amended) as a strategy in the PPF.

The Committee recommends:

1. **Review the Melbourne Airport Environs Strategy Plan and its statutory implementation to:**
  - b) **Ensure the purpose and statutory function of Clause 51.04 9 (Melbourne Airport Environs Strategy Plan) is clear.**

NOTE: A number of recommendations in this Report are presented in parts in different Chapters, hence this recommendation being number 1(b), because it logically follows from 1(a) and is consolidated in the Executive Summary as part of Recommendation 1.

## 3.2 Applying overlays

### (i) What VPP tool should be used?

Hume City Council (Hume) noted that it is challenging dealing with the NASF guidelines as they do not hold statutory weight in the planning scheme and as such these requirements fall outside current planning controls. Additionally, permit applications outside of the MAEO with no requirement to be referred to Melbourne Airport might still raise safeguarding issues.

If the NASF is to be given statutory weight, overlays will need to be applied.

Mr Glossop gave evidence for APAM; he considered a Design and Development Overlay may be appropriate to manage impacts, however in his view, a more robust approach would be to use the MAEO control to address the relevant NASF guidelines. This approach would 'elevate' the awareness of the airport and need for decision makers to place considerable weight on policy which seeks to protect airport operations. And further:

From a transparency perspective, the MAEO alerts future purchasers, landowners, developers, decision-makers and the broader community that land is within an area that is likely to be impacted by the Airport's operations.

The Committee prepared its options on the basis that the MAEO would be the preferred tool for implementing the guidelines in planning schemes unless another tool is clearly superior.

Use of the MAEO rather than a mix of other overlays was supported in feedback on the Issues and Options Paper.

The Committee notes that the Strategy Plan does not support controls outside of 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 kilometres of Melbourne Airport is disseminated to the community.

**Actions**

Government will undertake the following actions:

2. The State Planning Policy Framework ... 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.

**Recommendations**

The Committee concludes:

- The Melbourne Airport Environs Overlay and Airport Environs Overlay should be adapted to deal with all relevant safeguarding issues. This is seen as the most transparent and understandable approach.

The Committee recommends:

1. **Review the Melbourne Airport Environs Strategy Plan and its statutory implementation to:**
  - c) **Permit a broader role for the Melbourne Airport Environs Overlay and the Airport Environs Overlay.**
2. **Use the Melbourne Airport Environs Overlay to implement safeguarding for Melbourne Airport, and by implication the Airport Environs Overlay for other airports and update the *Ministerial Direction – The Form and Content of Planning Schemes* and local schedule templates to reflect recommended changes.**

**(ii) Purposes in overlays**

The draft overlays presented in the Issues and Options Paper presented their purposes as:

To ensure that the risk to aircraft from [NASF Guideline topic] is considered.

Submissions suggested that:

- 'risk to aircraft' be replaced with 'risk to aviation safety'
- 'is considered' be replaced by 'is limited'.

The Committee agrees that these changes make the purposes clearer.

The Committee concludes:

- The safeguarding overlays should:
  - Express their safeguarding purpose generally in the form:  
*To ensure that the risk to aviation safety from [NASF Guideline topic] is limited.*

**(iii) Need for a permit**

In the Issues and Options Paper versions of the overlays the Committee sought to apply requirements by way of overlays without triggering the need for a planning permit. This approach was not clear to a number of submitters.

The Committee notes that the Environmental Audit Overlay (EAO) includes a statement:

**Application**

This provision applies to land in an Environmental Audit Overlay and applies whether or not a permit is required.

The EAO applies requirements without the need for a permit. The Committee considers this to be appropriate where permissions are required outside of the planning system and the purpose of the overlay is to ensure these other permissions are properly considered in the planning process.

The Committee concludes:

- The safeguarding overlays should:
  - Avoid requiring a planning permit where possible.

**(iv) Decision guidelines**

The Committee agrees with submissions that the decision guidelines under each specific overlay schedule should reference the specific NASF Guideline.

The Committee concludes:

- The safeguarding overlays should:
  - Include a Decision guideline generally in the form:  
*The National Airports Safeguarding Framework Guideline [number].*

### 3.3 Planning Practice Note

Currently there is no clear overview of the issues that the planning system needs to deal with in safeguarding airports.

Planning practice notes provide ongoing advice about the operation of the VPP and planning schemes as well as a range of planning processes and topics. The Committee agrees with submissions that there is a need for a Practice Note to better communicate the issues around airport safeguarding. This Practice Note would need to provide basic background information about:

- the issues covered in the NASF
- noise impacts, noise metrics and the approach of the NASF
- the process for determining intrusions into the OLS
- information about the other guidelines.

**Recommendation**

3. **Develop a Planning Practice Note to explain safeguarding issues and approaches.**

## 4 NASF Guideline A: Noise Policy issues

### 4.1 Understanding aircraft noise

#### (i) How is aircraft noise measured?

In Victoria, planning controls that manage airport noise use the ANEF. The ANEF is a measure of annual noise exposure and considers amongst other things, average daily noise, noise intensity (level), duration and tonal content.

The ANEF does not readily translate to an understandable noise level in decibels – the standard measure for how ‘loud’ something is.

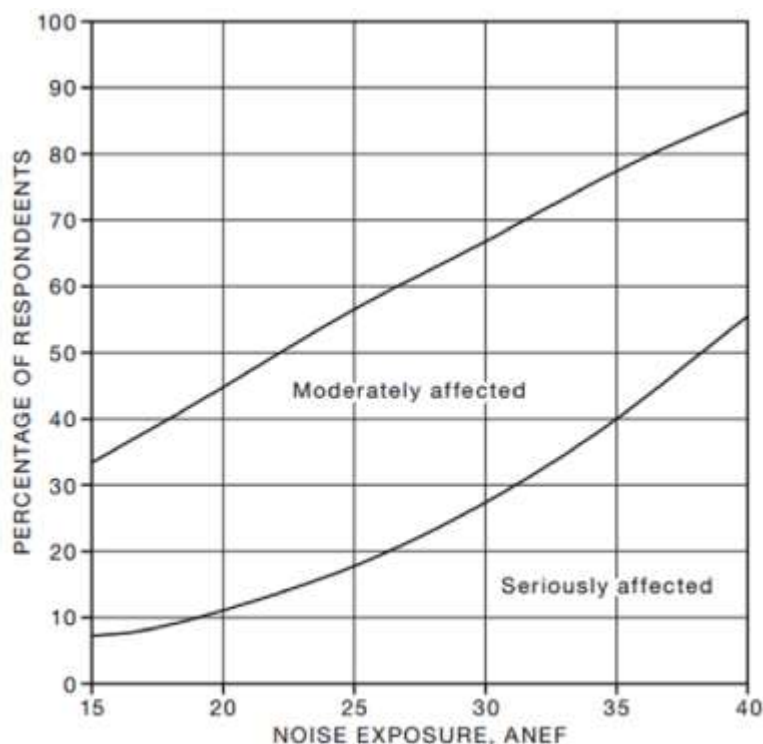
Dr Robert Bullen gave evidence on behalf of APAM and explained the history and development of noise measurement systems commonly used to manage aircraft noise especially in relation to Melbourne Airport and the development of alternative additional metrics (measurement systems) that were considered more useful to residents affected by aircraft noise. These metrics include:

- N contours (‘Number Above’ contours) – the average number of aircraft operations per day exceeding a particular decibel level
- Flyover numbers – the average number of aircraft operations per day using a designated flight path
- Respite time – the average number of hours per day during which there are no aircraft movements.

Dr Bullen stated that N contours have become useful tools in assessing aircraft noise and considers the metric to be easily understood. The most commonly used N contours are N70, N65, N60 and N60 night. These contours can be determined for any given number of events.

In exploring the extent of the problem of aircraft noise intrusion, Dr Bullen referred to the graph showing the relationship between the proportion of residents “*seriously*” and “*moderately*” affected by aircraft noise and ANEF, reproduced in Figure 3.

**Figure 3: Relationship between proportion of residents “seriously” and “moderately” affected by aircraft noise and ANEF**



Note: This graph was derived from the National Acoustic Laboratories Report 88.

The graph is based on surveys performed in a 1982 study of community reaction to aircraft noise and indicates that at 20 ANEF, approximately 12 per cent of the respondents were “*seriously affected*” by noise and this increased to 18 per cent for 25 ANEF.

MACAG highlighted that the survey is dated and thought it should be revisited. The Committee agrees that consideration should be given to updating the study of community reaction to aircraft noise to better ascertain the extent of the noise problem and the effectiveness of the ANEF and N contours in managing impacts.

Victoria’s agreement to the NASF was subject to the use of the alternative noise metrics – the N contours – for strategic planning decision making only.

The Strategy Plan says:

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.

## (ii) Extent of noise

Resident groups submissions (Citizens of Victoria Airport Information Group, Hume Residents Airport Action Group, Keilor Residents and Ratepayers Association, and CACGMA) highlighted existing aircraft noise intrusion issues experienced in the community.



Poor planning decisions of the past<sup>5</sup> and changes in operations (that have led to ANEF boundary extensions) have resulted in existing dwellings and residents becoming exposed to higher levels and frequency of aircraft noise.

The area where potentially intrusive noise impacts may occur is far greater than that shown within the ANEF contours. There is currently no formal mapping mechanism in the planning framework to indicate the true extent of land around the airport which may be affected by noise. This type of information may assist in informing land use planning decisions as well as future residents about potential noise impacts.

Figure 4 shows the ANEF contours for the Melbourne Airport 2018 masterplan. Figure 5 shows the N60 night contour – the area where there are six or more night-time events resulting in a noise level over 60 dBA. The substantial difference in the area covered is the difference between the area formally subject to noise controls under the planning scheme and the area where residents might be affected by potentially intrusive aircraft noise.

**Figure 4:** ANEF extent 2018 masterplan



**Figure 5:** N60 night for 6+ events



Source: Melbourne Airport noise mapping tool

### (iii) How is aircraft noise managed?

There are (at least) five ways that aircraft noise is managed:

1. Reduce noise at the source through aircraft technology improvements.
2. Direct incompatible land use (for example, homes, schools) away from the airport environment and flight paths and encourage compatible land use (for example, industrial, commercial uses) in these areas.
3. Noise abatement procedures – an example includes directing aircraft to use flight paths that pass over semi-rural areas during the evening, or spreading the use of all available flight paths to lessen the intensity of aircraft noise.
4. Reduce aircraft access to the airport, such as prohibiting or imposing other restrictions around noisy aircraft.
5. Require noise attenuation in buildings.

Of these options, the planning framework:

- directs incompatible land use away from noise affected areas

<sup>5</sup> These poor planning decisions are not simply that areas known to be affected by noise have been rezoned for sensitive uses. Submissions pointed to a history where areas initially free from aircraft noise have subsequently become affected by noise from changes to airport plans or operations. This raises issues of equity beyond the scope of this Committee.

- requires noise insulation in buildings.

## 4.2 What does the NASF say?

Guideline A of the NASF describes measures for managing impacts of aircraft noise including assessing suitability of development around airports. This Guideline recognises limitations of the ANEF alone and confirms the merits of using a range of noise measures to better inform strategic planning.

The Guideline introduces the use of N contours in assessing whether land is suitable for development and the type of development that may occur.

The NASF recognises that new development and existing development should be treated differently and considers three scenarios:

- Rezoning of greenfield areas to permit noise sensitive uses
- Rezoning of brownfield areas to permit noise sensitive uses
- Assessment of new developments applications for noise sensitive uses within existing residential areas.

For the rezoning of greenfield sites, the NASF distinguishes three types of areas:

- within a 20 ANEF
- within daily N contours
- areas affected by night-time noise.

The wording in Guideline A in relation to greenfield sites is qualified (Committee emphasis added):

15. This document gives **guidance** to planning officials when considering the following scenarios ...
16. ...
- Rezoning of greenfield areas to permit noise sensitive uses**
17. It is important that **consideration** be given to the application of the following **approach** to land use planning:
  - i. [deals with ANEF]
  - ii. Zoning for noise-sensitive development be **avoided** where ultimate capacity or long range noise modelling for the airport indicates either:
    - 20 or more daily events greater than 70 dB(A);
    - 50 or more daily events of greater than 65 dB(A); or
    - 100 events or more daily events of greater than 60 dB(A).
  - iii. Zoning for noise-sensitive development should take into account likely night time movements and their impact on residents' sleeping patterns. For example, where there are more than 6 events predicted between the hours of 11pm to 6am which create a 60 dB(A) or greater noise impact, measures for aircraft noise amelioration and restriction on noise sensitive development may be appropriate.
18. **The above approach could be used as additional guidance by strategic planners and weighed along with other relevant strategic considerations.**

The NASF defines greenfield areas, but this definition does not take into account Melbourne's situation of having a defined UGB:

16. This section applies where the introduction of new noise-sensitive uses is under consideration in areas that are predominantly rural or non-urban, including specifically identified urban boundary areas. This section does not apply to existing urban areas which have been developed.

Brownfield sites are considered as urban land:

... currently primarily designated for non-noise sensitive uses and is being considered for rezoning, for example, for residential infill or increasing residential densities, such as within a mixed use precinct near a transport corridor.

For development in these areas the NASF acknowledges a:

... need to balance the need to provide housing, economic growth and strategic planning outcomes against the operational needs of the airports. This approach may identify some adversely impacted parties and it can also identify where benefits outweigh the overall disadvantages.

Recommended management measures include using appropriate construction techniques to reduce noise impacts and requirements for disclosure processes that ensure future residents are made aware of these impacts prior to purchase.

The NASF recognises that redevelopment of existing areas may result in an overall improved outcome due to better design and construction responses.

The NASF recommends similar measures as those for brownfield sites for development of new noise sensitive uses in existing residential areas with the addition of requiring disclosure of aircraft noise where ultimate capacity noise modelling for the airport indicates either:

- the area is within the 20 ANEF;
- 20 or more daily events greater than 70 dB(A);
- 50 or more daily events of greater than 65 dB(A);
- 100 events or more daily events of greater than 60 dB(A); or
- 6 or more events of greater than 60 dB(A) between the hours of 11 pm and 6 am.

### 4.3 What are the issues?

Aircraft noise has the potential to adversely impact the amenity (and at 'high' levels potentially the health) of residents. A number of submissions from resident groups representing noise affected properties reinforced this point. The NASF sets out approaches to measuring and limiting the impact of noise on sensitive uses.

The NASF mostly focuses on off-airport activities that have the potential to adversely impact airport operations, but the issue with noise is more complex – the NASF is concerned with protecting airports from complaint action. Of course, behind each complaint is a person unhappy with the amenity of their area. Submissions that "*the airport just wants to reduce the number of complaints*" comes close to turning a deaf ear to the lived experience of people living with a level of noise intrusion they find unacceptable.

While the Committee has not been tasked to consider the application of any aircraft noise metric other than ANEF though the MAEO, N contours form a large part of NASF Guideline A and must be considered.

This chapter addresses the following issues:

- the policy role of N contours
- policy for development within the ANEFs
- issues with notification
- issues with potential mitigation.

## 4.4 The role of N contours

### (i) What is the issue

The appropriate role of N contours is a source of contention between all parties. All parties, however, recognised that aircraft noise impacts extend beyond the 20 ANEF contour.

### (ii) Submissions

APAM stated that the ANEF contours are recognised as an important tool that should not be abandoned but the ANEF could not be considered the only tool.

APAM saw the N contours as being supplemental to ANEF and recommended the implementation of further overlays based on N contours. Councils and developers considered that the N contours covered large swathes of land and that their use should not sterilise or constrain land for development.

Community groups noted that ANEF contours do not correlate with the lived experience of aircraft noise and N contours were more understandable.

APAM stated that Guideline A of the NASF was developed in response to the limitations of using the ANEF and AS2021 as the only tool to determine aircraft noise impact. This Guideline introduces the N contour. Attachment 1 to the Guideline explains why the nominated N contour metrics have been chosen.

The extent of the N contours for Melbourne Airport are shown in Figure 6. The N contours are not used as criteria in the planning system but show the extent to which aircraft noise impacts should be considered. Dr Bullen suggested that the N60 night metric could be justified for use as a night-time noise criteria to reduce the incidence of sleep disturbance.

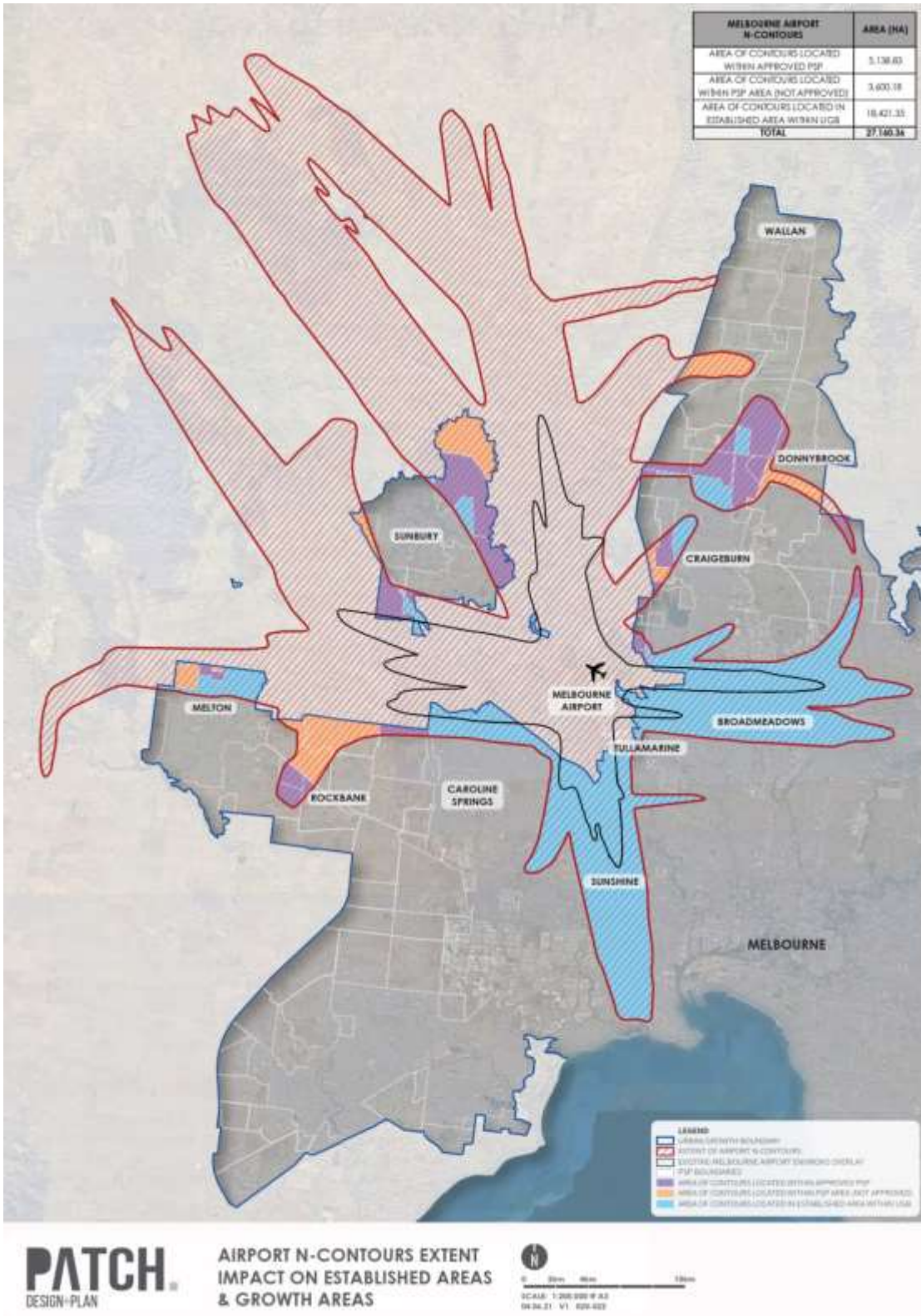
In evidence for APAM, both Mr Barlow and Mr Glossop recommended that planning controls should be updated to include the N contours. Mr Barlow recommended that four noise impact assessment areas for sensitive uses could be created, broadly equivalent to 25+ANEF, 20--25ANEF, N70 and N60. Performance measures for the assessment of sensitive areas would need to be determined and defined.

The councils were generally supportive of implementing the NASF into planning controls but did not support prohibitive land controls to the N70 and N60 areas. Melton was concerned that land use controls within N contours may roll back appropriate and planned development.

Brimbank suggested that the role of the N contours would be a tool to be used in conjunction with the ANEF system by decision makers and a method of providing understandable information to communities and land users.

Hume considered that the area covered by N70 and N60 (as shown in Figure 6) was too large to become a notification area.

Figure 6: Melbourne Airport N contours with impact on Precinct Structure Plan areas



Source Urban Development Institute Australia (UDIA) submission

APAM stated in its closing submission to the Hearing:

- (e) Noise impacts, now and in the future, will not be limited to the land within the ANEF contours. ANEF expect that within the contour there will be at least 10 per cent of people who will find the noise exposure unacceptable. ANEF expects that a significant number of people outside the contours will find it unacceptable, even if most people are not troubled by the noise;
- (f) There is a role for planning regulation in the management of these noise impacts:
  - i. first by regulating the nature of the land use relationships through strategic decision making about the nature and extent of incompatible uses that are permitted in areas that would be heavily affected by noise; and
  - ii. second as a vehicle for informing the community about the nature of the noise environment so that rational and informed strategic planning and private capital investment decisions can be made.

Mr Glossop pointed out that a Noise Influence Area was already considered for road, rail and noise from industry within the Apartment Design Standards (Clause 58.04-3 or 55.07-6 Standards D16 and B40). Mr Glossop considered that aircraft noise could also be included in this mix.

In terms of the appropriate policy settings, APAM submitted that the management of noise via a zoning choice is an appropriate tool and noted that the Guideline uses the term 'avoided' rather than 'prohibited'.

Submissions from practitioners pointed out what they saw as technical deficiencies with the N contours.

In its response to the draft controls in the Issues and Option Paper APAM proposed a further overlay schedule:

To identify areas that are or will be subject to moderate levels of aircraft noise based on the Noise Above 60 decibels (N60), Noise Above 65 decibels (N65) and Noise Above 70 decibels (N70) contours

The overlay require permit for Buildings and works unless:

Any building associated with the use of land for Accommodation, Education centre or Place of assembly must achieve the required Aircraft Noise Reduction (ANR) requirements determined according to Clause 3.2 and Table 3.3 of Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited.

### **(iii) Discussion**

The Committee understands and accepts that aircraft noise impacts occur beyond the 20 ANEF contour and that there must be some mechanism within the planning scheme to ensure that consideration of aircraft noise outside the 20 ANEF contour is triggered.

The NASF Guideline also provides for noise considerations to be balanced with other strategic considerations. The wording of the guideline allows for discretion and for the final decision maker to approve development in greenfield sites that lie outside 20 ANEF but within the N contours, provided that aircraft noise intrusion has been adequately considered. An issue in presenting policy for N contours in the way presented in the Issues and Options Paper is whether this gave more credence to N contours than the NASF intended.

### **Policy or control in areas affected by N contours**

For greenfield sites, Guideline A recommends avoiding rezoning for noise sensitive development within N contours. Councils and developers raised concerns regarding the inability to develop large swathes of land or having costly constraints on developments as the N contour area is significantly larger than areas within the ANEF.

Prohibiting residential uses outside 20 ANEF and within the N contours would be the ideal solution to protect airports. However, the Committee recognises that quarantining such huge tracts of land is not a practical approach. This is a broader strategic planning choice that needs to balance a range of competing issues. An issue is whether the PPF and NASF provides clear advice.

The Committee must reconcile how to incorporate NASF Guideline A into the planning scheme (bearing in mind its Terms of Reference) and still allow for appropriate development.

The NASF refers to 'greenfield' area; the Victorian planning system limits the growth of Melbourne by way of the UGB. There is potentially the need to distinguish between:

- greenfield areas outside the UGB
- undeveloped areas within the UGB.

For Brownfield sites and redevelopment of existing residential areas, N contours should also be considered especially in regard to disclosure processes to prospective residents.

Within the UGB, Plan Melbourne identifies areas for more intense development including 'activity centres', and National Employment and Innovation Clusters (NEICs).

The Committee acknowledges practitioners' submissions which highlighted reasons why N contours may not be suitable for land use planning decisions including a lack of evidence to justify the selected thresholds and calculation uncertainties in establishing N contours. For these reasons the Committee does not support using the N contours for a new overlay, but agrees that it could be flagged for consideration in apartment standards similar to how other sources such as road traffic, rail noise and industry noise are treated.

### **Policy outside UGB**

For areas outside the UGB the Committee expects that there will not be rezoning to increase the density of sensitive uses, not simply for airport related uses, but because these types of uses are limited outside of the UGB.

For Melbourne Airport this is the corridor to the west and north of the airport. The Committee understands that there have been submissions over the years for the extension of the UGB into these protected corridors by affected land owners.

The safeguarding issues of these areas not only include noise but potentially include other issues such as wildlife strike. Any change in the UGB would be subject to a detailed assessment process that would include the issues of aircraft noise.

The Committee expects that any proposed change to the UGB would properly address safeguarding issues.

### **Undeveloped areas within UGB**

APAM suggested that PPF policy should include (among other things):

In designated urban growth areas exposed to aircraft noise ensure that:

- Precinct planning seeks to avoid or minimise as appropriate the impact of aircraft noise on future residents.
- Residential densities should be equal to or less than the required minimum densities for urban growth areas.

The Committee accepts that land within the UGB has been identified as suitable for urban development. The issue is how development ought to take place given that land has been identified as urban. Areas

within the UGB are currently subject to a detailed planning process by way of Land Use Framework Plans.

The Committee notes that there are current examples of PSPs in the vicinity of the airport where land falls within N contours and the potential impact of aircraft noise has not been appropriately identified, or earmarked for future consideration in any of the available documentation.

For example, in the Craigieburn West PSP Draft for Public Consultation (November 2020), part of the site is affected by N contours but there is no reference to potential aircraft noise in this document.

In the Sunshine South PSP (June 2018, amended November 2019) documentation, there is a single brief reference (page 16) to land within the PSP being partly affected by the Melbourne Airport Noise contours but there is no further consideration of potential aircraft noise intrusion in any of the performance requirements for residential uses.

The Committee does not support limiting residential densities within N Contours, though this may be an outcome of considering aircraft noise in specific PSPs. The N Contours cover a wide range of noise conditions and it is difficult to settle on policy statements that would be applicable in all circumstances.

Considering aircraft noise in PSP areas within N contours may not result in significant impact to future land uses but the issue should be flagged for further consideration and addressed in preparing the PSP.

### Developed areas

The Issues and Options Paper presented the Committee's interpretation of the NASF. APAM suggested [additions](#) and [deletions](#):

In [established urban existing](#) areas exposed to aircraft noise avoid rezoning land [and/or the development of land facilitating](#) ~~currently zoned for non-noise sensitive uses for~~ residential development or increased residential densities unless:

- The need to provide housing, economic growth and strategic planning outcomes outweighs the operational needs of the airport [and ensures the continuing constraint free operations of the airport](#).
- [The location is in an area identified for extensive residential growth](#)
- The development can be undertaken in a manner that physically reduces noise impacts [to provide residential amenity](#).
- Future residents are made aware of these impacts prior to purchase.
- The development is undertaken in a manner that physically reduces noise impacts ~~to comply with AS2021~~.

The issue is whether including the policy text in the Issues and Options Paper adds anything to the broader need to balance policies once safeguarding is given more profile.

The broader issue for the Committee is that these sorts of considerations need to be made at a strategic level.

*Plan Melbourne 2017-2050* recognised that more detailed planning was needed for Metropolitan Melbourne to manage growth across the city. Plan Melbourne identified the need for six plans to be developed, providing detailed guidance at a regional level and setting a 30-year vision for each area.

The Department of Environment, Land, Water and Planning (DELWP) has developed Melbourne's Future Planning Framework which is now available for review and feedback.

Melbourne's Future Planning Framework comprises six Land Use Framework Plans to guide strategic land use and infrastructure development for the next 30 years. The plans will provide a means of aligning state and local planning strategies and working collaboratively across government to implement Plan Melbourne.



The Committee notes that the Plan Melbourne 2017-2050 Draft Northern Metro Land Use Framework Plan says:

Supporting Melbourne Airport will impact on broader land use change around key flight paths in the surrounding area, including potential new development in the Broadmeadows Metropolitan Activity Centre. Any new use or development should not prejudice the optimum usage of Melbourne Airport.

This plan recognises that aircraft movements are a factor to be considered in the planning of:

- Broadmeadows Activity Centre
- Gladstone Park Activity Centre.

It also recognises:

A range of constraints can limit where dwellings and other land uses are accommodated. In the Northern Metro Region, planning controls associated with the protection of Melbourne Airport and its environs apply to some properties in the Hume and Whittlesea LGAs. These planning controls limit the capacity of these areas to accommodate certain land uses and development, including new dwellings.

The *Plan Melbourne 2017-2050 Draft Western Metro Land Use Framework Plan*, does not seem to address aircraft noise impacts at all. The policy role identified for Sunshine National Employment and Innovation Cluster does not seem to have considered aircraft noise.

It is not for this Committee to determine how that development aspiration for Sunshine should be balanced against safeguarding issues. If safeguarding is to be improved, these issues need to be explicitly listed as a policy consideration.

#### **(iv) Conclusion**

The Committee concludes:

- N contours should be:
  - considered for strategic land use decisions
  - should not be used for statutory planning decisions, except in relation to noise protection in apartments.
- In Clause 18.04-1 (Planning for airports and airfields):
  - Make it clear that areas outside the UGB affected by N contours should not be rezoned for sensitive uses.
  - Clarify the area potentially affected by aircraft noise includes undeveloped and developed areas within the UGB areas affected by N contours.

The Committee recommends:

- 4. Review the potential impacts that aircraft noise might have on the development aspirations for:**
  - a) Broadmeadows Activity Centre**
  - b) Gladstone Park Activity Centre**
  - c) Sunshine National Employment and Innovation Cluster.**

## **4.5 Policy for development within the ANEFs**

### **(i) Submission**

As there is clear support for using the NASF guidelines from all parties, the guidelines serve as a useful starting point in forming a view to appropriate land use within the current MAEO.

**(ii) Discussion**

The NASF guidelines recommends the following:

- For the rezoning of greenfield sites there should be:
  - ... no new designations or zoning changes that would provide for noise sensitive developments within a 20 ANEF where that land was previously rural or for non urban purposes (in keeping with AS2021).

For brownfield sites the NASF is less prescriptive and accepts there *“is a need to balance the need to provide housing, economic growth and strategic planning outcomes against the operational needs of the airports.”*

The NASF suggests that aircraft noise could be managed by the following measures:

- using appropriate construction techniques to reduce noise impact
- requirements for disclosure processes that ensure future residents are made aware of these impacts prior to purchase.

For new noise sensitive areas in existing residential areas, the NASF accepts that development could be undertaken in a manner that reduces noise impacts and cites adherence to AS2021 as an example of how a reduction in noise impacts may be achieved.

For land currently within the ANEF, any recommendation requiring building construction techniques to mitigate aircraft noise ultimately leads to use of AS2021.

The Standard is quite clear in delineating where and what type of development should be allowed. The Standard does not recommend development in *“unacceptable areas”* but recognises that development may sometimes be necessary in existing built-up areas and is consistent with the NASF.

The Committee concludes:

- In Clause 18.04-1 (Planning for airports and airfields)
  - Include strategies for land within the 20 ANEF contour to limit the intensification of sensitive uses and avoid zoning changes that would provide for noise-sensitive developments.

## 4.6 Notification for land affected by noise

**(i) Evidence and submission**

Mr Barlow giving evidence for APAM suggested that a possible mechanism for providing notice for land potentially affected by noise was a mapping tool which indicates the Area of Influence. The Area of Influence could be shown in a property search and would be an advisory tool to inform land use planners, and future land users, of the need to consider noise impacts. Appropriate information regarding noise mitigation techniques that may apply in such an area could be provided in a Planning Practice Note.

Under cross examination from Ms Marcus appearing on behalf of Brimbank, Mr Barlow agreed that adequate notice and provision of information would assist the public in understanding purchasing choices in future development and assist in keeping people well informed.

Dr Bullen stated that the best way to provide information was through community engagement and sharing information. He suggested that a useful starting point to understanding aircraft noise was to consider the contents of Handbook Acoustics-Guidance on producing information on aircraft noise (SA HB 149:2016) published by Standards Australia as a companion to AS2021. A copy of this document was provided by APAM.

Moreland City Council (Moreland) also saw value in defining and mapping an Area of Influence supported by practice notes and education as well as community consultation and engagement.

Brimbank supported the use of an Area of Influence mapping tool as advisory only to provide information to existing and future residents. Brimbank considered that comprehensive and understandable information is lacking and what information is available, is not easily accessible. Brimbank did not agree with the use of section 173 agreements to inform people of noise impacts. APAM agreed that section 173 agreements may not be the best tool.

Melton advocated the use of Section 32 of the *Sale of Land Act 1962* to inform prospective purchasers about relevant information of aircraft noise.

The CACGMA expressed frustration at being unable to access relevant information about the MAEO and other relevant planning advice associated with Melbourne Airport. CACGMA pointed out a number of shortfalls in accessing information including that AS2021 used to assess aircraft noise within the current MAEO can only be purchased from SAI Global and local council websites are devoid of relevant information.

CACGMA suggest that suitable information could include:

- Simple fact sheets on noise effects and measurements for residents
- Advisory and practice notes or equivalent for developers
- Published decision making guidelines to aid councils and provide transparency for the community
- Government guides for developments potentially affected by the AMEO7
- Clear guidance to improve council's consultation with federal and state government and the airport operator, including agenda and action suggestions.

Providing attractive marketing information that did not disclose potential aircraft noise intrusion was highlighted by APAM as a potential issue for future residents being able to make informed choices. APAM produced the following excerpt from a YourLand Developments brochure for a development potentially affected by aircraft noise:

Welcome to the new Sunshine at River Valley. Wake up to the sound of birdsong and speckled sunlight glinting through the trees. Take a stroll along the river while the kids play amongst the tranquillity of nature. Fall asleep listening to the gentle chirp of native frogs, all just a stone's throw from Melbourne's CBD. At River Valley you can immerse yourself in the serene beauty of our secluded master-planned estate reserved for those who appreciate a modern lifestyle entwined with the best of nature.

## **(ii) Discussion**

Practitioners generally agreed that N contours were beneficial in communicating aircraft noise impacts to laypersons and were a good tool for providing understandable information, but were unsuitable for land use planning decisions.

The Committee agrees that access to clear, comprehensive information will allow land use planners and future developers and owners and occupiers to make better informed choices and decisions.

Use of appropriate N contours as a boundary for notification and advising where noise impacts may occur is also warranted. The N contours may assist the public in understanding purchasing choices and potential developers in optimising their designs.

The Committee notes that the [Melbourne Airport Noise](#)<sup>6</sup> tool, an online resource showing ANEF and N contours, provides useful information related to noise. Ms Jordan agreed the tool was a “good start”. This type of tool could become the basis for a more comprehensive and accessible suite of information.

As part of any preliminary land use investigations, the property report generated by VicPlan would note whether land was located outside an MAEO but within an N contour. Where this occurs, a suitable notification process would inform landowners, developers or occupiers of possible aircraft noise impacts.

Planning authorities, future landowners, developers and residents need to have a full understanding of the extent and nature of potential aircraft noise intrusion in order to make well informed decisions.

The Committee sees the N contours being used as such a trigger to ensure appropriate notification of land users occurs, whether they be developers or future residents. Appropriate notification will allow stakeholders to make informed decisions and at least recognise that aircraft noise may be problematic in particular areas.

Notice should apply to both prospective owners and tenants. Initially this could be done through a planning certificate, but longer term more formally through:

- Section 32 statements under the *Sale of Land Act 1962*
- Section 30D of the *Residential Tenancies Act 1997*.

## 4.7 Will mitigation be necessary?

### (i) Submissions

Developers raised concerns about potential costly mitigation treatments being required where land fell within N contours.

Based on the current regulatory framework, noise mitigation for sensitive uses such as dwellings is not required outside the ANEF contour.

### (ii) Discussion

Whether mitigation will be required for dwellings outside the 20 ANEF but within an N contour will depend on the actual noise environment experienced and may also be dependent on market forces.

If end users are armed with superior knowledge of potential impacts from aircraft noise, their purchasing and rental decisions may hinge on whether residential dwellings have incorporated noise mitigation appropriate for their particular location. Developers may be encouraged to provide evidence of acoustic analysis to determine the noise environment in any given area and whether mitigation would be necessary.

It may be that current conventional building typologies which incorporate measures for energy efficiency may sufficiently attenuate noise. In other cases, there may be recommendations for specific noise control treatments to provide a more suitable living amenity.

The Committee concludes:

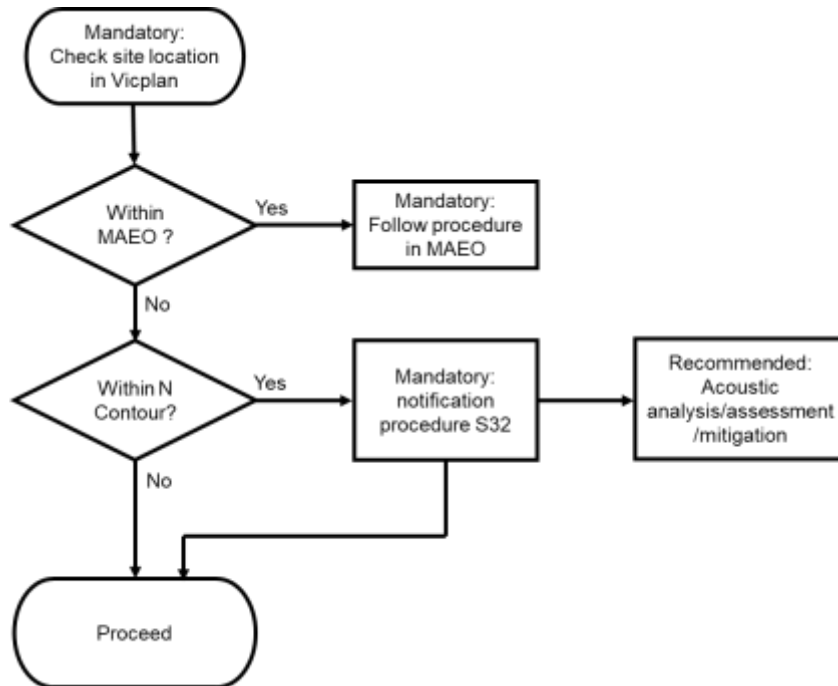
- Just because land falls within an N contour does not automatically mean that noise mitigation will be required. The N contour indicates the number of events over a certain noise level only, there is no information regarding the magnitude of excess over the contour level.

<sup>6</sup> <https://www.melbourneairport.com.au/Corporate/Community/Noise-at-Melbourne-Airport/Noise-tool>

## 4.8 Summary of conclusions and recommendations

### How would the suite of planning tools work when considering noise?

The Committee envisages that the suite of planning and mapping tools available would inform noise considerations associated with land development as follows.



The Committee recommends:

5. Include N contours as a layer in VicPlan (and as an incorporated document in planning schemes so they can be given proper effect in planning decisions).
6. Provide information to potentially affected persons by:
  - a) In the short term:
    - A statement in planning reports
  - b) In the longer term:
    - Section 32 statements under the *Sale of Land Act 1962*
    - Section 30D statements under the *Residential Tenancies Act 1997*.
7. Update the Planning Policy Framework for:
  - a) Clause 11.02-1S (Supply of urban land), as shown in Appendix C.1
  - b) Clause 13.05-1S (Noise abatement), as shown in Appendix C.2
  - c) Clause 18.04-1S (Planning for airports and airfields), ss shown in Appendix C.3
8. In respect to managing the impacts of aircraft noise:
  - a) Include aircraft noise as a 'noise reference area' in Standard B40/Standard D16 as shown in Appendix C.4

## 5 NASF Guideline A: Noise – Issues with the MAEO

### (i) What are the issues

Noise is managed in the planning system based on ANEFs by the application of:

- MAEO 1 and 2
- AEO 1 and 2.

Australian Standard AS2021 *'Acoustics – Aircraft noise intrusion – Building siting and construction'* focuses on protection of residents from noise itself.

Application of NASF Guideline A would result in no change to the current use of MAEO1 and MAEO2. These overlays have just been updated to reflect current planning for Melbourne Airport.

There appears to be a disconnect between the NASF, AS2021 and current controls.

The potential for non-sensitive uses within the ANEF was raised in submissions.

MAEO2 sets a density limit of one dwelling per 300 square metres of site area; this was seen as a blunt tool.

### (ii) The overlays and Australian Standard AS2021

#### What is the issue

In the MAEO1 area, land cannot be used for more than one dwelling and subdivision is not allowed. Strict adherence to AS2021 would result in residential dwellings and other noise sensitive uses not being allowed in the 25+ ANEF contour (MAEO1).

In the MAEO2 area, there is a density restriction of one dwelling per minimum 300 square metres. AS2021 allows for noise sensitive development in 20-25 ANEF (MAEO2) provided adequate sound insulation is incorporated into the construction of the buildings.

The MAEO schedule states that any buildings and works for which a permit is required must be constructed to comply with section 3 of the *'Australian Standard AS2021-2015 Acoustics – Aircraft Noise Intrusion – Building, Siting and Construction'* (AS2021) to adequately protect future development from noise impacts.

AS2021 uses the ANEF system to determine the suitability or otherwise of a site depending on the proposed use. The building site acceptability is shown in Table 2.

**Table 2: Acceptability of building site based on proposed use for the Australian Standard**

	ANEF level					
	Less than 20	20 to 25	25 to 30	30 to 35	35 to 40	>40
House, home unit, flat, caravan park	Acceptable	Conditional	Unacceptable			
School, University	Acceptable	Conditional	Unacceptable			
Hospital, nursing home	Acceptable	Conditional	Unacceptable			
Public building	Acceptable	Conditional		Unacceptable		
Hotel, motel, hostel	Acceptable	Conditional		Unacceptable		
Commercial building	Acceptable		Conditional		Unacceptable	
Light industrial	Acceptable			Conditional		Unacceptable
Other industrial	Acceptable					

The Standard does not recommend development in ‘unacceptable’ areas but acknowledges that relevant planning authorities may consider development necessary within existing built-up areas designated as ‘unacceptable’.

The Standard recommends that there be no development within greenfield sites deemed ‘unacceptable’.

Where a site falls within the ‘Conditionally Acceptable’ area, the Standard provides a methodology for determining the type of building construction required to provide a given noise reduction. Construction to AS2021 guidelines should result in an acceptable internal noise amenity when the buildings’ windows and doors are closed. The indoor design levels used by AS2021 are provided in Table 3.

**Table 3: Australian Standard AS2021**

**TABLE 3.3**  
**INDOOR DESIGN SOUND LEVELS\* FOR**  
**DETERMINATION OF AIRCRAFT NOISE REDUCTION**

Building type and activity	Indoor design sound level <sup>a</sup> , dB(A)
<b>Houses, home units, flats, caravan parks</b>	
Sleeping areas, dedicated lounges	50
Other habitable spaces	55
Bathrooms, toilets, laundries	60
<b>Hotels, motels, hostels</b>	
Relaxing, sleeping	55
Social activities	70
Service activities	75
<b>Schools, universities</b>	
Libraries, study areas	50
Teaching areas, assembly areas (see Note 5)	55
Workshops, gymnasiums	75
<b>Hospitals, nursing homes</b>	
Wards, theatres, treatment and consulting rooms	50
Laboratories	65
Service areas	75
<b>Public buildings</b>	
Churches, religious activities	50
Theatres, cinemas, recording studios (see Note 4)	40
Courts houses, libraries, galleries	50
<b>Commercial buildings, offices and shops</b>	
Private offices, conference rooms	55
Drafting, open offices	65
Typing, data processing	70
Shops, supermarkets, showrooms	75
<b>Industrial</b>	
Inspection, analysis, precision work	75
Light machinery, assembly, bench work	80

Unfettered access to the contents of AS2021 must also be available for land use planners and the general public. As Ms Jordan for CACGMA noted, Australian Standard AS2021 must be purchased. The Committee has checked the availability of the Standard to find that a pdf version costs over \$250 making access for the general public a costly exercise.

### Submissions and evidence

Under cross examination from Ms Marcus, Mr Barlow was asked whether noise impact could be mitigated by construction techniques. Mr Barlow replied that amenity goes beyond the inside of a building and that external amenity should also be considered. Mr Barlow also expressed a view that density controls are important in limiting the number of people likely to be significantly affected by noise.

In contrast, the Hume Residents Airport Action Group disagreed with the suggestion made in other submissions that the current MAEO provisions are a blunt tool:

The provision offers clear information on the location and land use types suitable for the aircraft noise zones. To make changes to the planning provision which would allow balancing housing demand against the health and wellbeing of people is indeed a blunt tool. We are not aware of the existence of a national imperative which would mandate development without consideration to public health. This is contrary to the health and wellbeing policy of local planning authorities.

In closing, APAM drew attention to the plight of existing residents affected by noise due to previous poor planning decisions and the need to avoid the risk of creating a larger problem in the future.

### Discussion

Many submissions that addressed noise mitigation through building fabric did not address external amenity. The Committee notes that planning controls require providing secluded open space and garden areas for low density forms of residential development, underlining the importance of external amenity which cannot be shielded from aircraft noise.

Australian Standard AS2021 recommends that development not occur in areas deemed “*unacceptable*”. The Standard recognises that there may be some instances in existing built-up areas where the relevant planning authority may consider development necessary. The Standard is firm in recommending that there should not be development in greenfield sites deemed unacceptable.

In the 25-30 ANEF contour which is covered by the MAEO1, the Standard considers the following accommodation uses as unacceptable:

- House, home unit, flat, caravan park.

In MAEO1, land may be used for a dwelling (house), Dependent person’s unit, host farm or residential hotel if a planning permit is granted.

These allowable land uses are at odds with AS2021 recommendations.

The draft presented in the Issues and Options Paper proposed prohibiting dwellings in MAEO1. The challenge in prohibiting dwellings in the MAEO1 is that it potentially creates a situation where dwellings are prohibited in a residential zone. This could leave some vacant residential blocks incapable of any development. Such a situation would create confusion and is considered to be an inappropriate outcome.

If the development of vacant lots in residential areas under the MAEO1 is an issue (the Committee has not been presented with any information on the scale of this issue) then some sort of proactive program to deal with these lots should be introduced, for example by developing a mechanism to have the lots consolidated with adjoining lots that contain dwellings – a potentially fraught exercise.



APAM supported prohibiting Dwellings but recognised the need to provide exemption for existing uses:

Land must not be used for a Dwelling. This does not apply to the use of land for one Dwelling on a lot where:

- The land was used for one Dwelling at the gazettal date of [the amendment that introduced these provisions]; or
- The use of land is for one Dwelling on a vacant lot that was created prior to the gazettal date of [the amendment that introduced these provisions].

A permit is required to construct or extend one dwelling on a lot. This does not apply to an alteration or extension to a Dwelling which existed as at 14 May 2007 provided the extension is less than 50 per cent of the floor area of the Dwelling at that date.

On balance the Committee concludes:

- Prohibiting Dwellings in the MAEO1 would potentially mean dwellings are prohibited in some residentially zoned land. This is not an appropriate planning outcome.

### **(iii) Development of non-sensitive uses**

#### **Submissions**

Rasco Pty Ltd (Rasco) wishes to develop land at 450 Mickleham Road, Attwood within the MAEO1 and 2 for commercial uses which are acceptable under AS2021. Mr Webber, an acoustic consultant, gave evidence for Rasco illustrating that the land could accommodate uses deemed conditional by AS2021 through the incorporation of appropriate building treatments. Industrial buildings could be located anywhere on the site without any requirement for special acoustic measures. Appropriate siting of light industrial and commercial areas would also negate the need for any special building considerations for noise. APAM stated that the airport welcomed this type of synergistic and appropriate non noise sensitive development.

#### **Discussion**

There was broad consensus that appropriate development of non-sensitive uses within the existing MAEO is acceptable. This type of development would adhere to AS2021 provisions and current planning controls should be updated to encourage such development.

### **(iv) Review of density controls**

#### **Evidence and submissions**

Brimbank requested that density controls within the MAEO2 be revisited. Ms Rigo gave evidence on behalf of Brimbank suggesting that density controls were a blunt and unsophisticated tool; and inconsistent with the NASF which recognises the need to consider increased densities.

Brimbank suggested that the use of density controls may stifle innovative techniques including attenuated design outcomes that could be used to reduce risk of airport noise intrusion.

Hume also saw merit in revisiting density controls and considered that the application of density restrictions across the entirety of the MAEO2 is not an appropriate mechanism to address an issue confined to a specific location or zones.

YourLand Developments also considered density provisions in the MAEO2 to be a blunt tool.

A number of submissions to the drafts presented in the Issues and Options Paper suggested removing the density controls in the MAEO2.

While APAM and Hume Residents Airport Action Group wished to maintain the density provision to ensure that the number of potential structures that could be exposed to aircraft noise would be limited, Councils, developers and MACAG were supportive of the removal of this restriction.

The Councils considered that there has not been a proper interrogation of the density provision and that APAM had no substantive evidence regarding the actual noise impacts, nature of complaints or economic impact to support the density restriction.

### **Discussion**

The NASF does not explicitly discuss density provisions.

The Committee agrees that further investigation and interrogation of the effect of density restrictions is warranted but until the results of such studies become available, there should be no change to the current framework. There is a possibility that the results of such studies will indicate that planning controls resulting in even fewer structures being exposed to noise are warranted.

The Committee notes that not all tools need to be 'sharp'. Some tools are by their nature blunt tools; the issue is what one is trying to achieve with the tool. Limiting density, and hence the number of people that may be impacted by aircraft noise intrusion appears to be a simple and effective technique to reduce the number of people exposed to aircraft noise.

While noise intrusion within buildings can potentially be addressed by acoustic treatments, not all living takes place indoors. Enjoyment of outside areas is a part of the amenity of a dwelling and these areas cannot be protected from aircraft noise.

The Committee concludes:

- The current density limits in MAEO2 should be maintained.

### **(v) Recommendation**

The Committee recommends:

- 8 In respect to managing the impacts of aircraft noise:**
  - b) Update the Melbourne Airport Environs Overlay head clause as shown in Appendix C.5**
  - c) Update Melbourne Airport Environs Overlay Schedule 1 as shown in Appendix D.1**
  - d) Update Melbourne Airport Environs Overlay Schedule 2 as shown in Appendix D.2.**

## 6 NASF Guideline B: Windshear

### (i) Understanding windshear

Building generated windshear is caused when a significant obstacle, such as a building, is located in the path of crosswind to a runway. The wind flow is diverted around and over the building causing unstable airflow potentially compromising aircraft flight. In Australia there have been at least two serious incidents involving building generated windshear (both from buildings within the airport grounds).

Windshear is potentially caused by building near the end of runways as shown conceptually in Figure 7 and geographically in Figure 8.

Figure 7: Windshear envelopes

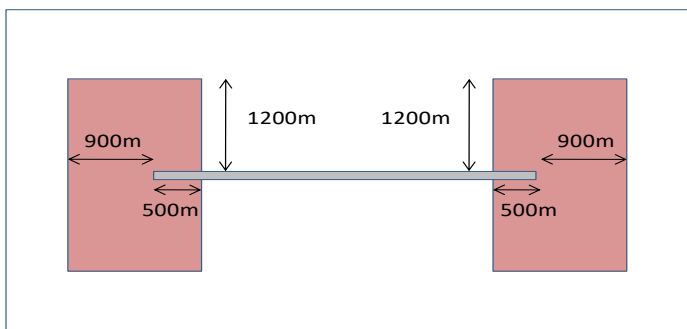
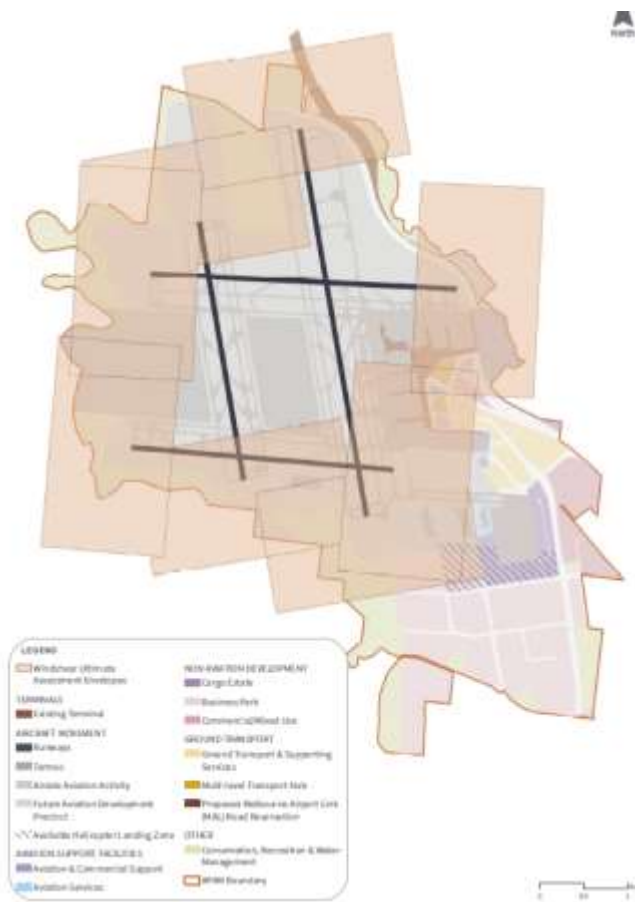


Figure 8: Melbourne Airport windshear area



**(ii) What does the NASF say**

NASF identifies the greatest risk for windshear occurs below 61 metres as aircraft approach or take off from a runway. Whilst off-airport buildings are an important consideration, they would generally have to be a significant height to fail the windshear criteria.

The NASF suggests that an overlay and trigger may be appropriate for works within the building windshear and turbulence envelope:

23. Jurisdictions could apply this Guideline by overlaying the assessment trigger area and 1:35 surface (described in paragraphs 43-48) in state/territory or local planning documentation.

The rule adopted in Australia is that buildings should not penetrate a 1:35 surface extending perpendicular from the runway centreline (For example, within the windshear envelope, a building with a height of 10 metres would be acceptable if it were located more than 350 metres perpendicular to the runway centreline, or extended runway centreline). The windshear envelope extends 900 metres beyond the end of the runway, and the consideration of building height against the 1:35 surface should be measured above runway level.

The NASF acknowledges that the science around this issue is extremely technical and complex, CASA can provide safety advice but the decision to approve off-airport building works would ultimately rest with council:

46. Noting the complexity of the issues, this Guideline and the guidance material at Attachment A presents a simplified depiction of wind flows behind obstacles such as buildings and contains a synopsis of the technical issues surrounding building-induced wind effects.

However, the 1:35 windshear surface can be applied to rule out buildings that will clearly not pose a risk (refer to Figure 9). Buildings above the 1:35 surface height might still be acceptable but would require technical assistance and review to ensure aircraft safety would not be compromised. Council officers may seek CASA advice on such safety cases.

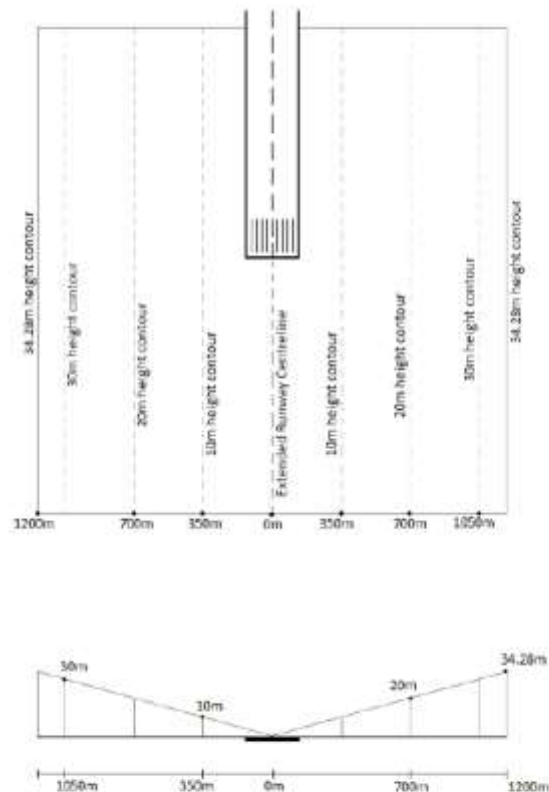
**Figure 9: NASF Plan view of windshear surface with assessment trigger**

Figure 9: (Top) Plan view of the 1:35 surface within the assessment trigger area. (Bottom) Elevation view of the 1:35 surface, looking down the runway centreline. Illustrative purposes only – not to scale.

### (iii) Submissions and evidence

There is no statutory requirement to refer or seek CASA advice regarding building generated windshear and turbulence. Brimbank identified that council planners are not experts in these matters and said that, a Design and Development Overlay could be applied, but council may have to fund peer reviews of applications due to the highly technical and specialist nature of this issue.

#### Submissions on the Issues and Options Paper

APAM submitted that it is appropriate to address windshear through the application of a planning control, such as the proposed MAEO3 schedule.

Guideline B provides a useful graphic identifying the areas around runways where an assessment should be triggered (refer to Figure 9) – which should define the extent of the overlay and be included in the Schedule. This may assist planning officers who are not proficient in the technical matters associated with windshear to quickly ascertain if a development would not generate windshear affecting airport operations.

Kingston City Council (Kingston) was generally supportive of MAEO3 but identified that the proposed control does not take into account regional airports, such as Moorabbin Airport. Further, Kingston noted that it did not believe NASF windshear guidelines were applied ‘fairly’ noting that, in its opinion, some recent Moorabbin on-airport buildings appeared not to comply with these guidelines.

**(iv) Discussion**

The Committee acknowledges that windshear issues can potentially be missed, or not considered, by planners when assessing applications. In part, this may be due to its potential effects being relatively confined to on-airport land with minor incursions beyond.

It is clear that Federal legislation applies but it is often highly technical in nature and a specialist would be needed to make a determination. However NASF provides a simplified assessment approach utilising the 1:35 windshear surface that can be applied to rule out buildings that will clearly not pose a risk and practically if a building pierced this surface, council could refer the application to CASA for consideration and advice. To further enhance clarity, the end of runway centreline level should be shown in AHD so all parties can accurately determine the 1:35 windshear surface.

To simplify and ensure windshear effects are captured and considered, MAEO3 should clearly identify the extent of the windshear area of influence in accordance with Figure 9 and include the simplified assessment approach for development windshear assessment.

The Committee notes that the area of influence beyond the airport grounds is relatively small, and the likelihood of development occurring within this space is small (much of the land is zoned Green Wedge) and the simplified assessment approach is relatively straight forward.

It is self-evident that no one would want to be in an aeroplane compromised by building windshear to the extent that the plane crashes. It is essential that the issue is considered.

**(v) Technical drafting issues**

As presented, the draft MAEO3 did not explicitly trigger the requirement for a planning permit. To be workable the overlay would need to trigger a permit for a building over the 1:35 surface; below this surface there is no need to require a permit.

Councils provided suggested enhancements around strengthening the Schedule including introducing a permit requirement for buildings and works including TV antennas and flagpoles, and more descriptive decision guidelines.

APAM raised an important issue that some buildings and works may not require a permit and fall outside VPP requirements.

Clause 62.02-1 (Buildings and works not requiring a permit), lists buildings and works that are essentially taken out of the planning system (except for the Public Conservation and Resource Zone):

Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to: ...

Clause 62.02-2, lists 'Buildings and works not requiring a permit unless specifically required by the planning scheme':

Any requirement in this scheme relating to the construction of a building or the construction or carrying out of works, other than a requirement in the Public Conservation and Resource Zone, does not apply to: ...

While the exempt buildings and works in Clause 62.02-2 could be listed in the relevant overlay schedules (even if this were a relatively long list) the exemptions of Clause 62.02-1 would still apply.

The buildings and works in Clause 62.02-1 have essentially been taken out of the planning system. It is conceivable that some of these uses could cause a problem but the buildings and works with the greatest potential to cause an issue appear to be related to public authorities or service providers.

If this were seen as an issue, there would appear to be two ways this issue could be addressed:

- Include reference to the relevant MAEO and AEO schedules along with 'Public Conservation and Resource Zone' in the Clauses 62.02-1 and 62.02-2.
- Change Clauses 62.02-1 and 62.02-2 from "*other than a requirement in the Public Conservation and Resource Zone*" to "*other than where a zone or schedule to an overlay explicitly states they do not apply*". The zone or overlay schedule can 'turn off' the exemptions. This has the advantage that the exemption is presented in the relevant provision making the planning system clearer.

It is not clear that requiring a permit for all the uses listed in Clauses 62.02-1 in the proposed overlay would be justified. Drafting the overlay so that a permit is not required for buildings and works below the 1:35 surface would target the controls to the development that needs to be controlled.

#### **(vi) Notice and referral**

The general issue of referral is discussed in Chapter 13. The Committee supports APAM being a referral authority.

As windshear has significant public safety consequences, APAM submitted it should be a determining referral authority. Brimbank and Hume reiterated that there is need to give notice of some classes of permit applications to CASA such as MAEO3 (Windshear protection).

#### **(vii) Recommendations**

The Committee recommends:

- 9. In respect to windshear:**
  - a) Introduce a new overlay Melbourne Airport Environs Overlay Schedule 3 (Windshear protection) as shown in Appendix D.3**
  - b) Review Clauses 62.02-1 and 62.02-2 to determine whether some currently exempt Buildings and works should require a permit in areas where windshear needs to be managed.**

## 7 NASF Guideline C: Wildlife

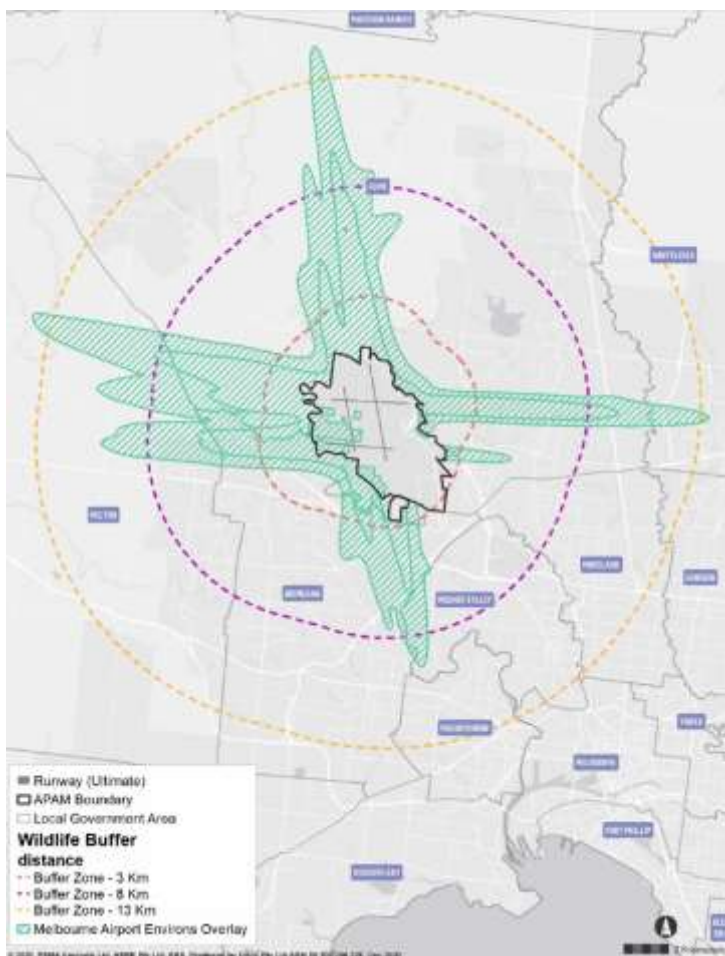
### (i) Understanding wildlife risk

Aircraft striking wildlife as they approach and depart an airport can cause major aircraft damage and compromise safety. Currently, there are no specific off-airport planning controls relating to aircraft-wildlife strikes or its management to address this issue.

The potential wildlife buffer for Melbourne Airport is shown in Figure 10.

The three concentric circles are used as part of a NASF risk assessment for potential aircraft-wildlife strike assessment.

**Figure 10: Wildlife Buffer Distance**



Source: Melbourne Airport Masterplan 2018

### (ii) What does the NASF say

The NASF identifies that wildlife strikes (birds, bats and flying foxes) can cause major aircraft damage and reduce safety. Careful land use planning and land management near the airport can significantly influence the risk of wildlife hazards such as avoiding land uses which attract birds. This may include landfills, wetlands, and agriculture uses.

Most wildlife strikes occur on and near the airport, where aircraft fly at lower altitude. To this end, a risk management table has been prepared which provides guidance on different land uses that present a risk



of attracting wildlife and triggers (based on varying distances (3, 8 and 13 kilometre radius) from the airport (Aerodrome Reference Point (ARP)). These varying distances are used for adopting measures to mitigate risk, including identifying incompatible land uses (refer to Table 4).

**Table 4: NASF Guideline C Attachment 1 to Wildlife Strike Guidelines**

Land Use	Wildlife Attraction Risk	Actions for Existing Developments			Actions for Proposed Developments/ Changes to Existing Developments		
		3 km radius (Area A)	8 km radius (Area B)	13 km radius (Area C)	3 km radius (Area A)	8 km radius (Area B)	13 km radius (Area C)
<b>Agriculture</b>							
Turf farm	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Piggery	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Fruit tree farm	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Fish processing /packing plant	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Cattle /dairy farm	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Poultry farm	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Forestry	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action
Plant nursery	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action
<b>Conservation</b>							
Wildlife sanctuary / conservation area - wetland	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Wildlife sanctuary / conservation area - dryland	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
<b>Recreation</b>							
Showground	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Racetrack / horse riding school	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Golf course	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Sports facility (tennis, bowls, etc)	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Park / Playground	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Picnic / camping ground	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
<b>Commercial</b>							
Food processing plant	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Warehouse (food storage)	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action
Fast food / drive-in / outdoor restaurant	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action
Shopping centre	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action
Office building	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
Hotel / motel	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
Car park	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
Cinemas	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
Warehouse (non-food storage)	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
Petrol station	Very Low	Monitor	No Action	No Action	Monitor	No Action	No Action
<b>Utilities</b>							
Food / organic waste facility	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Putrescible waste facility - landfill	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Putrescible waste facility - transfer station	High	Mitigate	Mitigate	Monitor	Incompatible	Mitigate	Monitor
Non-putrescible waste facility - landfill	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Non-putrescible waste facility - transfer station	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Sewage / wastewater treatment facility	Moderate	Mitigate	Monitor	Monitor	Mitigate	Mitigate	Monitor
Potable water treatment facility	Low	Monitor	Monitor	No Action	Monitor	Monitor	No Action

The NASF has identified that APAM needs to work with councils to establish mechanisms to prevent the creation of land uses that would cause hazardous wildlife attraction at or across the airport's flight paths – managing wildlife attractants is a key strategy in increased safety benefits. Councils should ensure that APAM are given opportunity to formally comment on planning applications and rezoning that fall within the guidance shown in Table 4.

### (iii) Submissions and evidence

The Melbourne Airport Masterplan (2018) identified that there are no specific off-airport planning controls relating to wildlife strikes. It also identified that the 3, 8 and 13 kilometre radial buffer zones be measured from each end of the runway as opposed to a single point within the airport grounds, as due to Melbourne Airport's size, practically the 3 kilometre buffer would not extend much beyond its boundary to capture potential critical land uses. APAM noted that when an application was referred to them under the MAEO they undertook a wildlife strike assessment but noted that very little of the wildlife buffer zone area was overlapped by the MAEO.

Mr Barlow recommended that wildlife strike risk buffers be defined through an Environmental Significance Overlay which could include a permit requirement for some development, along with certain performance standards to be met. Mr Glossop gave evidence that a more robust approach would be to create a new schedule to the MAEO to control land uses that increase the risk of wildlife strikes. This is the approach the Committee has adopted.

Brimbank noted that over the last 10 years they have worked with APAM to develop a landscaping policy to identify appropriate plant species to ensure new development has non-bird attracting species.

However, the strategic work in relation to landscape and vegetation near the airport relies on council officer knowledge. As a starting principle, the council supported translating the NASF principles and guidelines into the Planning Scheme.

Mr Shaw from Avisure, a consulting firm specialising in wildlife hazard management including aircraft-wildlife collision prevention, provided a detailed submission identifying that wildlife strikes have resulted in fatalities and aircraft losses. Around airports, 93 per cent of strikes occur below 1,067 metres (3,500 feet). It is critical that external stakeholders (councils, wildlife authorities and land users) are engaged to monitor and mitigate wildlife hazards.

He identified that Melbourne Airport has a comparatively low average wildlife strike rate of 3.9 strikes per 10,000 aircraft movements however inappropriate land use around the airport can elevate risk and compromise air safety. Whilst supporting the NASF and noting it is of a high standard, further work is required for it to be a comprehensive, effective document for wildlife strike mitigation. He noted there is:

- difficulty embedding the NASF elements into a planning framework – Planning frameworks require certainty whilst wildlife strike management is based on risk
- reluctance to adopt the NASF as it is a guidance document
- ambiguity around who is responsible
- insufficient or ambiguous land use types specified.

Mr Shaw's key recommendations included:

- amend the planning scheme to incorporate a more comprehensive coverage of airport safeguarding against wildlife strikes, similar to Gold Coast<sup>7</sup> and Brisbane<sup>8</sup> airports
- create land use guidelines, similar to the NASF, that are specific to Melbourne Airport
- develop and embed an assessment process for permit applications
- develop a risk assessment method
- encourage proactive wildlife risk mitigation at land use planning and design stages (for example, appropriate plant species)
- engagement with relevant stakeholders.

### **Submissions on the Issues and Options Paper**

APAM submitted that it was generally supportive of the proposed MAEO4 and noted that policy development around this area would be appropriate.

APAM noting that NASF suggests that protection from wildlife strike should be provided up to a 13 kilometre radius from the airport.

APAM noted that further discussion around permit requirements for uses that are listed as requiring action to 'mitigate' (for example, farms, golf courses, non-putrescible landfill) is required. Further, land use terms used in NASF do not readily align with VPP terminology and further clarity is required. In relation to buildings and works, further clarification and capture of works such as landscaping and drainage would be appropriate.

Potentially an application requirement could include a wildlife management plan, aimed at minimising the potential to attract birds and bats.

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<sup>7</sup> <https://cityplan.goldcoast.qld.gov.au/eplan/#Rules/0/53/1/3352>

<sup>8</sup> <https://cityplan.brisbane.qld.gov.au/eplan/#Rules/0/129/1/0/0>

Brimbank and Hume opposed applying an overlay to manage wildlife strike risks, in particular as it was a difficult risk for council to manage in its role as the responsible authority and the planning authority. Council noted that a number of higher risk land uses (that is, wildlife sanctuary, conservation area and wetlands) are exempt from the need for a permit (Clause 62.01) – potentially this clause many require amendment.

However, Melton City Council (Melton) generally supported MAEO4 to mitigate against wildlife strike and noted:

- resolve and clarify the different geographical areas of potential impact (3 or 8 kilometre from end of runways)
- clarify terminology ‘birds, birds and bats’, ‘wildlife’
- utilise VPP, rather than NASF, land use terms.

Avisure, provided a further submission and identified that it is appropriate to consider land uses up to 13 kilometres (as opposed to 8 kilometres) from the airport. Avisure stressed that in many cases, the wildlife risk associated with land uses can be effectively mitigated. The development of a standardised assessment tool will aide in hazard identification and ensure the land user and responsible authority understand their roles and responsibilities. In relation to Application Requirements; the use of wildlife management plans is appropriate where the wildlife risk associated with land use or development is assessed as unacceptable.

The developer submissions noted that as part of residential subdivisions they are generally required to provide wetlands, retention ponds with associated landscaping, (which naturally attract wildlife) and other stormwater drainage and treatment infrastructure as part of Melbourne Water requirements. Mr Bursill noted that there were underground storm drainage systems, which included sand infiltration systems and generally a smaller land footprint which potentially minimise the ‘attractiveness’ to wildlife.

Several resident submissions flagged the potential adverse impacts on Brimbank Park’s native fauna from airport operations, in particular, the proposed new North South runaway and were particularly concerned that this may result in significant wildlife culls as the mitigation technique.

#### **(iv) Discussion**

Thankfully wildlife strikes are rare around Melbourne Airport but this is not grounds for complacency as wildlife strikes have resulted in the loss of life and aircraft.

The wildlife buffer issue was not contested – parties accept that wildlife strikes can occur and work should be undertaken to minimise this risk. Incorporating the NASF Guideline C into planning controls is appropriate to ensure wildlife buffer issues are considered as part of planning permit application or rezoning requests.

The Committee had initially adopted the 3 and 8 kilometre radius buffers as these involved ‘mitigation measures’ or ‘incompatible’ land use are considered, whilst the 8 to 13 kilometres buffer proposed only ‘monitor’ or ‘no action required’ for various land uses. However, NASF continues:

... identify that new land uses and changes to land zoning within 13 kilometres of the airport are regularly monitored and action plans created to mitigate any unacceptable increase in the risk of bird strike

This is consistent with APAM and Avisure’s recommendations that the wildlife buffer extend to 13 kilometres. To remain consistent with NASF the 3 buffers (3, 8 and 13 kilometres) should be incorporated into MAEO4.

The Committee considers the fundamental risk management strategy outlined in the NASF Guideline C, which considers land use, proximity to the airport and suggested triggers and remedial measures is an appropriate tool to build upon to provide a more detailed assessment tool for council planners and other relevant stakeholders. The Committee was heartened to see that Brimbank has already developed a landscape policy to limit bird attraction in new development affected by Melbourne Airport.

For new subdivisions, its wetlands and stormwater management are likely to be attractive to wildlife and potentially conflict with airport operations. Limiting bird attracting plants, modifying stormwater management systems to be below ground and implementing wildlife management plans are likely to achieve positive results. Again, this reinforces the need for an overlay to ensure all participants are aware that landscaping and associated wetlands and stormwater management systems may potentially impact on airport operations and need to be appropriately designed and assessed.

The Committee acknowledges the concerns of Brimbank and Hume regarding managing wildlife strike risk within their municipalities. This is understandable, however there is, and has been, an obligation on all councils to consider NASF guidelines when assessing rezoning and land uses within their municipality.

Again, the NASF provides a matrix of land uses and suggested remedies such as a wildlife management plans which should be within the scope for council planners to manage and consider. Ensuring wildlife management plans are implemented, appropriate landscape design and plantings to minimise the attractiveness for birdlife, and wetland and retention basin design are all matters that can be readily addressed through permit conditions. However, it was unclear what level of monitoring, or the ongoing management and supervision of sites would be required; ultimately this would form part of the wildlife management plan.

#### **(v) Technical drafting issues**

Further clarity around triggers and permit conditions are required, as flagged by APAM.

The Committee believes that this can be achieved by listing the defined VPP term and further clarifying the precise uses under this term that need a permit. Clause 53.10 of the VPP takes this approach further by refining uses in a table with a column headed 'Type of use or activity (purpose)'. This approach would allow for a more limited set of uses to be specified. It does not seem necessary for example to require a permit for open space in general, only the water bodies in that open space.

All parties identified a number of issues around the functionality, language and useability of the NASF document to create clarity and certainty for planners, which in the Committee's opinion should be addressed including:

- land uses consistent with VPP nomenclature
- consistent terminology (birds and bats, or wildlife).

#### **(vi) Recommendations**

The Committee recommends:

##### **10. In respect to wildlife:**

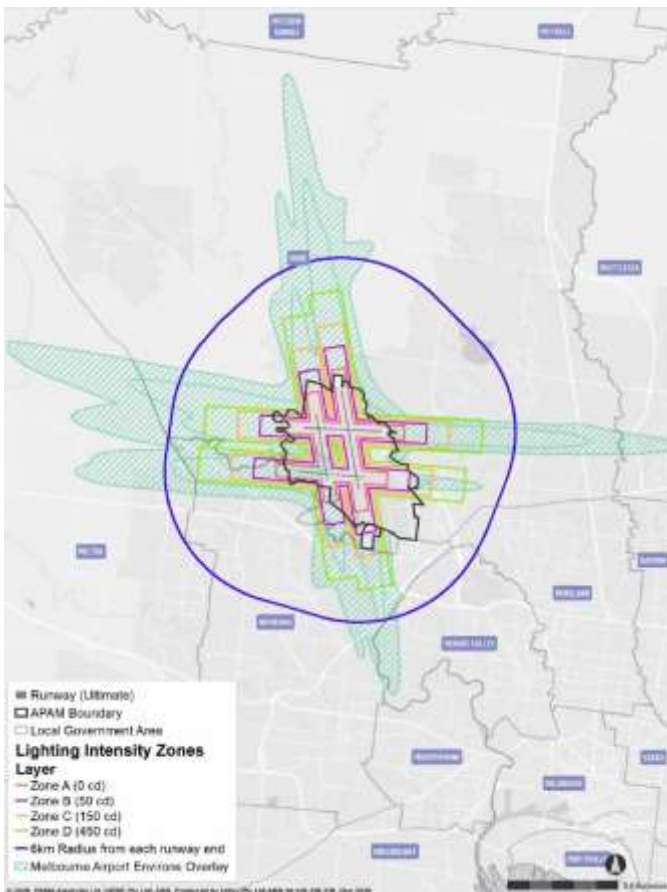
- a) Introduce a new overlay Melbourne Airport Environs Overlay Schedule 4 (Potential wildlife strike) as shown in Appendix D.4**
- b) Develop a risk management strategy outlined in the NASF Guideline C to provide a more detailed assessment tool for council planners and other relevant stakeholders and to determine the precise extent of the overlay.**

## 8 NASF Guideline E: Lighting

### (i) Understanding lighting glare

Bright lights can distract pilots. Figure 11 shows the area where pilot distraction from lighting may be an issue.

Figure 11: Melbourne Airport lighting envelope



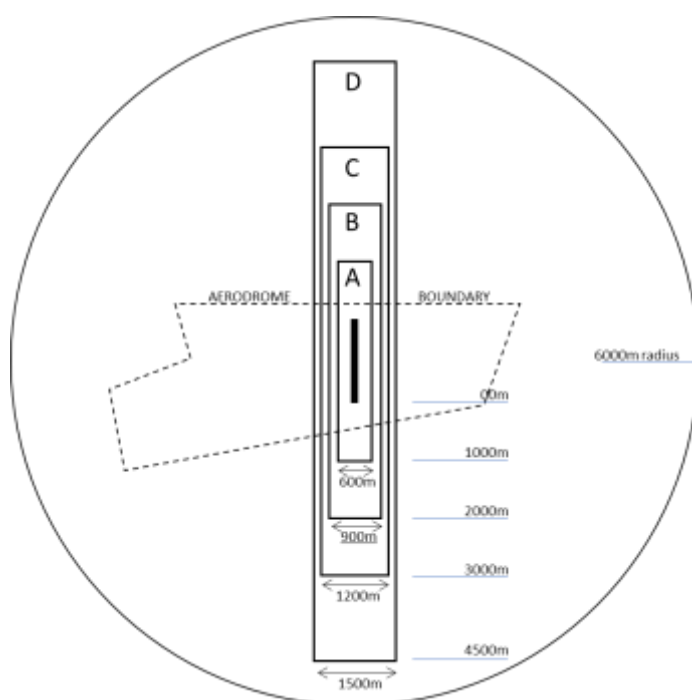
### (ii) What does the NASF say

Pilots rely on specific patterns of runway lights during inclement weather and for night flying. It is important that lighting in the vicinity of airports does not distract pilots or is not confused with airport ground lighting.

Lighting generally within 6 kilometres of an airport would need to be assessed; such as when planning applications involve significant lighting (such as freeway lighting, stadium flood lights and construction lighting). The NASF sets standards shown in Figure 12.

It should be noted that CASA advise that the glare from buildings tends to be momentary and therefore unlikely to be a source of risk.

Figure 12: Lighting guidelines



Area	Maximum intensity of light source measures at 3 degrees above the horizontal
Area A	0 candela
Area B	50 candela
Area C	150 candela
Area D	450 candela

### (iii) Submissions and evidence

Currently no specific off-airport state planning controls apply however CASA and other Federal legislation does. APAM identifies that these matters require state government attention in accordance with the NASF guidelines.

APAM was generally supportive of draft MAEO5 as presented in the Issues and Options Paper to manage pilot distraction/lighting issues and submitted:

- permit requirements for sports field lighting, not directly associated with a 'stadium'
- minor editorial amendments to drafting and permit conditions.

Brimbank and Hume believed that draft MAEO5 would have little utility as motorway and freeway lighting is exempt from the need for a permit, sea container yards, wharfs and refineries are unlikely within six kilometres of Melbourne Airport. In relation to stadium flood lighting, Council suggested a variety of amendments to the Schedule including:

- strengthening its purpose
- use VPP consistent language
- modified permit conditions
- clarifying further information to make an assessment
- seeking the views of CASA and associated referrals.

**(iv) Discussion**

Lighting around Melbourne Airport was uncontested and essentially became a drafting exercise to ensure the Schedule was appropriate and clear.

While Guideline E refers to a 6 kilometre radius it does not present clear requirements for this general area.

Inclusion of an MAEO schedule would be a workable control to ensure lighting issues which may impact pilots are captured.

**(v) Technical drafting issues**

Melton advised it supported the draft MAEO5 and made the following observations:

- clarify Clause 2.0 as to whether a permit is only required for the listed developments and lighting types, and whether this list is exhaustive
- 'Refinery flare plumes' are not buildings and works and the relevant trigger would be refinery
- clarify application requirements.

The Committee believes that there is no need to trigger a permit for the uses in order to control the development of the lighting, except in the case of refinery plumes. The need for a permit can be restricted to the lighting itself to avoid capturing a range of unrelated issues.

**(vi) Recommendations**

The Committee recommends:

- 11. In respect to lighting and pilot distraction**
  - a) Introduce a Melbourne Airport Environs Overlay Schedule 5 (Potential light glare risk to aircraft) as shown in Appendix D.5**

## 9 NASF Guideline F: Obstacle Limitation Surface

### (i) Understanding the Obstacle Limitation Surface

Operational airspace above and around Melbourne Airport needs to be protected from intrusions by objects (for example, tall building or antennas) or activities (for example, plumes of smoke) that could compromise safe aviation operations, particularly for aircraft landings, take-offs, and when circling the airport.

#### What is an Obstacle Limitation Surface

National and international standards have been adopted which define two sets of imaginary surfaces above the ground. These surfaces are:

- Obstacle Limitation Surface – provide protection for visual flying
- Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) – when pilots fly and navigate by instruments alone (that is during inclement weather).

Generally the OLS is the lower of the two surfaces.

#### The geographic extent of the issues

The Obstacle Limitation Surface is the imaginary boundary which defines airspace to be protected for safe airport and aircraft operations and extends up to 15 kilometres away from Melbourne Airport as shown in Figure 13.

The surface is not uniform but includes transitions from one height level to the next, some describe the surface as akin to an upside down tiered cake. Conceptual diagrams for the OLS are shown in Figure 14 and Figure 15.

**Figure 13: Melbourne Airport – Obstacle Limitation Surface**

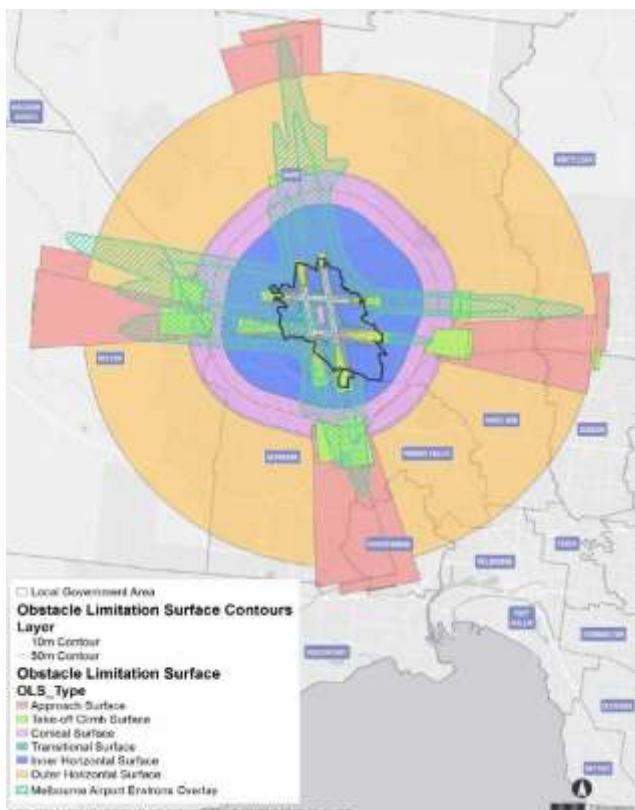




Figure 14: Obstacle Limitation Surface – Conceptual Cross Section<sup>9</sup>

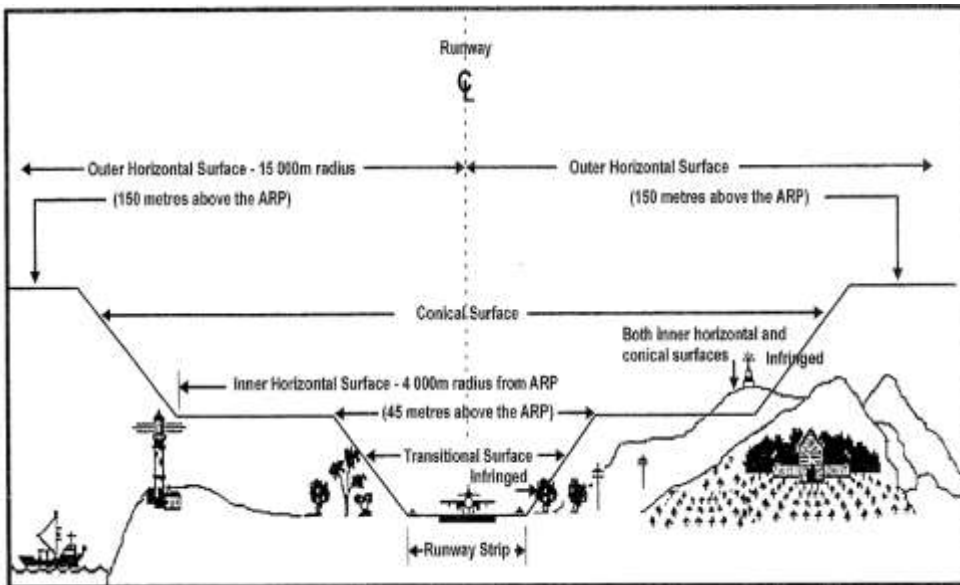
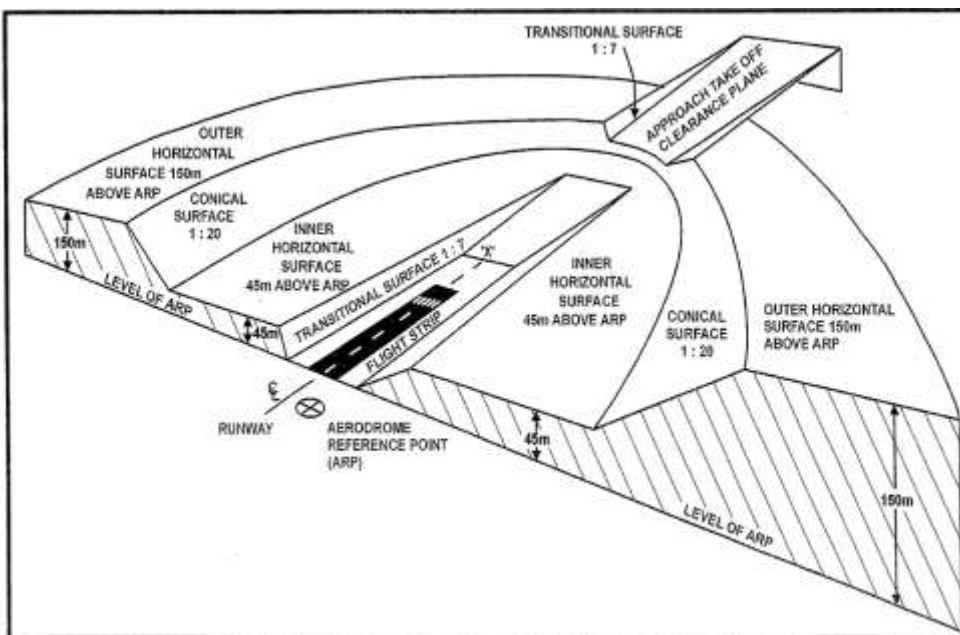


Figure 15: Obstacle Limitation Surface – Conceptual Isometric view<sup>10</sup>



(ii) What does the NASF say

NASF Guideline F identifies that the operational airspace for airports is the OLS. Intrusions into operational airspace can adversely affect airport operations and/or compromise safety.

The Guideline advises that councils in the vicinity of an airport’s Protected Airspace should review all building and development applications for possible intrusion into the OLS and should subsequently refer those applications to the airport operator. Airports should ensure OLS and PANS-OPS surfaces maps are available for councils to incorporate into a planning overlay.

<sup>9</sup> NASF Guideline F Attachment 1a

<sup>10</sup> NASF Guideline F Attachment 1a

The NASF provides a suggested assessment process<sup>11</sup> but essentially the key criterion is to identify whether the OLS or PANS-OPS surface will be penetrated, then seek specialised advice from CASA and Airservices Australia in conjunction with Melbourne Airport. Potentially minor and or short term intrusions may be acceptable, but would need be assessed on a case by case basis.

### (iii) Submissions and evidence

Melbourne Airport's Prescribed Airspace is protected by Federal legislation, but there is evidence that this is not widely known or understood by developers, councils or general public. APAM considered improvements to the planning system are required to provide greater certainty and rigour in protecting the Prescribed Airspace in accordance with NASF Guideline F. In APAM's opinion this could be achieved with a new overlay control or VPP provision.

Moreland identified that much of their municipality would not be affected by the OLS. However, activity centres, where much taller development can occur would benefit for the OLS to be considered during the design stage. Currently there are no planning mechanisms to identify these areas or manage potential intrusion into Prescribed Airspace. Useful tools would include:

- include OLS and PANS-OPS within an overlay control
- mandatory conditions
- Essendon Fields Airport as a statutory determining referral authority.

Submissions highlighted a case study where a tall development was identified as being below the OLS and PANS-OPS levels however when the developer came to construct the building, the cranes used for construction, extended into the Prescribed Airspace, again highlighting a gap in the current framework and suggested an appropriate planning mechanism be developed to capture the OLS issue, specifically for referral to the appropriate airport operator.

Brimbank highlighted that the OLS is not included in any planning scheme and relied on council officer knowledge. It said further planning controls like a Design and Development Overlay should be considered to implement OLS controls.

Kingston noted that they have a Design and Development Overlay which incorporates the OLS (for Moorabbin Airport) and this is used as a complementary tool to the Commonwealth Regulations, to control development. Council noted that flagpoles and television antenna do not require a planning permit unless specifically required by the scheme and practically, the Design and Development Overlay should also apply to these structures. Also, whilst 'doubling up' on Federal Regulations these regulations are not considered to be widely known and there is a general lack of awareness about them. Council advocated for the development of a Practice Note, Advisory Notes and Guidelines to assist in guiding decision makers.

### Submissions on the Issues and Options Paper

APAM generally supports the draft MAEO6 to manage OLS and identified the following:

- MAEO6 should also include the PANS-OPS surface, as in some circumstances it is lower than the OLS
- MAEO6 should trigger a need for a permit given the importance of airport and aircraft safety

<sup>11</sup> [https://www.infrastructure.gov.au/aviation/environmental/airport\\_safeguarding/nasf/files/6.5.1\\_Guideline\\_F\\_Attachment\\_3.pdf](https://www.infrastructure.gov.au/aviation/environmental/airport_safeguarding/nasf/files/6.5.1_Guideline_F_Attachment_3.pdf)

Hume submitted that the OLS should not form part of the MAEO schedule as it involves an assessment by another entity who should bear the risk and burden – essentially Council opposes becoming responsible for this issue.

Further, Hume was unsure how the OLS will be mapped and incorporated into an overlay. Potentially significant work is required to integrate the OLS with natural ground surface to understand where it will physically and spatially apply. Hume is concerned that there is no understanding of how the OLS contours interact with the physical contours of the affected land and the strategic context of that land.

There was concern that MAEO6 unnecessarily duplicates the existing [federal] approval process and may have consequences delaying the timely assessment of a permit application.

Whilst Hume opposed MAEO6, it considered a better approach is to identify the constraint (OLS) and whether that constraint can be appropriately managed.

Maribyrnong City Council (Maribyrnong) submitted that it does not support the extension of the MAEO in order to have the OLS considered at a planning permit stage and noted that they typically refer buildings greater than ten storeys in height to the operators of Melbourne and Essendon Fields Airports for comment in regard to OLS and PANS-OPS. The proposed MAEO6 suggests buildings 10 metres or more above ground be submitted which would result in the majority of Maribyrnong being affected by this overlay. Maribyrnong does not support this position, and submits that greater clarity be provided on how best to consider taller buildings including the development of a Practice Note covering issues such as:

- specific locations where buildings and works are likely to intrude into the OLS
- implications of the OLS for crane structures and heights
- types of uses which should be referred (i.e. potential industrial use to discharge plumes into the air)
- how the process of referring planning applications relates to the separate process of applying for permission to use a crane in Melbourne Airport Protected Airspace.

Melton and Kingston generally supported MAEO6 subject to the drafting being clear and user friendly, and the development of a Practice Note.

#### **(iv) Discussion**

The issues surrounding OLS highlights the gulf between the protection of Melbourne Airport Prescribed Airspace under Federal legislation and understanding of neighbouring and nearby council obligations. Whilst Kingston seems well advanced in ensuring its obligations are met through the creation of a Design and Development Overlay to ensure the OLS requirements (for Moorabbin Airport) are captured (essentially highlighting Federal legislation requirements) other councils appear not to be as advanced.

While it is generally unnecessary and undesirable to duplicate laws between different spheres of government as submitted by Hume, on this occasion, the Committee believes highlighting the OLS in planning would lead to greater clarity and certainty. Implementing an OLS overlay control as outlined is considered appropriate.

Hume's reticence to be responsible for an assessment by another entity who should bear the risk and burden appears at odds with its role as Responsible Authority. Councils often refer applications to other agencies such as Department of Transport, VicTrack or APA for gas transmission lines; referring an application to APAM, CASA and/or Airservices Australia should not be seen any differently.

To be useful at an early stage of planning, the OLS should be presented as a height above natural ground level. This would allow a quick assessment as to whether a six-storey building, for example, breach the

surface or not. While most applications will have levels to AHD, this information may not be available when someone is beginning to plan a development project (though VicPlan has Digital Terrain models showing 1 metre contours to AHD throughout the Melbourne environs which would provide a reasonable approximation for planning purposes).<sup>12</sup>

The Committee believes that something similar to the existing noise tool model on the Melbourne Airport website could be implemented where you enter an address and are provided with noise information for that location. For the OLS information, it would identify a permissible height to the OLS and/or PANS-OPS (to AHD) and existing ground level (to AHD) at the selected location. The Committee believes that APAM (or its equivalent) is the appropriate body to manage this resource as:

- it has the most expertise around OLS/PANS-OPS requirements
- best placed to manage and oversee the risk.

The current OLS map provided by Melbourne Airport is difficult to interpret, particularly around the approach and take off surfaces and the conical cone contours would benefit from additional information on levels and could be simplified to be more use friendly. APAM noted that PANS-OPS surface can be below the OLS, and this should be clearly shown or incorporated into the OLS surface. Again, in this environment (public sphere to ascertain if a proposed development will pierce the OLS surface) greater simplicity and ease of use are essential.

Any control would need to avoid triggering unnecessary requirements. Whilst the Committee initially thought that one way of avoiding this is to limit the assessment to buildings above, say, three storeys or 10 metres for most of the overlay – this would generate significant and unnecessary and potentially redundant referrals as noted by Maribyrnong. The control should simply enforce the OLS as a requirement and require information of the height of the building to AHD. This would ensure that these issues are dealt with at the beginning of the planning process.

The Committee notes that for the CBD of Melbourne it appears that the OLS from Essendon Fields Airport is the determining factor.

In relation to crane use within the OLS, APAM provides contractor application guides for obtaining a crane access permit (generally within five days). These matters are typically addressed in construction management plans and this could be addressed in the overlay.

#### **(v) Technical drafting issues**

The draft overlay presented in the Issues and Options Paper sought to distinguish between areas where the OLS was lower than 10 metres. Using 12 metres would better reflect residential zone height controls.

APAM suggested:

A permit is required for a television antenna or flagpole taller than Obstacle Limitation Surface for Melbourne Airport without unless express consent has been obtained from the relevant airspace manager.

The Committee does not believe it is accepted practice to make a permit subject to advice from an organisation. The Practitioners' Guide states:

**RULE 7: The requirements of a provision must be clear and unambiguous**

A provision must:

...

<sup>12</sup> <https://mapshare.vic.gov.au/vicplan/>

Not make a permit requirement contingent on the opinion or satisfaction of a decision-maker or other body (including the responsible authority).

APAM submitted that the overlay need not apply where the OLS was higher than 50 metres above natural ground level. The Committee thinks the overlay should be over the full area.

**(vi) Recommendations**

The Committee recommends:

**12. In respect of the Obstacle Limitation Surface and PANS-OPS:**

- a) **Introduce a Melbourne Airport Environs Overlay Schedule 6 (Aviation Obstacle Limitation Surface) as shown in Appendix D.6.**
- b) **Provide effective information about the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface by:**
  - **Including the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface in VicPlan**
  - **Incorporating a *Melbourne Airport Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface plan* in the VPP to give it statutory effect**
  - **Developing a mapping tool to allow maximum building heights determined by the Obstacle Limitation Surface and Procedures for Air Navigation Systems Operations surface to be presented as an indicative height above natural ground level.**

## 10 NASF Guideline G: Protecting communication, navigation and surveillance equipment

### (i) What does the NASF say

Communication, navigation and surveillance (CNS) facilities are crucial to safe aviation.

CNS facilities are crucial to safe aviation and amongst other things aid in instrument approach procedures and allow air traffic control to monitor and confirm aircraft locations as well as communicate with pilots.

Inappropriate development located near these facilities can compromise their effectiveness. The NASF identifies a Building Restricted Area (where a development may cause unacceptable interference) around a CNS facility. This area can extend up to 15 kilometres from a facility.

The NASF states:

22. Generally, a [Building Restricted Area] should be kept clear of permanent or temporary:
  - obstructions (eg buildings, other structures or trees) to the 'line of sight' between transmitting and receiving devices
  - objects (eg wind turbines) which act as reflectors or deflect signals used by aviation facilities
  - radio frequency interference;
  - electromagnetic emissions (eg such as those emitted by arc welding associated with steel fabrication), or
  - plume rises (as defined in the *Airports (Protection of Airspace) Regulations 1996*).

### (ii) Submissions

APAM submitted that:

APAM is of the view that there ought to be consistency in the application of planning controls to manage each of the different facets of airport safeguarding considered by the National Airports Safeguarding Framework (NASF). Accordingly, it is APAM's view that it is appropriate to address CNS facilities through the application of a planning control, such as a schedule to the MAEO.

In preparing its Issues and Options Paper, it was not clear to the Committee how planning controls could be drafted to address the protection of CNS equipment without capturing more developments than needed.

No party provided a draft of a possible overlay.

### (iii) Discussion

The Committee acknowledges that these other safety issues can potentially be missed, or not considered, by planners when considering applications. It is clear that Federal legislation applies around these issues but it is often highly technical in nature and practically a specialist would be needed to make a determination. The Committee notes that an assessment tool is being developed to assist in implementing this guideline.

The Committee concludes that some issues could be addressed in the planning system such as building height, but the Committee does not have a clear sense of what controls are required. Further analysis of the potential extent of the issue is required once the assessment tool is completed.

# 11 NASF Guideline I: Public safety

## (i) Understanding public safety

While Australia has an excellent aviation safety record, there will always be an inherent risk associated with flying. Historically, the majority of air crashes occur during take off or landing and in many cases, just beyond the airport grounds. Figure 16 shows the area where public safety may be an issue adopted by Melbourne Airport (based on Queensland Government policy in the absence of a national standard) and NASF risk based contours Figure 17.

Figure 16: Melbourne Airport public safety area



Figure 17: NASF Public Safety Zones



## (ii) What does the NASF say

The way land is managed at the end of runways, beyond airport boundaries can mitigate the risk of on-ground fatalities. Again, the NASF identifies that a suitable mechanism should be in place to ensure appropriate land use development is considered which restricts or minimises the cumulative risk to the community around the airport. The NASF approaches this by specifying certain land uses within risk contours. Alternative approaches would be to either:

- specify an employee density in the way that the Special Use Zone 4 in the Hobsons Bay Planning Scheme does
- use Clause 44.08 the 'Buffer Area Overlay' – which has only recently been introduced into the VPP.

The purpose of the Buffer Area Overlay is:

To implement the Municipal Planning Strategy and the Planning Policy Framework.

To identify buffer areas where there is potential for off-site impacts on human health or safety, or significant off-site impacts on amenity, from industry, warehouse, infrastructure or other uses.

To ensure that use and development within buffer areas is compatible with potential off-site impacts.

A schedule to the overlay must contain:

- A statement of risk.
- Objectives to be achieved.

### **(iii) Submissions and evidence**

The Melbourne Airport Master Plan 2018 identifies this issue. Currently no specific off-airport state planning controls apply.

#### **Submissions on the Issues and Options Paper**

Considering that this an airport safety matter, APAM considered that it is most appropriate to utilise an MAEO (similar to how the other safety issues are proposed to be addressed) though the Buffer Area Overlay would be an alternative solution.

APAM advised that based on historically declining worldwide aircraft accident rates and Australia's excellent aviation safety record, adopting the Queensland Public Safety Area (PSA) model was deemed most appropriate for Melbourne Airport, but APAM will continue to review PSA modelling into the future.

Brimbank and Hume opposed introducing Guideline I until there is a very clear understanding of what it is, where it applies, how it applies and in what manner. Council was unclear about what is the PSA and where it extends beyond the airport land, noting that most of the land is likely to be Green Wedge, Public Park and Recreation or Industrial land.

### **(iv) Discussion**

The Committee considers a pragmatic and simplified approach to dealing with PSAs at runway ends. There are a variety of methods and techniques available to consider PSAs but all essentially are risk based management tools. APAM has adopted the Queensland model which provides clear and unambiguous boundaries (essentially a 1 kilometre long trapezoid, 350 metres wide closest to the runway end, tapering to 250 metre wide furthest from the runway).

As generally noted by Hume, the majority of land affected lies within the airport grounds with only minor incursions beyond, predominately onto Green Wedge and Public Parks and Recreation lands. The likelihood of new development occurring in these areas is very small, however there is still a potential safety issue which must be managed.

The Committee agrees that a similar approach to how the other safety issues are proposed to be managed is appropriate (Overlay and Schedule). This maintains consistency and simplicity as all airport safety related matters occur in a similar format.

The Committee supports the application of an overlay based on risk contours to limit the extent of land affected.

### **(v) Technical drafting issues**

The NASF is somewhat vague referring to:

Industrial and commercial uses involving large numbers of workers or customers.

The Committee has adopted the approach and text of Altona Special Industrial Area (Schedule 4 to Clause 37.01 of the Special Use Zone) in the Hobsons Bay Planning Scheme. Certain uses would be



prohibited and other uses limited in their intensity. The precise limits on employment density will need to be determined but the Altona Special Industrial Area should be able to be used as a guide.

**(vi) Recommendations**

The Committee recommends:

- 13. In respect of Public Safety Areas at the end of runways:**
  - a) Introduce a Melbourne Airport Environs Overlay Schedule 7 (Protection of public safety) as shown in Appendix D.7**

## 12 Managing helicopter landing sites

### (i) What is the issue

Helicopter use near Melbourne Airport has the potential to affect operations especially in relation to aircraft approaches and take-offs at the airport.

Current planning controls do not require a planning permit to use land for the purpose of a helipad if exemptions of Clause 52.15 of the relevant planning scheme are met.

APAM wishes to introduce a trigger so as to be informed about any planned helicopter landing site and a requirement to regulate such uses.

### (ii) What does the Planning Scheme say?

Clause 52.15 of the VPP sets out the requirements for a permit for a heliport and a helicopter landing site.

### (iii) Submissions and evidence

This issue was only raised by APAM and covered in evidence provided by Mr Glossop. In his written evidence, Mr Glossop notes that the purpose of Clause 52.15 is:

To ensure the amenity impacts of a heliport and helicopter landing site on surrounding areas is considered.

Further the decision guidelines must consider:

- Whether the proposal achieves a suitable separation distance from a nearby sensitive use, having regard to the Noise Control Guidelines (Environment Protection Authority, 2008).
- The effect of the proposal on nearby sensitive uses in terms of the proposed frequency of flight movements and hours of operation.

However although a permit for a helicopter landing site is required within 200 metres of a shipping channel in the Port of Melbourne, there is no requirement for a permit in the vicinity of Melbourne Airport.

### Submissions on the Issues and Options Paper

APAM submitted that an additional decision guideline should be included:

The effect of the proposal on the optimum usage of Melbourne Airport.

During the roundtable discussions held on 25 and 30 August and 1 September 2021 the Committee received a letter from Mr John Rantino of Maddocks Lawyers, on behalf of Mr Timothy Metcalf to express his, and Maddocks Lawyers' grave concern that the Committee was contemplating making recommendations to the Minister which, if adopted as a planning scheme amendment, may have serious implications on the helicopter industry and helicopter operators without any notice to, or engagement with, that industry or those operators.

It noted with respect to the proposed amendments:

1. They will require a planning permit for a helicopter landing site unless *"the helicopter landing site is located outside the controlled airspace of an airport"*. It is not, *"Melbourne Airport"*, it is *"an airport"*. Presumably this means any airport in Victoria wherever located and of whatever nature (as long as it has controlled airspace).
2. It is not clear what category of airspace is referenced. There are a number of classes of controlled airspace. We are instructed that, depending on what class of controlled airspace

is intended, the controlled airspace of Melbourne Airport extends for 45 nautical mile (83 kilometres) from Melbourne Airport.

3. Nothing is said about what is to happen to existing helicopter landing sites that hitherto exist lawfully without the need for a planning permit, many of which are located within 45 nautical miles of Melbourne Airport and the controlled airspace of the multiple other airports in Victoria. They are not protected by the accrued rights of a planning permit, nor in the majority of cases, by existing use rights.
4. It is understood that Melbourne Airport is pressing to be a referral authority with respect to clause 52.15 applications. Aside from a genuine issue about whether it is appropriate for a private for-profit company to be a referral authority, nothing seems to have been said about whether:
  - Melbourne Airport is to be a referral authority for **all** applications regardless of which airport's controlled airspace is involved
  - the other airports in Victoria are to be, or should or need to be, the referral authority for their airport
  - CASA and/or Airservices Australia ought properly be the referral authority.

We note that the Cities of Melton and Brimbank/Hume have made very brief 'second round submissions' on the proposed amendments to clause 52.15. Those submissions are no substitute for proper notice to and engagement with those who will be affected by the amendments.

#### **(iv) Discussion**

The Committee recognises that helicopter landing sites within the vicinity of Melbourne Airport may have some impact on its efficient and unencumbered operation.

Where a helicopter landing site is within an area that may affect the airport's operations, a planning permit should be required or at the very least, the airport should be notified.

#### **(v) Technical drafting issues**

The draft provisions referred to "*... the controlled airspace of an airport*". APAM suggested that it should be changed to "*... the 'control zone' of an airport pursuant to the Airspace Regulations 2007 (Cth)*".

The Committee has made an internet search for these terms and cannot find a map that shows these areas in a clear fashion. The Committee agrees with Mr Rantino that these areas may be too extensive.

The Committee thinks the relevant area should be presented in an overlay. The Committee notes that the carparking provisions use an overlay to modify the general provisions. This would provide certainty and clarity about the extent of the control.

The extent of the area around Melbourne Airport that may be affected by a helicopter landing site must be determined. Determining this area should be subject to specific further consultation.

#### **(vi) Recommendations**

The Committee recommends:

- 14. In respect of protection of airspace from helicopter landing sites:**
  - a) Revise Clause 52.15 to address the protection of airspace from helicopter landing sites as shown in Appendix E.**
  - b) Introduce a Helicopter Landing Site Overlay into the Victoria Planning Provisions**
  - c) Consult further with relevant stakeholders before applying the Helicopter Landing Site Overlay.**

## 13 Referral authority status of Melbourne Airport

### (i) What is the issue

Development around the Melbourne Airport Environs may impact on airport operations and safety. Should Melbourne Airport be a referral authority?

### (ii) Melbourne Airport Environs Strategy Plan – referral authority

The Strategy Plan explicitly removed Melbourne Airport as a referral authority.

#### 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.

#### 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.

It appears that making Melbourne Airport lessee a referral authority would require a change in the Melbourne Airport Environs Strategy Plan.

### (iii) Submissions and evidence

APAM's position is that it should be a referral authority, making a contribution based upon their specialist expertise. However its formal status as an expert authority is currently insufficient, and because of that, it is perceived to be acting in its own interest. APAM noted that prior to the privatisation of the airport, the Federal Airport Corporation was a referral authority and essentially for the last 20 years there has been no effective airport authority leading to the gradual diminution of the perception of the Airport operator to just another player in the planning process.

Mr Barlow recommended, and was supported by Mr Glossop, that APAM should be made a recommending referral authority for any planning applications within the existing MAEO (and any proposed overlays).

Mr Glossop explored this issue further and submitted that some circumstances may warrant APAM being a determining referral authority, such as where there are intrusions into the OLS or risk of wildlife strike, both of which create significant public safety issues.

The (Federal) Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) suggest formal referrals (to APAM or Commonwealth agency) to ensure that the NASF is considered as part of associated planning processes.

The Victorian Planning Authority does not support onerous or inefficient referral processes where the intent can be more readily accomplished by setting and implementing clear rules, which development must comply, but accepts the need for referral where it is proposed to depart from those rules.

Moreland suggested that APAM should be a referral authority in the context of providing specialist input in NASF guidelines in conjunction with the introduction of an overlay, or other planning mechanism when considering applications.

Kingston submitted that the purpose of a referral is to ensure that the most appropriate planning decision is made on a particular application. Melton believed that the federal regulator should also be a referral authority to consider NASF matters – essentially to have expertise provided by the technical experts.

Hume Residents Airport Action Group submitted that a body independent of the Victorian planning system and Melbourne Airport such as an Airport Environment Officer (Federally appointed) is required to assess applications. Many have a strong view that a private corporation should not have authority over planning approvals.

The Keilor Residents and Ratepayers Association totally rejected Melbourne Airport as a recommending authority, saying residents could not accept the logic of a private company who lease land from the Commonwealth Government and has its own agenda can have exclusive authority over individuals of Victoria of what they can do with their land. It submitted that the present system whereby Melbourne Airport are advised of any planning permit applications works and at least appeals can be made to VCAT.

Riverlee, a property development group, submitted that if the Airport were given any referral power, it should be as narrow as possible and relate perhaps to development where public safety rather than noise are considerations.

### **Submissions on the Issues and Options Paper**

Further submission on the Issues and Options Paper did not advance this discussion save that APAM advised:

APAM considers that the airport operator should be a determining referral authority in respect of matters relating to airspace protection, windshear, wildlife strikes, lighting, CNS facilities public safety areas and helicopter landing sites. This is due to the significant public safety consequences associated with these issues.

APAM considers that the airport operator should be a recommending referral authority in relation to matters relating to the balance of the airport safeguarding matters proposed to be dealt with through the MAEO (e.g. aircraft noise).

### **(iv) Discussion**

The Committee received a range of views and it was one of the most contested issues.

The simple question is: should the organisation that manages Melbourne Airport have some sort of formal role in ensuring that it is safeguarded? The simple answer would seem to be 'yes', and it is only once the business structure of the airport is considered – the fact that it is a commercial operation – that the answer might become 'no'.

The key issue is the standing that APAM has in a Hearing: whether it is seen to have a responsibility to manage the ongoing viability of the airport or whether it is seen to simply have a temporary commercial interest in its operation.

In the mind of the Committee there is a danger that any referral authority, be it a public entity or a private corporation puts its own interests ahead of broader planning interests. The Committee does not see that it automatically flows that a public authority charged with dispensing a public service doesn't seek to avoid cost to itself or to 'make its own job easier'. The PE Act specifically recognises this danger and imposes specific duties on referral authorities namely:

**14A What are the duties of a referral authority?**

A referral authority must, in relation to any matter referred to it under this Act—

- (a) have regard to the objectives of planning in Victoria in considering the matter; and
- (b) have regard to the Minister's directions; and
- (c) comply with this Act; and
- (d) have regard to the planning scheme; and
- (e) provide information and reports as required by the Minister.

Ultimately the behaviour of a referral authority is subject to review at VCAT, and VCAT is the ultimate independent judge of the planning merits of applications in the Victorian planning system.

It is not clear to the Committee that the mere ownership structure of the airport in any way affects its ability to provide proper advice in the planning system. If the Committee is wrong on this, APAM will soon be found out at VCAT.

It is important to distinguish between commercial aviation issues and commercial activities on the land side of the airport. Fundamentally APAM pursuing its commercial aviation interests is not in conflict with the broader interests of the state. Where conflict potentially arises is if APAM were to seek to restrict development on other sites for financial benefit on its own site. The planning system accepts economic arguments between competing private entities, but it does not support the planning system being used for commercial gain or financial advantage.

The arguments against APAM being a referral authority seem to be based on a failure to recognise that APAM has been given responsibility to manage the ongoing economic viability of the airport.

Further, APAM has specialist expertise around the NASF and are uniquely placed to provide valuable input into applications which may compromise airport operations and safety. Elevating their status should ensure that these important safety issues are ultimately given due weight in any assessment. And practically a safeguard will remain as parties can still appeal to VCAT for determination.

**(v) Recommendations**

The Committee recommends:

**15. In respect of the referral status of Melbourne Airport:**

- a) Make Melbourne Airport a Determining Referral Authority in respect of matters relating to airspace protection, windshear, wildlife strikes, lighting, public safety areas and helicopter landing sites**
- b) Make Melbourne Airport a Recommending Referral Authority under the other schedules of the Melbourne Airport Environs Overlay.**

## Appendix A Terms of Reference

### Melbourne Airport Environs Safeguarding Standing Advisory Committee

Version: December 2019

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to report on:

- Planning proposals of strategic importance within the Melbourne Airport Environs Area and approved Melbourne Airport Master Plan noise contours, including planning scheme amendments and planning permit applications, or which may be inconsistent with State policy safeguarding Melbourne Airport
- The effectiveness of the Melbourne Airport Environs Area, the Melbourne Airport Environs Strategy Plan 2003, the Melbourne Airport Environs Overlay and other related planning provisions, in safeguarding Melbourne Airport's ongoing, curfew-free operation and its environs.

#### Name

The Standing Advisory Committee is to be known as the 'Melbourne Airport Environs Safeguarding Standing Advisory Committee' (MAESSAC).

1. The Committee is to have members with the following skills:
  - a. Strategic and statutory land use planning
  - b. Airports safeguarding, including acoustics / vibration
  - c. Traffic / transport engineering.
2. The Committee is to comprise up to five members, including a Chair and Deputy Chair.
3. The Committee may seek external advice if required, including planning and environmental law and aviation.

#### Background

4. Melbourne Airport is on Commonwealth-owned land and leased to the operator of Melbourne Airport, Australia Pacific Airports (Melbourne) Pty Ltd (APAM). The Commonwealth and APAM are responsible for the regulation and operation of Melbourne Airport and its airspace.
5. Victoria has long planned for Melbourne Airport's curfew-free, optimum usage four runway operation. In 1990, the Commonwealth and Victorian Governments approved the Melbourne Airport Strategy (Government of Victoria/Federal Airports Corporation) and its associated Final Environmental Impact Statement (MAS-EIS). The MAS-EIS and the approved airport master plan are included as policy documents in the Planning Policy Framework provisions relating to the airport and must be considered where relevant when making decisions under the *Planning and Environment Act 1987*.
6. The State Government has provided support for successive Melbourne Airport master plans since the initial 1998 master plan. The Governor in Council declared the Melbourne Airport Environs Area in 2000. The State Government established a steering committee to prepare the Melbourne Airport Environs Strategy Plan, which was approved by the Parliament of Victoria in 2003. The Melbourne Airport Environs Overlay was introduced in 2007.
7. It is State policy to protect Melbourne Airport's ongoing, 24-hour, curfew-free operations at its ultimate, four-runway layout. Melbourne Airport's curfew-free status provides an economic advantage to Victoria which must be protected.

8. The Planning Policy Framework and the metropolitan planning strategy, *Plan Melbourne 2017-2050* recognise Melbourne Airport as Victoria's primary transport gateway for air passengers and air-freight exporters. Plan Melbourne provides for protection of the airport's curfew-free status and supports the airport's expansion, while protecting urban amenity.
9. The State Government agreed to the National Airports Safeguarding Framework in May 2012 at the meeting of the Standing Council on Transport and Infrastructure. Victoria's agreement was subject to the use of the alternative noise metrics, known as the 'N' contours or 'Number above' contours, to inform strategic planning decision-making only.
10. The Minister for Planning agreed to establish an advisory committee to review the effectiveness of the Melbourne Airport Environs Area (see Attachment 1) and the Melbourne Airport Environs Strategy Plan 2003 in safeguarding Melbourne Airport. The Minister further agreed that the Committee would be established on a standing basis, to advise him on any aircraft noise-sensitive planning proposals of strategic importance within the declared Melbourne Airport Environs Area, while the third runway process for the airport is determined by Melbourne Airport and the Commonwealth.
11. The Minister agreed that the Committee consider the further implementation of the National Airports Safeguarding Framework, which, since its inclusion as a reference document (now policy document) in the Victoria Planning Provisions and relevant planning schemes in 2015, has introduced additional guidelines (G, H and I) (see Attachment 2).
12. The Minister will undertake a ministerial amendment to update the Melbourne Airport Environs Overlay using powers under sections 20(4) and 20(5) of the *Planning and Environment Act 1987* to reflect the approved Melbourne Airport Master Plan 2018 Australian Noise Exposure Forecast (ANEF). The ANEF is the agreed aircraft noise metric applied through the Melbourne Airport Environs Overlay for statutory planning decision-making.
13. The Minister has written to the planning authorities within the Melbourne Airport Environs Area and approved aircraft noise contours to ensure that they provide Melbourne Airport with a copy of any proposed aircraft noise sensitive amendments, while the third runway process is underway. The ten aircraft noise contour affected planning schemes are Brimbank, Darebin, Hobsons Bay, Hume, Macedon Ranges, Maribyrnong, Melton, Moonee Valley, Moreland and Whittlesea.
14. Proposals which may have the effect of intensifying sensitive use and development within the Melbourne Airport Environs Area and related aircraft noise contours or which may be inconsistent with State policy and the Melbourne Airport Environs Strategy Plan may be referred by the Minister for Planning or under delegation.
15. Melbourne Airport confirmed on 14 November 2019 its preferred north-south alignment for the third runway and announced it intends to release a preliminary draft major development plan for public consultation in early 2021. This preferred alignment may have implications for the noise contours within the current approved Melbourne Airport Master Plan 2018. At the time of these Terms of Reference, these implications are unknown.

## **Purpose**

### **Part A: Referral of planning scheme amendments or planning permit applications**

16. The Committee is to advise on planning proposals of strategic importance within the Melbourne Airport Environs Area, approved Melbourne Airport Master Plan aircraft noise contours or Melbourne Airport Environs Overlay, and which may impact Melbourne Airport's ongoing operation. This includes:
  - a. Whether or not any planning scheme amendment referred to it should be approved and if so, in what form
  - b. Whether any planning permit application referred to it should be granted and if so, the appropriate conditions for the permit
  - c. Any other planning proposal referred to it by the Minister for Planning (or delegate).

### **Part B: Review of planning provisions for airport safeguarding**

17. The Committee is to advise on improvements to the planning provisions safeguarding Melbourne Airport and its environs including the Planning Policy Framework, zones, overlays, and any other related planning provisions, relevant guidance material and on any complementary safeguarding tools and processes.



18. The Committee may provide advice on improvements to planning provisions, relevant guidance material and on any complementary tools and processes that may help safeguard other airport environs in Victoria in addition to Melbourne Airport.

## **Method**

### **General**

19. The Committee must consider all relevant submissions, carry out a public hearing and may request comments from relevant parties to any amended application material submitted during the Hearing.
20. The Committee may conduct workshops or forums to explore design issues or any other matter it sees fit. Any workshops or forums will be a public process.
21. The Committee may meet and invite others to meet with it when there is a quorum of at least two members, one of whom must be the Chair or the Deputy Chair.
22. The Committee may limit the time of parties appearing before it and may regulate or prohibit cross-examination.
23. The Committee may apply to vary these Terms of Reference in any way it sees fit before submitting its report.

### **Part A: Referral of planning scheme amendments or planning permit applications**

24. The Minister for Planning (or delegate) may refer proposals to the Committee. The proposals may be referred individually or in tranches.
25. A proposal may be in the form of a planning scheme amendment, a planning permit application, or any other referred planning proposal.
26. In making a referral, the Minister for Planning (or delegate) will:
  - a. specify if any of the requirements outlined in this Terms of Reference are not applicable to the proposal being referred;
  - b. provide specific instructions, including whether notice is required, or additional matters to be considered by the Committee about the proposal being referred (as relevant).
27. If required, the Department of Environment, Land, Water and Planning (DELWP) will give notice of the proposal.
28. The Committee is not expected to carry out any additional public notification or referral, but may do so if it considers it to be appropriate.

### **Part B: Review of planning provisions for airport safeguarding**

29. DELWP must liaise with the Committee to agree:
  - a. The public exhibition dates
  - b. A Directions hearing date
  - c. The Public Hearing date
30. The agreed dates are to be included on all exhibition notices.
31. DELWP will provide direct notice (by letter) to the:
  - a. Relevant councils
  - b. Relevant State and Federal Government agencies and authorities
  - c. Operator of Melbourne Airport
  - d. Melbourne Airport Community Aviation Consultation Group and
  - e. Operators of Avalon, Essendon Fields and Moorabbin airports.
32. All submissions are to be collected at the office of Planning Panels Victoria (PPV) in accordance with the 'Guide to Privacy at PPV'.
33. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the first page of the submission will receive correspondence in relation to Committee matters.

34. PPV will maintain a webpage of information about the Committee process, including details on how to make a submission.

## **Matters to be considered**

### **Part A: Referral of planning scheme amendments or planning permit applications**

35. The Committee may inform itself in anyway it sees fit, but must consider:
- a. Relevant provisions of the *Planning and Environment Act 1987* and any relevant planning scheme, including any adopted plans, strategies or planning scheme amendments
  - b. All relevant material prepared by or for an applicant or otherwise provided to the Committee, including any amended application material submitted
  - c. The views of the applicant, Melbourne Airport, and the relevant council(s)
  - d. All submissions provided to the planning authority for a planning scheme amendment
  - e. All submissions or objections provided to the planning authority for planning permit applications and all submissions or material provided to VCAT about related proceedings.

### **Part B: Review of planning provisions for airport safeguarding**

36. The Committee may inform itself in anyway it sees fit, but must consider:
- a. The effectiveness of the declared Melbourne Airport Environs Area and the Melbourne Airport Environs Strategy Plan 2003, Melbourne Airport Environs Overlay and other related planning provisions and processes, in safeguarding the airport's curfew-free operations and environs
  - b. The National Airports Safeguarding Framework (Guidelines A-I) and how the framework may be further implemented in the Victoria Planning Provisions and relevant planning schemes
  - c. The role of the relevant federal regulator (department and agencies) and airport operator
  - d. The current approved Melbourne Airport Master Plan 2018 including the Airport's ultimate four-runway layout
  - e. The views of the Melbourne Airport Community Aviation Consultation Group, broader community, Melbourne Airport and relevant municipal councils.

## **Outside of scope**

37. It is not the role of the Committee to review or consider:
- a. A future update to the Melbourne Airport Environs Overlay map
  - b. The application of any aircraft noise metric other than the ANEF through the Melbourne Airport Environs Overlay
  - c. Any decision in relation to future runways at Melbourne Airport
  - d. Any decision in relation to aviation or airport operations
  - e. Financial compensation to property owners or occupants.

## **Submissions are public documents**

38. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
39. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential.

### **Part A: Referral of planning scheme amendments or planning permit applications**

40. All written submissions will be treated as public documents and are not required to be placed online. Electronic copies of submissions will be provided to DELWP, the relevant Council(s) and other submitters upon request, unless the Committee specifically directs that the material is to remain confidential.

## **Part B: Review of planning provisions for airport safeguarding**

41. All submissions, evidence and other material received will be treated as public documents and will be placed online as part of the Committee process, unless the Committee specifically directs that the material is to remain confidential.

### **Outcomes**

#### **Part A: Referral of planning scheme amendments or planning permit applications**

42. The Committee must produce a written report for the Minister for Planning providing the following:
- a. An assessment of the matters to be considered as outlined in these Terms of Reference
  - b. An assessment of whether any referred planning scheme amendment makes proper use of the Victoria Planning Provisions and is prepared and presented in accordance with the Ministerial Direction on the Form and Content of Planning Schemes
  - c. A recommendation whether any referred amendment should be approved and if so, in what form, and reasons for the recommendation
  - d. A recommendation whether any referred planning permit application should be granted, reasons for the recommendation and if so, appropriate conditions for the permit
  - e. An assessment of all relevant matters relating to any other planning proposal referred to the Committee and a recommendation as to whether that proposal should proceed
  - f. An assessment of submissions to the Committee and any other relevant matters raised in the course of the Hearing
  - g. A list of persons who made submissions considered by the Committee
  - h. A list of persons consulted or heard.
43. Any report of the Committee may be submitted in stages.
44. Following the completion of the report, the Committee may deliver an oral briefing to Department of Environment, Land, Water and Planning (DELWP) staff, or the Minister.

#### **Part B: Review of planning provisions for airport safeguarding**

45. The Committee must produce a written report for the Minister for Planning providing the following:
- a. An assessment of the matters to be considered as outlined in these Terms of Reference
  - b. Recommended improvements to the planning provisions safeguarding Melbourne Airport and its environs including the Melbourne Airport Environs Area and the Melbourne Airport Environs Strategy Plan, Planning Policy Framework, zones, overlays, and any other related provisions, relevant guidance material and on any complementary safeguarding tools
  - c. An assessment of submissions to the Committee and any other relevant matters raised in the course of the Hearing
  - d. A list of persons who made submissions considered by the Committee
  - e. A list of persons consulted or heard.
46. Following the completion of any report, the Committee may deliver an oral briefing to DELWP, and/or the Minister.

### **Timing**

47. The Committee is required to set dates for a Directions Hearing and Public Hearing for each matter before it no later than 20 business days from the date that Planning Panels Victoria is formally notified of any specific referral:

#### **Part A: Referral of planning scheme amendments or planning permit applications**

48. The Committee is required to submit its report(s) in writing as soon as practicable but no later than 25 business days from the completion of a hearing.

**Part B: Review of planning provisions for airport safeguarding**

49. The Committee is required to submit its report(s) in writing as soon as practicable but no later than 40 business days from the completion of a hearing.

**Fee**

50. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

**Part A: Referral of planning scheme amendments or planning permit applications**

51. The costs of the Committee when considering a referred planning scheme amendment or planning permit application are to be met by the Planning Authority unless the Minister for Planning directs otherwise.

**Part B: Review of planning provisions for airport safeguarding**

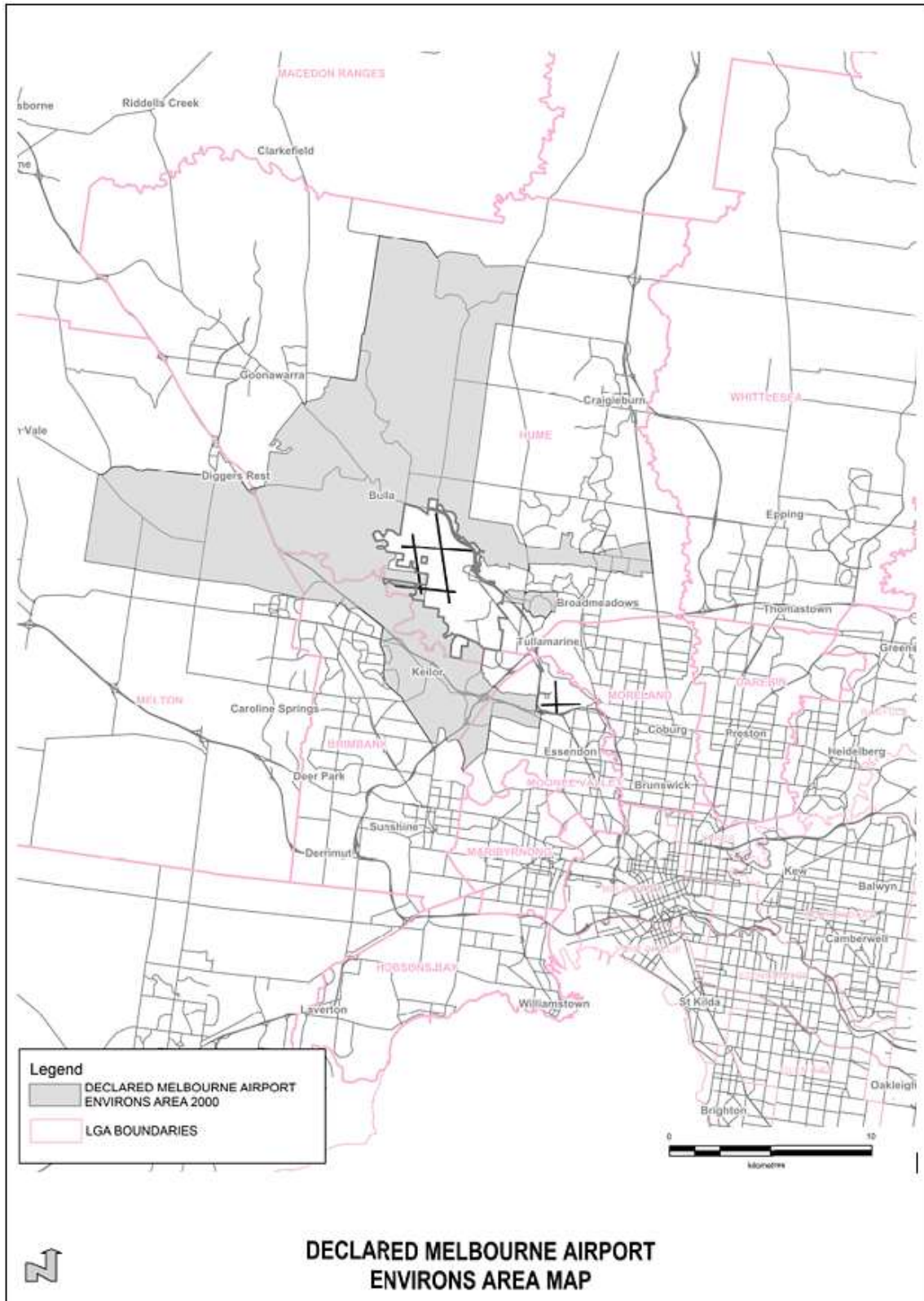
52. The costs of the Committee when considering the review of planning provisions for airport safeguarding will be met by DELWP.

**SIGNED BY THE MINISTER**

Richard Wynne MP  
Minister for Planning

Date: 22 December 2019

Map Attachment 1



## Attachment 2

The National Airports Safeguarding Framework is included as a policy document at Clause 18.04-1S *Planning for airports and airfields* of the Victoria Planning Provisions and relevant planning schemes. It comprises:

- *Guideline A: Measures for Managing Impacts of Aircraft Noise*
- *Guideline B: Managing the Risk of Building Generated Windshear and Turbulence at Airports*
- *Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports*
- *Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*
- *Guideline E: Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports*
- *Guideline F: Managing the Risk of Intrusions into the Protected Airspace of Airports*
- *Guideline G: Protecting Aviation Facilities — Communications, Navigation and Surveillance (CNS)*
- *Guideline H: Protecting Strategically Important Helicopter Landing Sites*
- *Guideline I: Managing the Risk in Public Safety Areas at the Ends of Runways.*

## Appendix B Submissions and documents

### Appendix B.1 Submissions and parties to the Hearing

	Submitter	Representation at the Hearing * Did not attend the Hearing
1	Samantha Bamford	*
2	The Branding Factory	Colin Brown
3	John Kelvin Bennett	*
4	Citizens of Victoria Airport Information Group	Michael Denny Howson
5	Joan Burke	*
6	Duane Bell	*
7	Keilor Residents & Ratepayers Association Inc.	John Jennison
8	Moreland City Council	Kim Giaquinta
9	Avisure	*
10	Tract Consultants on behalf of Lusatia Park Pty Ltd and Greenvale Pastoral Holdings	*
11	Brimbank City Council	Represented by Mimi Marcus of Marcus Lane Group
12	City of Kingston	Sarah Capenerhurst
13	Moorabbin Airport Corporation	Narelle Di Toro and Greg Harrison
14	Hume Residents Airport Action Group (Inc)	Frank Rivoli with Hannah Robertson
15	Maribyrnong City Council	Angela Zivkovic
16	Hume City Council	David Hajzler
17	Aviation Safeguarding Unit – Department of Infrastructure, Transport, Regional Development and Communications	*
18	Victorian Planning Authority	*
19	Melton City Council	Kelly Archibald
20	Melbourne Airport Community Action Group (MACAG)	Hannah Robertson with Frank Rivoli
21	EPA Victoria	*

Submitter		Representation at the Hearing * Did not attend the Hearing
22	Melbourne Airport Community Aviation Consultation Group (CACGMA)	Kim Jordan
23	YourLand Developments	Represented by Carly Robertson of Counsel, calling the following expert evidence: - Planning from Sandra Rigo of Hansen Partnership
24	Brookfield Residential Properties	*
25	Moonee Valley City Council	Colin Harris
26	Rasco Pty Ltd	Represented by Stuart Morris QC, and Geoff Lake of Counsel calling the following expert evidence: - Aviation impacts from Ian Jennings of Chiron Aviation Consultants - Aircraft noise from Mark Douglas Webber of Marshall Day Acoustics - Economics from John Charles Henshall of Ethos Urban Pty Ltd
27	Essendon Airport Pty Ltd	*
28	Pabuno Pty Ltd	*
29	Riverlee	Greg Bursill
30	Australia Pacific Airports (Melbourne) Pty Ltd	Represented by Adrian Finanzio SC and Nicola Collingwood of Counsel instructed by Stephanie Mann of MinterEllison, calling the following expert evidence: - Strategic planning from Michael Barlow of Urbis - Drafting of planning schemes from John Glossop of Glossop Town Planning - Aircraft noise from Rob Bullen of Rob Bullen Consulting
31	David O'Connor	*
32	Department of Defence	*
33	Anna Fairbank	*



## Appendix B.2 Submissions and participants in the roundtable discussions

	Submitter	Representation at the roundtable * Did not participate in the discussions
1	Avisure	*
2	Dr Eric Ancich	Represented by self
3	Stephen Bacon	Represented by self
4	proUrban	*
5	AJP	*
6	Divcorp Pty Ltd and Prime Equity Land Bank	Represented by Jason Black of Insight Planning Consultants
7	Rasco Pty Ltd	Represented by Geoff Lake of Counsel
8	Hobsons Bay City Council	*
9	UDIA Victoria	Represented by Caroline Speed
10	YourLand Developments	Represented by Heidi Wilson and Dean Gold of YourLand and Joseph Indomenico of Tract Consultants
11	Peet Limited	Represented by Jason Black of Insight Planning
12	Allan William Nigel Cowley	*
13	APD Projects Pty Ltd	Represented by Brad Paddon and Rachael Joiner of Bunjil Planning
14	James Webster	Represented by John Cicero and Eliza Minney of Best Hooper Lawyers
15	Brookfield Greenvale Pty Ltd	Represented by Mr Keith Tonkin of Aviation Projects
16	Riverlee	Represented by Greg Bursill
17	Stockland Development Pty Ltd	Represented by James Million of Collie Pty Ltd and James Moussa of Stockland
18	Department of Transport	
19	Frank Rivoli	Represented by self
20	Therese Deveny	*
21	3L Alliance	Represented by Elle Harrington of Tract Consultants
22	Hay Family	Represented by Greg Bursill
23	Marshall Day Acoustics	Represented by Lachlan Deen
24	Moorabbin Airport Corporation	Represented by Narelle Di Toro

Submitter		Representation at the roundtable * Did not participate in the discussions
25	East Melbourne Group	*
26	Villawood Properties Pty Ltd	Represented by Chris De Silva of Mesh Planning
27	City of Kingston	Sarah Capenerhurst
28	Moorabool Shire Council	*
29	Keilor Residents & Ratepayers Inc.	Represented by John and Susan Jennison
30	Citizens of Victoria Airport Information Group	Michael Denny Howson
31	MAB Corporation Pty Ltd	Represented by Chris Engert
32	Melbourne Airport Community Action Group	Represented by Hannah Robertson
33	Housing Industry Association Limited	*
34	Port of Melbourne Operations Pty Ltd	*
35	Victorian Planning Authority	*
36	Department of Infrastructure, Transport, Regional Development and Communications	Represented by Donna Kerr and Megan Thomas
37	Australia Pacific Airports (Melbourne) Pty Ltd	Represented by Adrian Finanzio SC of Counsel, instructed by Stephanie Mann of MinterEllison
38	Melton City Council	Represented by Kim Piskuric and Allison Tansley of Harwood Andrews
39	Maribyrnong City Council	Represented by Kate Alder
40	Brimbank City Council and Hume City Council	Represented by Mimi Marcus of Marcus Lane Group
-	Moonee Valley City Council	Represented by Collin Harris

## Appendix B.3 Documents presented to the Committee

In addition to submissions parties presented, or drew the Committee's attention to, the following documents:

- Act and regulations:
  - *Airports (Protection of air space) Regulations 1996 (Cth)*
  - *Airports act 1996 (Cth)*
  - *Planning and Environment Act 1987*
- Commentary and articles:
  - *Aircraft Noise and Public Health: the Evidence is Loud and Clear* commissioned by HACAN (Heathrow Association for the Control of Aircraft Noise) and the Aviation Environment Trust from the Aviation Environment Federation. The report is available to download from the AEF and HACAN websites: [www.aef.org.uk](http://www.aef.org.uk) [www.hacan.org.uk](http://www.hacan.org.uk)
  - *Aviation Noise Impacts: State of the Science*, Noise and Health. 2017 Mar-Apr; 19(87): 41–50.
  - *Aviation Noise Impacts White Paper State of the Science 2019*: Aviation Noise Impacts; ICAO
  - *Noise Annoyance Is Associated with Depression and Anxiety in the General Population- The Contribution of Aircraft Noise*; PLOS One, 19 May 2016
  - *The harms to health caused by aviation noise require urgent action*; BMJ Opinion, 18 June 2019
  - *Review of International Research on Community Reaction to Aircraft Noise: Report 2: Socio-Acoustic Research in the UK*, Andrew J Hede, 2018, commissioned by Sydney Airport Community Forum
- Complainants and N-above contour: Complainants and n-above contours – N-above contours from the 2018 Master Plan overlayed with total complainants for 2016-2019 by each suburb, prepared by APAM
- Evidence for APAM:
  - Strategic planning from Michael Barlow of Urbis
  - Drafting of planning schemes from John Glossop of Glossop Town Planning
  - Aircraft noise from Rob Bullen of Rob Bullen Consulting
- Evidence for Rasco:
  - Aviation impacts from Ian Jennings of Chiron Aviation Consultants
  - Aircraft noise from Mark Douglas Webber of Marshall Day Acoustics
  - Economics from John Charles Henshall of Ethos Urban Pty Ltd
- Evidence for YourLand Developments:
  - Planning from Sandra Rigo of Hansen Partnership
- Guidelines from other jurisdictions:
  - *Night Noise Guidelines for Europe*. World Health Organization, Europe, 2009
  - *Environmental Noise Guidelines for the European Region*; WHO, Geneva
  - The approaches of NSW and Queensland in implementing the NASF accessed by internet
- Melbourne Airport plans:
  - *Melbourne Airport Strategy* July 1989
  - *Melbourne Airport Strategy* Draft EIS July 1989
  - *Melbourne Airport Strategy 1990*
  - *Melbourne Airport Strategy* Draft EIS supplement September 1990
  - *Melbourne Airport Strategy* Assessment Report November 1990
  - *Melbourne Airport Masterplan 2018*
  - *Melbourne Airport Environs Strategy Plan 2003*

- Panel and Advisory Committee reports
  - Government Land Standing Advisory Committee Tranche 1 Report, July 2016
  - Hume C207 and C208 Panel Report December, 2017
  - Hume C205 Panel Report, April 2018
  - Logical Inclusions Advisory Committee reports, 2011
- Policy reports:
  - *National Aviation Policy White Paper: Flight Path to the Future*, 2009
  - *Safeguards for airports and the communities around them: Discussion Paper, Commonwealth of Australia*, June 2009
- Political speeches:
  - Hansard: House of Representatives Official Hansard No. 37, 1968 Thursday, 12 September 1968 pages 966, 991 and 2223
  - Opening of Tullamarine Airport Melbourne Vic, Speech by the Prime Minister Mr John Gordon 1 July 1970
- Strategies:
  - Hume City Council Housing Diversity Strategy June 2020
  - Hume City Council Health & Wellbeing Plan 2017-2021
  - *Plan Melbourne 2017–2050*
- VCAT cases
  - Hume v DELWP [2016] VCAT 259
  - Moorabbin Airport Corporation v Kingston and Mirvac [2000] VCAT 1999/101300
  - Ozzi Trade v Hume CC [2014] VCAT 1876

## Appendix C Recommended changes to the VPP

### Appendix C.1 Changes to Clause 11.02-1S (Supply of urban land)

#### Objective

To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.

#### Strategies

Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development.

Ensure that sufficient land is available to meet forecast demand.

Plan to accommodate projected population growth over at least a 15 year period and provide clear direction on locations where growth should occur. Residential land supply will be considered on a municipal basis, rather than a town-by-town basis.

Planning for urban growth should consider:

Opportunities for the consolidation, redevelopment and intensification of existing urban areas.  
Neighbourhood character and landscape considerations.

The limits of land capability and natural hazards and environmental quality.

- [The effects of aircraft operations \(such as noise\) in regulating and restricting the use and development of affected land.](#)
- Service limitations and the costs of providing infrastructure.

Monitor development trends and land supply and demand for housing and industry.

Maintain access to productive natural resources and an adequate supply of well-located land for energy generation, infrastructure and industry.

Restrict rural residential development that would compromise future development at higher densities.

#### Policy guidelines

Consider as relevant:

- Victorian Government population projections and land supply estimates.
- [National Airports Safeguarding Framework \(as agreed by Commonwealth, State and Territory Ministers at the meeting of the Standing Council on Transport and Infrastructure\)](#)

## Appendix C.2 Changes to Clause 13.05-1S (Noise abatement)

### Objective

To assist the control of noise effects on sensitive land uses.

### Strategy

Ensure that development is not prejudiced, and community amenity and human health is not adversely impacted by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

### Policy guidelines

Consider as relevant:

- The noise requirements in accordance with the Environment Protection Regulations under the Environment Protection Act 2017.

### Policy documents

Consider as relevant:

- Environment Protection Regulations under the Environment Protection Act 2017
- Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues (Publication 1826.2, Environment Protection Authority, March 2021)
- [National Airports Safeguarding Framework \(as agreed by Commonwealth, State and Territory Ministers at the meeting of the Standing Council on Transport and Infrastructure\) – Guideline A](#)

## Appendix C.3 Changes to Clause 18.04-1S (Planning for airports and airfields)

### 18.04-1S PLANNING FOR AIRPORTS AND AIRFIELDS

#### Objective

To strengthen the role of Victoria's airports and airfields within the state's economic and transport infrastructure, facilitate their siting and expansion and protect their ongoing operation.

To limit the development of sensitive uses in areas affected by aircraft noise.

#### Strategies

Protect airports from incompatible land uses. [18.04-1S: s1]

Protect the curfew-free status of Melbourne Airport and ensure any new use or development does not prejudice its operation. [18.04-1R s1]

~~Ensure any new use or development does not prejudice the~~ or optimum usage ~~of Melbourne Airport.~~  
[18.04-1R s2] [Editorial change to consolidate language with preceding strategy]

Ensure that in the planning of airports, land use decisions are integrated, appropriate land use buffers are in place and provision is made for associated businesses that service airports. [18.04-1S: s2]

Plan for areas ~~around-affected by~~ all airfields so ~~that~~ the detrimental effects of aircraft ~~operations (such as noise)~~ are taken into account in regulating and restricting the use and development of affected land [18.04-1S: s13] [18.04-1S: s13.2] where ultimate capacity or long range noise modelling for the airport indicates the area is either:

- Within a 20 ANEF contour.
- Affected by N contours:
  - 20 or more daily events greater than 70 dB(A).
  - 50 or more daily events of greater than 65 dB(A).
  - 100 events or more daily events of greater than 60 dB(A).
  - 6 events or more between the hours of 11pm to 6am of greater than 60 dB(A).

Within the 20 ANEF contour:

- Limit the intensification of sensitive uses.
- Avoid zoning changes that would provide for noise-sensitive developments.

In areas affected by N Contours:

- Outside the Urban Growth Boundary, avoid rezoning land for sensitive uses.
- For developed and undeveloped areas within the Urban Growth Boundary consider the impact of aircraft noise.

Plan for areas ~~around-affected by~~ all airfields so: [18.04-1S: s13]

- Any new use or development that could prejudice the safety or efficiency of an airfield is precluded or managed. This includes: [18.04-1S: s13.1]
  - Buildings that have the potential to generate adverse windshear to aircrafts taking off and landing.
  - Land uses and landscaping treatments that have the potential to attract avifauna and increase the risk of wildlife strike.
  - Risk of pilot distraction from glare, including lighting glare.
  - Protection of airspace.
  - Protection of communication, navigation, and surveillance facilities.
  - Public safety at the end of runways.
- Any new use or development that could prejudice future extensions to an existing airfield or aeronautical operations in accordance with an approved strategy or master plan for that airfield is precluded. [18.04-1S: s13.3]

Ensure the planning of airports and areas surrounding airports:

- ~~I~~dentifies and encourages activities that complement the role of the airport, ~~and~~
- ~~E~~nable the operator to effectively develop the airport to be efficient and functional and contribute to the aviation needs of the state. [18.04-1S: s3]

Plan the visual amenity and impact of any use or development of land on the approaches to an airfield to be consistent with the status of the airfield. [18.04-1S: s12]

[Achieve the airport specific strategies in Table 1 for the relevant airport](#)

**Table 1: Airport specific strategies**

<u>Airport</u>	<u>Role</u>
<a href="#">Melbourne Airport</a>	Ensure the effective and competitive operation of Melbourne Airport at both national and international levels. [18.04-1S: s4]
<a href="#">Avalon Airport</a>	Protect the environs of Avalon Airport so it can operate as a full-size jet airport focussing on <a href="#">passenger</a> , freight, training and services. [18.04-1S: s5] [Passenger added to reflect actual operation]
<a href="#">Essendon Airport</a>	Recognise Essendon Airport's current role in providing specialised functions related to aviation, freight and logistics and its potential future role as a significant employment and residential precinct that builds on the current functions. [18.04-1S: s6]
<a href="#">Moorabbin Airport</a>	Recognise Moorabbin Airport as an important regional and state aviation asset by supporting its continued use as a general aviation airport, ensuring future development at the site encourages uses that support and enhance the state's aviation industry and supporting opportunities to extend activities at the airport that improve access to regional Victoria. [18.04-1S: s7]
<a href="#">Point Cook Airfield</a>	Maintain Point Cook Airfield as an operating airport complementary to Moorabbin Airport. [18.04-1S: s8]

Preserve long-term options for a new general aviation airport south-east of Metropolitan Melbourne by ensuring urban development does not infringe on possible sites, buffer zones or flight paths. [18.04-1S: s9]

Avoid the location of new airfields in areas that have greater long-term value to the community for other purposes. [18.04-1S: s10]

Plan the location of airfields, nearby existing and potential development, and the land-based transport system required to serve them as an integrated operation. [18.04-1S: s11]

### Policy documents

- ~~[National Airports Safeguarding Framework \(as agreed by Commonwealth, State and Territory Ministers at the meeting of the Standing Council on Transport and Infrastructure on 18 May 2012\)](#)~~ [18.04-1S: pd01]
- [Avalon Airport Master Plan \(Avalon Airport Australia Pty Ltd, 2015\)](#) [18.04-1S: pd02]
- [Avalon Airport Strategy \(Department of Business and Employment/AeroSpace Technologies of Australia, 1993\) and its associated Aircraft Noise Exposure Concepts](#) [18.04-1S: pd03]
- [Melbourne Airport Master Plan 2018 – \(Australia Pacific Airports \(Melbourne\) Pty Ltd\)](#) [18.04-1R: pd01]
- ~~[Melbourne Airport Strategy \(Government of Victoria/Federal Airports Corporation, approved 1990\) and its associated Final Environmental Impact Statement](#)~~ [18.04-1R: pd01]



## Appendix C.4 Standards B 40 and D16 changes

### NOISE IMPACTS OBJECTIVES

To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.

#### Standard B40/ Standard D16

Noise sources, such as mechanical plants should not be located near bedrooms of immediately adjacent existing dwellings.

The layout of new dwellings and buildings should minimise noise transmission within the site.

Noise sensitive rooms (such as living areas and bedrooms) should be located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings.

New dwellings should be designed and constructed to include acoustic attenuation measures to reduce noise levels from off-site noise sources.

Buildings within a noise influence area specified in Table B6 should be designed and constructed to achieve the following noise levels:

- Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am.
- Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm.

Committee comment: These noise levels may not be the appropriate criteria for aircraft noise. A good starting point for criteria would be AS2021 Table 3.3.

The department may need to get a specialist consultant to advise on appropriate internal amenity criteria

Buildings, or part of a building screened from a noise source by an existing solid structure, or the natural topography of the land, do not need to meet the specified noise level requirements.

Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed.

**Table D3/B6 Noise influence area**

Noise source	Noise influence area
<b>Zone interface</b>	
Industry	300 metres from the Industrial 1, 2 and 3 zone boundary
<b>Roads</b>	
Freeways, tollways and other roads carrying 40,000 Annual Average Daily Traffic Volume	300 metres from the nearest trafficable lane
<b>Railways</b>	
Railway servicing passengers in Victoria	80 metres from the centre of the nearest track
Railway servicing freight outside Metropolitan Melbourne	80 metres from the centre of the nearest track
Railway servicing freight in Metropolitan Melbourne	135 metres from the centre of the nearest track
<b>Aircraft</b>	
<a href="#">Aircraft noise associated with airports</a>	<a href="#">Land outside of an overlay that specifically addresses aircraft noise, but within the Aircraft noise N contour maps (State Government of Victoria Month 20XX)</a>

**Note:**

The noise influence area should be measured from the closest part of the building to the noise source.

[Melbourne Airport Environs Overlay Schedules 1 and 2 and Airport Environs Overlay Schedules 1 and 2 deal with aircraft noise within the 20 ANEF](#)

**Decision guidelines**

Before deciding on an application, the responsible authority must consider:

- The design response.
- Whether it can be demonstrated that the design treatment incorporated into the development meets the specified noise levels or an acoustic report by a suitably qualified specialist submitted with the application.
- Whether the impact of potential noise sources within a development have been mitigated through design, location and siting.
- Whether the layout of rooms within a dwelling mitigates noise transfer within and between dwellings.
- Whether an alternative design meets the relevant objectives having regard to the amenity of the dwelling and the site context.

## Appendix C.5 Parent provision to the MAEO

### 45.08 MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as MAEO with a number

#### Purpose

To implement the Municipal Planning Strategy and the Planning Policy Framework

[To ensure that land use and development is consistent with the National Airports Safeguarding Framework.](#)

To ensure that land use and development are compatible with the operation of Melbourne Airport in accordance with the relevant airport ~~strategy or~~ master plan and with safe air navigation for aircraft approaching and departing the airfield.

~~To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in dwellings and other noise sensitive building.~~ [Moved to relevant schedule]

~~To provide for appropriate levels of noise attenuation depending on the level of forecasted noise exposure.~~ [Moved to relevant schedule]

#### 45.08-1 USE OF LAND

Any requirement in a schedule to this overlay must be met

#### 45.08-2 BUILDINGS AND WORKS

Any requirement in a schedule to this overlay must be met.

[A schedule to this overlay may specify that a permit is required to construct a building or construct or carry out works.](#)

[A schedule to this overlay may specify that a permit is required for:](#)

- [A television antenna.](#)
- [A flagpole.](#)

~~Any building for which a permit is required under this overlay must be constructed so as to comply with any noise attenuation measures required by Section 3 of Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited~~  
[Moved to relevant schedule]

~~Note — In Section 3 of Australian Standard AS 2021-2015, Table 3.3 refers to both building types and activities within those buildings. Each building type listed has its ordinary meaning and should not be interpreted as defined in this scheme~~  
[Moved to relevant schedule]

#### 45.08-3 SUBDIVISION

A [schedule to this overlay may specify that a permit is required to subdivide land.](#) [Whether this text is required depends on VPP drafting conventions]

~~Subdivision must occur in accordance with any lot size or other~~ [Any](#) requirement specified in a schedule to this overlay [must be met.](#)

#### 45.08-4 APPLICATION REQUIREMENTS

[An application must be accompanied by any information specified in a schedule to this overlay.](#)

#### 45.08-45 DECISION GUIDELINES

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- The Municipal Planning Strategy and the Planning Policy Framework

- ~~Whether the proposal will result in an increase in the number of dwellings and people affected by aircraft noise.~~ [Moved to relevant schedule]
- Whether the proposal is compatible with the present and future operation of the airport in accordance with the current Melbourne Airport Master Plan approved in accordance with the Airports Act 1996
- ~~Location of the development in relation to the criteria set out in Table 2.1 Building Site Acceptability Based on ANEF Zones in Australian Standard AS 2021-2015.~~ [Moved to relevant schedule]
- [Any other matters specified in the schedule to this overlay](#)

#### 45.08-56 EXEMPTION FROM NOTICE

An application under this overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d) of the Act

#### 45.08-6 NOTIFICATION REQUIREMENTS

~~In accordance with section 52(1)(c) of the Act, notice of an application under this overlay to use land, subdivide land or to construct a building or construct or carry out works must be given to the airport lessee company of Melbourne Airport in accordance with the Commonwealth Airports Act 1996, unless otherwise agreed in writing between the responsible authority and the airport lessee. The notice must be accompanied by a copy of the application, existing condition and development plans.~~  
[The Committee recommends that Melbourne Airport be a Referral Authority]

#### 45.08-7 TRANSITIONAL ARRANGEMENTS

The requirements of Clause 45.08 do not apply to any development for which a building permit issued pursuant to the *Building Act 1993* [before 26 October 2021](#) ~~prior to the date of commencement of Amendment VC173.~~

The requirements of the planning scheme as in force immediately before [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ continue to apply to a permit application made before that date.

This sub-clause does not apply ~~12 months~~ after [26 October 2022](#) ~~the date of commencement of Amendment VC173.~~

## Appendix D Recommended MAEO schedules

### Appendix D.1 Updated MAEO Schedule 1 – Noise exposure above 25 ANEF

#### SCHEDULE 1 TO CLAUSE 45.08 MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as MAEO1

##### NOISE EXPOSURE ABOVE 25 ANEF

###### **Purpose**

To identify areas that are or will be subject to high levels of aircraft noise based on the 25 Australian Noise Exposure Forecast (ANEF) contour and to restrict use and development to that which is appropriate to that level of exposure

To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in dwellings and other noise sensitive buildings. [Moved from parent provision]

To provide for appropriate levels of noise attenuation in development ~~depending on the level of forecasted noise exposure.~~ [Moved from parent provision]

#### 1.0 USE OF LAND

##### **Dwelling and Dependent person's unit**

A permit is required to use land for a:

- Dwelling
- Dependent person's unit

Land must not be used for:

- More than one Dwelling on a lot
- More than one Dependent person's unit on a lot

##### **Other use**

A permit is required to use land for:

- Art and craft centre.
- Bar.
- Brothel.
- ~~Cinema based entertainment facility~~ [part of Place of assembly]
- Crematorium.
- Display home centre.
- Funeral parlour.
- Home based business.
- ~~Host farm.~~
- Hotel.
- Indoor recreation facility.
- Office.
- Place of assembly (other than Drive-in theatre).
- Research and development centre.
- Research centre.
- Residential hotel.
- Restricted recreation facility.
- Retail premises.

- Veterinary centre.

Land must not be used for:

- Accommodation (other than Dwelling, Dependent person's unit, ~~Host farm~~ and Residential hotel).
- Drive-in-theatre.
- Education centre.
- Hospital.

## 2.0 BUILDINGS AND WORKS

A permit is required to construct a building or construct or carry out works for a use in Clause 1.0

A permit is not required for the following:

- An open sided carport, verandah, pergola or other open sided structure
- A non-habitable room or outbuilding
- A swimming pool or tennis court
- An alteration or extension to a Dwelling which existed as at [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ provided:
  - The extension is less than 50% of the floor area of the Dwelling at that date.
  - The Dwelling was not constructed between 14 May 2007 and [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ on land that was subject to this overlay during this period.

Any building for which a permit is required under this ~~overlay~~ [schedule](#) must be constructed so as to comply with any noise attenuation measures required by Section 3 of Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited [Moved from parent provision]

*Note* In Section 3 of Australian Standard AS 2021-2015, Table 3.3 refers to both building types and activities within those buildings Each building type listed has its ordinary meaning and should not be interpreted as defined in this scheme [Moved from parent provision]

## 3.0 SUBDIVISION

[A permit is required to subdivide land.](#)

Any subdivision of land which would increase the number of Dwellings which the land could be used for is prohibited. This does not apply to the subdivision of land to create a lot for a Dwelling in respect of which a permit has been granted.

## 4.0 APPLICATION REQUIREMENTS

[The following application requirements apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:](#)

- [A written statement, plan or diagram outlining how the proposal incorporates the noise attenuation measures required by Section 3 of the Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited.](#)

## 5.0 DECISION GUIDELINES

[The following decision guidelines apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:](#)

- Whether the proposal will result in an increase in the number of dwellings and people affected by aircraft noise. [Moved from parent provision]

- Location of the development in relation to the criteria set out in Table 2.1 Building Site Acceptability based on ANEF Zones in Australian Standard AS2021-2015. [Moved from parent provision]
- [Whether the proposal will adequately shield any building or dwelling constructed from aircraft noise.](#)
- [The National Airports Safeguarding Framework Guideline A.](#)

## Appendix D.2 Updated MAEO Schedule 2 – Noise exposure 20-25 ANEF

### SCHEDULE 2 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO2**.

#### NOISE EXPOSURE OF 20-25 ANEF

##### **Purpose**

To identify areas that are or will be subject to moderate levels of aircraft noise based on the 20-25 Australian Noise Exposure Forecast (ANEF) contours and to limit use and development to that which is appropriate to that level of exposure.

To assist in shielding people from the impact of aircraft noise by requiring appropriate noise attenuation measures in dwellings and other noise sensitive buildings. [Moved from parent provision]

To provide for appropriate levels of noise attenuation in development ~~depending on the level of forecasted noise exposure.~~ [Moved from parent provision]

#### **10 USE OF LAND**

##### **Dwelling**

A permit is required to use land for a dwelling.

The development of a single lot for two or more Dwellings must not exceed a density of one Dwelling per 300 square metres.

##### **Other use**

A permit is required to use the land for:

- Accommodation.
- Arts and craft centre.
- Bar.
- Display home centre.
- Education centre.
- Hospital.
- Office.
- Place of assembly.
- Research and development centre.
- Research centre.
- Restricted recreation facility.

#### **20 BUILDINGS AND WORKS**

A permit is required to construct a building or construct or carry out works for a use in Clause 1.0. [including where constructing a building or carrying out of works is associated with a change of use to a use listed in Clause 1.0.](#)

A permit is not required to construct the following:

- An open sided carport, verandah, pergola or other open sided structure.
- A non-habitable room or outbuilding.
- A swimming pool or tennis court.
- An alteration or extension to a Dwelling which existed as at [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ provided:
  - The extension is less than 50% of the floor area of the Dwelling at that date.



- The Dwelling was not constructed between 14 May 2007 and [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ on land that was subject to this overlay during this period

Any building for which a permit is required under this [overlay schedule](#) must be constructed so as to comply with any noise attenuation measures required by Section 3 of Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited [Moved from parent provision]

*Note* In Section 3 of Australian Standard AS 2021-2015, Table 3.3 refers to both building types and activities within those buildings Each building type listed has its ordinary meaning and should not be interpreted as defined in this scheme [Moved from parent provision]

### 3.0 SUBDIVISION

A permit is required to subdivide land.

Each lot must be at least 300 square metres.

A permit may be granted to create smaller lots:

- If the responsible authority is satisfied the lots will not be used for Accommodation; or
- Provided the average area of all lots is not less than 300 square metres. An agreement under Section 173 of the Act must be entered into with the owner of each lot created which ensures that the land may not be further subdivided.

The above lot size provisions do not apply to the subdivision of land in respect of which a permit was granted before [26 October 2021](#) ~~the date of commencement of Amendment VC173~~ to allow the development of that land so long as the form of the subdivision is consistent with the permitted development.

### 4.0 APPLICATION REQUIREMENTS

The following application requirements apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A written statement, plan or diagram outlining how the proposal incorporates the noise attenuation measures required by Section 3 of the Australian Standard AS 2021-2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, issued by Standards Australia Limited.

### 5.0 DECISION GUIDELINES

The following decision guidelines apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:

- Whether the proposal will result in an increase in the number of dwellings and people affected by aircraft noise. [Moved from parent provision]
- Location of the development in relation to the criteria set out in Table 2.1 Building Site Acceptability based on ANEF Zones in Australian Standard AS2021-2015. [Moved from parent provision]
- Whether the proposal will adequately shield any building or dwelling constructed from aircraft noise.
- The National Airports Safeguarding Framework Guideline A.

## Appendix D.3 New MAEO Schedule 3 – Windshear protection

### SCHEDULE 3 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO3**.

To be applied

- 1200 metres perpendicular from the runway centreline (or extended runway centreline)
- 900 metres beyond the runway threshold towards the landside of airport
- 500 metres from the runway threshold along the runway.

#### WINDSHEAR PROTECTION AREA

##### Purpose

To ensure that the risk to aviation safety from building windshear is limited.

#### 10 USE OF LAND

None specified

#### 20 BUILDINGS AND WORKS

The exemptions at Clauses 62.02-1 and 62.02-2 do not apply. [This requires a change to these clauses]

A permit is required to construct a building or construct or carry out works located closer than 35 times the height of the building or works (above runway level) from the centre line (or extended centre line) of the runway (the 1:35 surface).

This requirement applies to:

- A television antenna.
- A flagpole. [If these have the potential to induce windshear, and the exemptions are not turned off]

The relevant runway height levels in AHD are:

- LIST RUNWAY HEIGHTS FOR EASE OF USE

#### 30 SUBDIVISION

None specified

#### 4.0 APPLICATION REQUIREMENTS

The following application requirements apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- The height of the building to AHD
- As assessment from a qualified wind engineer addressing windshear and turbulence effects.

#### 5.0 DECISION GUIDELINES

The following decision guidelines apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:

- The potential risk to aviation safety caused by windshear from a building or structure penetrating the 1:35 surface.
- The National Airports Safeguarding Framework Guideline B.

## Appendix D.4 New MAEO Schedule 4 – Potential wildlife strike

### SCHEDULE 4 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO4**.

#### POTENTIAL WILDLIFE STRIKE AREA

To be applied  
To be determined by a risk assessment.

#### Purpose

To ensure that the risk to aviation safety from land uses and landscaping that attract birds and other avifauna is limited.

#### 10 USE OF LAND

A permit is required for a use shown in the table to this schedule if it includes the purpose shown in Column 2.

Use	Type of use or activity (purpose)
Animal production (except grazing animal production)	
Aquaculture	
Horticulture	Turf farm Fruit tree farm
Industry	Fish processing/packaging plant Food processing plant Food / organic waste facility Putrescible waste facility – landfill Putrescible waste facility – transfer station
Natural Systems	Wildlife sanctuary, conservation area, wetland, water retarding basin
Place of Assembly	Showground
Utility Installation	Wetland, reservoir, water retarding basin or wastewater treatment plant

#### 20 BUILDINGS AND WORKS

A permit is required to construct a building or construct or carry out works associated with the use in Clause 1.0.

Landscaping or drainage works, including artificial water bodies, should be designed and constructed to minimise the potential to attract birds and bats.

#### 30 SUBDIVISION

None specified

#### 4.0 APPLICATION REQUIREMENTS

The following application requirements apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- An application must include a Wildlife Management Plan, outlining the risk of wildlife strike resulting from the activities on the land and proposed mitigation strategies to minimise the potential to attract birds and bats.

## **5.0 DECISION GUIDELINES**

The following decision guidelines apply to an application for a permit under this schedule, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:

- The potential risk to aviation safety caused by the attraction of birds and other avifauna.
- The National Airports Safeguarding Framework Guideline C.

## Appendix D.5 New MAEO Schedule 5 – Potential light glare risk to aircraft

### SCHEDULE 5 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO5**.

#### POTENTIAL LIGHT GLARE RISK TO AIRCRAFT AREA

To be applied

The area of application is shown diagrammatically in Figure 12. Guideline E indicates advice for the guidance of designers and installation contractors is provided for situations where lights are to be installed within a 6 kilometre radius of Melbourne Airport but does not specify glare limits.

#### Purpose

To ensure that the risk to aviation safety from light glare is limited.

#### 10 USE OF LAND

A permit is required to use land for Petroleum production if it includes a refinery flare plume.

The luminous intensity of light from a refinery flare plume must not exceed the value specified in Table 1, as measured at three degrees above the horizontal.

#### 20 BUILDINGS AND WORKS

The exemptions at Clauses 62.02-1 and 62.02-2 do not apply. [This requires a change to these clauses]

A permit is required to construct or install external lighting (excluding lighting normal to a building or landscaping) associated with:

- Education centre.
- Leisure and recreation (outdoor recreation and sporting lighting).
- A motorway or freeway.
- Shipping container storage.
- Wharf.

A permit is required to construct or put up for display a Floodlit sign, if the luminous intensity of the lights is greater than the Maximum luminous intensity in Table 1. [This ensures lights which are not bright enough to cause an issue require a permit]

The luminous intensity of light must not exceed the value specified in Table 1, as measured at three degrees above the horizontal.

**Table 1: Maximum luminous intensity**

Area	Maximum luminous intensity
Shown as MAE05A	0 candela
Shown as MAE05B	50 candela
Shown as MAE05C	150 candela
Shown as MAE05D	450 candela

#### 30 SUBDIVISION

None specified

#### **4.0 APPLICATION REQUIREMENTS**

The following application requirements apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

- A statement from an appropriately qualified person addressing whether the proposed light glare will meet the maximum luminous intensity specified in Table 1 as measured at three degrees above the horizontal.

#### **5.0 DECISION GUIDELINES**

The following decision guidelines apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority

- The potential risk to aviation caused by pilot distraction from lighting.
- The National Airports Safeguarding Framework Guideline E.

## Appendix D.6 New MAEO Schedule 6 – Aviation Obstacle Limitation Surface

### SCHEDULE 6 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO6**.

#### AVIATION OBSTACLE LIMITATION SURFACE AREA

To be applied	
MAE06A	Where the OLS or PAN OPS is less than 12 metres above natural ground level.
MAE06B	Other areas where the OLS applies

#### Purpose

To ensure the height of buildings and works do not exceed the Obstacle Limitation Surface or PANS-OPS of Melbourne Airport without express consent from the relevant airspace manager.

#### 10 USE OF LAND

None specified

#### 20 BUILDINGS AND WORKS

In MAEO6A:

- A permit is required to construct a building or to construct or carry out works:

In MAEO6B:

- A permit is required to construct a building or to construct or carry out works if the building or works are taller than the height above ground level specified in *Melbourne Airport OLS or PANS-OPS plan*.
- This does not apply to building or works less than 12 metres in height. [This is not strictly necessary because these building will be below the OLS/PANS OPS surface because of the ways the overlay is applied, but including this text means that an applicant and decision makers do not need to check the height for these buildings]

A permit is required for a television antenna or flagpole taller than the height specified in the *Melbourne Airport OLS or PAN OPS plan*.

The Committee's reading of Clause 62.02-2 of the VPP is that for television antenna and flagpoles mandatory requirements cannot be applied. Requirements only apply 'if a permit is specifically required for any of these matters'.

#### 30 SUBDIVISION

None specified.

#### 4.0 APPLICATION REQUIREMENTS

The following application requirements apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme and must accompany an application, as appropriate, to the satisfaction of the responsible authority:

**Table 1: Information to be supplied**

Area	Information to be supplied
Shown as MAE06A	The height of the building or works in AHD. A statement on construction methodology identifying whether any crane or scaffolding will be taller than the height above ground level specified in <i>Melbourne Airport OLS or PAN OPS plan</i> .
Shown as MAE06B	A building or works taller than 12 metres above natural ground level must: <ul style="list-style-type: none"> <li>▪ Show the height of the building or works in AHD.</li> <li>▪ Include a statement on construction methodology identifying whether any crane or scaffolding will be taller than the height above ground level specified in Melbourne Airport OLS or PAN OPS plan</li> </ul>

## 5.0 DECISION GUIDELINES

The following decision guidelines apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:

- *Airports (Protection of Airspace) Regulations 1996*, and any conditions associated with a decision is required under the *Airports (Protection of Airspace) Regulations 1996*
- The effect of any application on the optimum usage of Melbourne Airport.
- The National Airports Safeguarding Framework Guideline F.



## Appendix D.7 New MAEO Schedule 7 – Protection of public safety

### SCHEDULE 7 TO THE MELBOURNE AIRPORT ENVIRONS OVERLAY

Shown on the planning scheme map as **MAEO7**.

#### PROTECTION OF PUBLIC SAFETY AREA

To be applied

1 kilometre long trapezoid, 350 metres wide closest to the runway end, tapering to 250 metre wide furthest from the runway

#### Purpose

To ensure the intensity of uses at risk from crashing aircraft are limited.

#### Application

This provision applies to land in Melbourne Airport Environs Overlay Schedule 7 and applies whether or not a permit is required.

#### 10 USE OF LAND

Land must not be used for:

- Accommodation.
- Education centre.
- Hospital.
- Leisure and recreation.
- Places of assembly.
- Retail premises.

A permit is required for the use of land for an Office, Industry or Store unless, all the following are met:

- The minimum floor area per employee is at least ## square metres.
- The number of persons employed on the land (calculated on a lot by lot basis) does not exceed ## employees per hectare.
- The use does not include the manufacture or bulk storage of flammable, explosive or noxious materials.

For the purpose of this Clause, one employee is equivalent to a person spending 44 hours on the site in any week.

#### 20 BUILDINGS AND WORKS

None specified

#### 30 SUBDIVISION

None specified

#### 4.0 APPLICATION REQUIREMENTS

An application to use land under this clause must be accompanied by the following information, as appropriate:

- The number of persons to be employed on the site.
- The purpose of the use and the types of processes to be utilised.
- The type and quantity of goods to be stored, processed or produced.

## **5.0 DECISION GUIDELINES**

The following decision guidelines apply to an application for a permit under Clause 45.08, in addition to those specified in Clause 45.08 and elsewhere in the scheme, which must be considered, as appropriate by the responsible authority:

- The National Airports Safeguarding Framework Guideline I.

## Appendix E Clause 52.15 Heliport and Helicopter Landing Site

### Appendix E.1 Changes to particular provisions

#### 52.15 HELIPORT AND HELICOPTER LANDING SITE

##### Purpose

To ensure the amenity impacts of a heliport and a helicopter landing site on surrounding areas is considered.

[To ensure that heliports and helicopter landing sites do not adversely impact the operation of airports.](#)

#### 52.15-1 PERMIT REQUIREMENT

A permit is required to use or develop any land for a heliport or a helicopter landing site even if it is ancillary to another use on the land, unless the table to this Clause specifically states that a permit is not required.

##### Table of exemptions for use

**No permit is required to use land for a helicopter landing site if any of the following apply:**

Emergency services	The helicopter landing site is used by a helicopter engaged in the provision of emergency service operations.
Agriculture	The helicopter landing site is used by a helicopter engaged in agricultural activity in conjunction with the use of any land for agriculture.
Public land management	The helicopter landing site is used by a helicopter engaged in the provision of public land management activities conducted by or on behalf of any of the following: <ul style="list-style-type: none"> <li>▪ The Department of Environment, Land, Water and Planning;</li> <li>▪ The Department of Economic Development, Jobs, Transport and Resources; or</li> <li>▪ Parks Victoria,</li> </ul> whether on private land or not.
General	The helicopter landing site <a href="#">meets all of the following conditions</a> <del>where either:</del> <ul style="list-style-type: none"> <li>▪ <a href="#">The helicopter landing site is not located within the Helicopter Landing Site Control Overlay.</a></li> <li>▪ The landing point is located more than 500 metres from a building used for a sensitive use (accommodation, child care centre, education centre and hospital) that is not associated with the helicopter operation and more than 200 metres from a shipping channel in the Port of Melbourne, provided: <ul style="list-style-type: none"> <li>• The number of flight movements does not exceed eight in a 30 day period and four in a 24 hour period (for the purposes of this provision the take off and landing of a helicopter are separate flight movements).</li> <li>• Flight movements do not take place before 7am or after sunset on a weekday.</li> <li>• Flight movements do not take place before 8am or after sunset on a weekend or holiday; or</li> </ul> </li> <li>▪ The <a href="#">helicopter landing site landing point</a> is located more than 1000 metres from a building used for a sensitive use that is not associated with the helicopter operation and more than 200 metres from a shipping channel in the Port of Melbourne.</li> </ul>

### 52.15-2 Application requirements

An application to use or develop land for a heliport or a helicopter landing site must be accompanied by the following information, as appropriate:

- A site plan, including:
  - –Site boundaries and dimensions.
  - The current land use.
  - The existing siting and layout of buildings and works.
  - The proposed siting and layout of buildings and works.
  - Existing vegetation and proposed vegetation removal.
  - Vehicle and pedestrian access.

An application to use land for a heliport or a helicopter landing site must be accompanied by the following information:

- A location plan, including:
  - The siting and use of buildings on adjacent properties.
  - – The direction and distance to any building used for a sensitive use (accommodation, child care centre, education centre and hospital) that is not associated with the helicopter operation and is located within 500 metres of the proposed heliport or helicopter landing site.
- A written report which:
  - Demonstrates a suitable separation distance between the landing point of a heliport or helicopter landing site and any building used for a sensitive use that is not associated with the helicopter operation by either:
    - Locating the proposed heliport or helicopter landing site at least 150 metres for helicopters of less than 2 tonnes all-up weight, or 250 metres for helicopters of less than 15 tonnes all-up weight, or – Providing an acoustic report by a suitably qualified consultant.
  - Includes details of the proposed frequency of flight movements.
  - Includes the proposed hours of operation.

### 52.15-3 DECISION GUIDELINES

Before deciding on an application to use land for a heliport or a helicopter landing site, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- Whether the proposal achieves a suitable separation distance from a nearby sensitive use, having regard to the Noise Control Guidelines (Environment Protection Authority, 2008).
- The effect of the proposal on nearby sensitive uses in terms of the proposed frequency of flight movements and hours of operation.

## Appendix E.2 Proposed Helicopter Landing Site Control Overlay

### HELICOPTER LANDING SITE OVERLAY

Shown on the planning scheme map as **HLSC**.

#### **Purpose**

To ensure that the Helicopter landing sites do not adversely affect the:

- Efficient operation of any airport.
- Optimum usage of Melbourne Airport.

#### **OPERATION**

This overlay operates in conjunction with Clause 52.15.

#### **PERMIT**

A permit is required to use or develop any land for a heliport or a helicopter landing site even if it is ancillary to another use on the land.

### **52.15-3 DECISION GUIDELINES**

Before deciding on an application to use land for a heliport or a helicopter landing site, in addition to the decision guidelines in Clause 65 and Clause 52.15, the responsible authority must consider, as appropriate:

To effect of the proposal on the:

- Efficient operation of any airport.
- Optimum usage of Melbourne Airport.

## Appendix F Issues and options paper questions

The Committee seeks feedback on the following potential changes to the planning system to better protect airports:

1. In respect of the Planning Policy Framework:
  - a) Whether the Planning Policy Framework should be updated to:
    - include more specific references to safeguarding guidelines
    - move safeguarding strategies closer to the top of the strategy list
    - make the policies applicable to different airport more easily read by including them in a table?
  - b) Whether the draft changes in Appendix C.1 would be an appropriate policy change in respect of general safeguarding issues?
2. In respect of the appropriate VPP tool to use for safeguarding:
  - Is the Melbourne Airport Environs Overlay the best tool to implement safeguarding for Melbourne Airport, and by implication the Airport Environs Overlay for other airports?
  - Does extending the scope of the Melbourne Airport Environs beyond the Ultimate Capacity ANEF, even if it is to address non-noise issue, require a change in the Melbourne Airport Environs Strategy Plan?
3. In respect of the Planning Policy Framework:
  - a) Whether the Planning Policy Framework should be updated to include more specific noise safeguarding guidance, including:
    - Greenfield sites - avoid zoning for noise sensitive uses within the N70 (20 or more daily events), N65 (50 or more), N60 (100 or more) and consider N60 night (6 or more) if zoning for noise sensitive development?
    - Brownfield sites and existing sites - consider other strategic issues, measures to mitigate noise, and provide information regarding potential aircraft noise impacts to future residents in these areas?
  - b) Whether the draft changes in Appendix C.1 would be an appropriate policy change in respect of noise safeguarding guidance?
  - c) Whether the applicable N contour areas need to be identified by an overlay or as a layer in VicPlan the state's online plan platform.
4. In respect of areas outside current MAEO but within N contours, should specific performance measures be specified to determine appropriate levels of noise mitigation?
5. In respect of mechanisms to inform people of aircraft noise, what are the pros and cons of using the following mechanisms to inform people of potential aircraft noise outside of the MAEOs or AEOs:
  - Information on the Airport web site - the exiting noise tool
  - Section 32 statements under the Sale of Land Act
  - A layer in VicPlan with advice on the planning property reports
  - A new MAEO schedule?
6. In respect of more easily accessed information, whether there is merit in establishing an information hub containing consolidated, clear, informative and relevant information suitable for use by both land use planners and the general public should be developed?
7. In respect of MAEO1 and MAEO2:
  - a) should they more accurately reflect Australian Standard AS2021, specifically:
    - preventing development of greenfield sites for sensitive uses that are described "Unacceptable" by AS2021

- requiring development of brownfield sites and existing sites, as currently allowed in the MAEO, to include appropriate disclosure processes to future residents of such areas?
- b) are the draft changes in Appendix D.1 and Appendix D.2 an effective mechanism to more accurately reflect AS2021 in the MAEO?
8. In respect of windshear:
- a) Is it necessary or appropriate to address windshear in planning controls?
- b) Are the draft controls in Appendix D.3 an effective mechanism to address windshear if controls were to be applied?
9. In respect of wildlife strike:
- a) Is it necessary or appropriate to address wildlife strike in planning controls?
- b) Is the proposed policy change in Appendix C.1 appropriate? Would they be of use?
- c) Are the draft controls in Appendix D.4 an effective mechanism to address wildlife strike if controls were to be applied?
- d) To what land should the draft controls in Appendix D.4 be applied?
10. In respect of pilot distraction from lighting:
- a) Is it necessary or appropriate to address pilot distraction from lighting in planning controls?
- b) Are the draft controls in Appendix D.5 an effective mechanism to address pilot distraction from lighting if controls were to be applied?
11. In respect of the obstacle limitation surface:
- a) It is necessary or appropriate to address obstacle limitation surface in planning controls?
- b) Are the draft controls in Appendix D.6 an effective mechanism to address obstacle limitation surface if controls were to be applied?
12. In respect to the protection of CNS equipment:
- a) Is there a simple way to address protection of CNS equipment in planning controls?
- b) Is a planning response appropriate?
13. In respect of public safety at the end of runways:
- a) Is it necessary or appropriate to address public safety at the end of runways in planning controls?
- b) Should this be addressed by:
- Specifying land uses under a new MAEO schedule based on the uses identified in Appendix D.7
  - Specifying employee or patron densities under a new MAEO schedule
  - Using the Buffer Area Overlay to trigger a risk based approach?
14. In respect of protection of airspace from helicopter landing sites:
- a) Is it necessary or appropriate to address the effect on airspace operations of helicopter landing sites in planning controls?
- b) Are the proposed amendments to Clause 52.15 in Appendix E an effective mechanism to address protection of airspace from helicopter landing sites?
15. In respect of the referral status of Melbourne Airport:
- a) What applications should the airport operator be a determining referral authority for?
- b) What applications should the airport operator be a recommending referral authority for?