

2016

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Air Services Amendment Bill 2016

EXPLANATORY MEMORANDUM

and

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Circulated by authority of

Adam Bandt

Air Services Amendment Bill 2016

OUTLINE

The Air Services Amendment Bill 2016 is being introduced to create greater protections for communities affected by aircraft noise.

Communities affected by aircraft noise or changed flight paths above residential areas currently enjoy limited recourse beyond seeking voluntary agreements with aircraft operators known as 'Fly Neighbourly Agreements'. Legislation is unclear as to the accountability of government agencies to respond to resident concerns.

This bill will set clear requirements for consultation and reporting on the part of Airservices Australia. The bill will require AA to minimise impact of aircraft operations on the human and natural environment, community amenity and residential areas. The bill will also ensure that communities affected by aircraft noise are adequately consulted and have stronger representation in these consultations. It will do this by establishing an independent Aircraft Noise Ombudsman and an independent Community Aviation Advocate.

Because under the Act Airservices Australia currently is not responsible for carrying out activities to protect community amenity and residential areas from the effects of aircraft noise, it does not control airspace at low altitudes over many residential areas. As such, in some residential areas, AA is unable to control the impact of low-flying small aircraft. In inner Melbourne, there are now specific and acute circumstances of high intensity flights of small aircraft in uncontrolled airspace. The bill will require Airservices Australia to prepare a plan for management of flight paths and air space in central Melbourne, including by prohibiting flights of helicopters and fixed wing aircraft below 2,000m above sea level within 5km of central Melbourne, with clear exemptions in the public interest for emergency services, hospitals, defence, and other like aircraft.

FINANCIAL IMPACT

The bill will have no financial impact.

NOTES ON CLAUSES

Clause 1 – Short title

Sets the title of the Act.

Clause 2 – Commencement

States the Act will commence on the day it receives the Royal Assent.

Clause 3 - Schedules

Clause 3 gives effect to the Schedules. It provides that legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1 – Air Services Amendment Bill 2016

Items 1 and 2

Require Airservices Australia to carry out activities to protect the human and natural environment, community amenity and residential areas from the effects of the operation and use of aircraft, and associated effects. Under current legislation AA carries out activities to protect the environment but is unable to manage aircraft in relation to community amenity or residential areas. As a result, AA is unable to manage aircraft flying at low heights over residential areas, including in areas distant from airports that experience frequent flights.

Item 3

Replaces section 10 with new sections 10AA, 10A, 10B, 10C.

Section 10AA defines the responsibilities of Airservices Australia when consulting with the community and other relevant bodies. These include:

- AA must inform parties of how they can make complaints
- AA must establish community consultation groups representing communities affected by aircraft noise
- AA must consult with community consultation groups about all significant changes to flight plan routes, and must take such steps as it considers appropriate if detrimental impacts are identified
- AA must publish details of consultation

Section 10A will strengthen representation for community groups in consultation over flight paths. It requires AA to take certain actions when proposing a new flight path that would be likely to impact on the human or natural environment, community amenity or residential areas. AA would be required to:

- arrange for community consultation
- Advise the Minister responsible for the Environment Protection and Biodiversity Conservation Act 1999 of the consultations and request that the Minister appoint a Community Aviation Advocate to represent the affected parts of the community

Section 10B relates to the specific circumstances of flight paths over Melbourne, where a large number of small aircraft fly at low altitude over residential areas in airspace that is not currently controlled by AA. It requires AA to give effect to a plan following community consultation that would prohibit helicopters and fixed wing aircraft flying below 2,000m above sea level, with exemptions for emergency services aircraft, defence aircraft, aircraft flying to and from hospitals and other aircraft that it is in the public interest to exempt.

Section 10C allows for the review on request of any new or changed flight paths made on or after 1 January 2012 under the consultation conditions laid out in the above sections.

Item 4

Requires AA to consider the need to minimise the impact of aircraft operations on the human and natural environment, community amenity and residential areas when preparing corporate plans.

In this bill, human environment includes the natural and physical environment and the relationship of people with that environment. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, the environmental impact statements ought consider all of these effects on the human environment. Effects include:

- (a) Direct effects, which are caused by the action and occur at the same time and place.
- (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, noise, public safety or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

It is not intended that this Bill alter the meaning of human environment, natural environment or physical environment that may occur in any other legislation.

Items 5 and 6

Expand the AA Board by up to 2 members and require that it include an expert in environmental management and a representative of a community group affected by aircraft noise.

Item 7

Requires that AA reports comprehensively on complaints made regarding its conduct, on its handling of those complaints, and on any information transferred between AA and the Aircraft Noise Ombudsman.

Item 8

Requires the establishment of an independent Aircraft Noise Ombudsman. The Ombudsman is to be independent of AA. It is to review the handling of complaints and enquiries; report to relevant agencies or Ministers; monitor and report on the effectiveness of community consultation and other matters relating to aircraft noise; and make recommendations.

Item 9

Is required to appoint an independent Community Aviation Advocate to represent communities affected by aircraft noise in consultation processes established through above amendments. It amends the EPBC Act 1999 to require the Minister responsible for that Act to appoint, when requested, a Community Aviation Advocate. The Advocate's role

is to assist, inform, and advocate on behalf of the parts of the community affected by proposed changes to flight paths. As it is appointed by the Minister responsible for the EPBC Act, the Advocate will be independent of AA.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Air Services Amendment Bill 2016

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the bill

The Air Services Amendment Bill 2016 is being introduced to create greater protections for communities affected by aircraft noise.

Communities affected by aircraft noise or changed flight paths above residential areas currently enjoy limited recourse beyond seeking voluntary agreements with aircraft operators known as 'Fly Neighbourly Agreements'. Legislation is unclear as to the accountability of government agencies to respond to resident concerns.

This bill will set clear requirements for consultation and reporting on the part of Airservices Australia. The bill will require AA to minimise impact of aircraft operations on the human and natural environment, community amenity and residential areas. The bill will also ensure that communities affected by aircraft noise are adequately consulted and have stronger representation in these consultations. It will do this by establishing an independent Aircraft Noise Ombudsman and an independent Community Aviation Advocate.

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Human rights implications

This bill does not engage any of the applicable rights or freedoms.

Conclusion

This bill is compatible with human rights because it does not raise any human rights issues.

Adam Bandt MP