

EXPLANATORY STATEMENT

Select Legislative Instrument No. 34, 2018

Issued by the authority of the Minister for Cities, Urban Infrastructure and Population

Airports Act 1996

Airports Amendment (Sydney West Airport Site Measures No. 2) Regulations 2018

The *Airports Act 1996* (the Act) establishes a regulatory framework for federally leased airports.

Section 252 of the Act provides that the Governor-General may make regulations prescribing matters that are required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 5 of the Act defines the term ‘airport site’ to mean a place that is:

- declared by the regulations to be an airport site; and
- a Commonwealth place; and
- used, or intended to be developed for use, as an airport (whether or not the place is used, or intended to be developed for use, for other purposes).

Regulation 1.03 of the *Airports Regulations 1997* (the Principal Regulations) declares places to be airport sites for the purposes of this definition. The airport site for Sydney West Airport is the declared place made up of the land described in Part 1.19A of Schedule 1 to the Principal Regulations.

The *Airports Amendment (Sydney West Airport Site Measures No. 2) Regulations 2018* (the Regulations) make a minor update to the description of the Sydney West Airport site, as set out in Part 1.19A of Schedule 1 to the Principal Regulations.

Consultation

Subsection 161(1) of the Act prevents the making of regulations that vary an airport site, if there is an airport lease for the site, unless the lessee has given written consent. WSA Co Limited, as the airport-lessee company for Sydney West Airport, has provided written consent to the making of the Regulations. The Act specifies no other conditions that need to be satisfied before the power to make the Regulations may be exercised. No other consultation on the Regulations was considered necessary or appropriate.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) advised that a Regulatory Impact Statement was not required due to minor impacts (OBPR ID 22697).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at [Attachment A](#).

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the Regulations are set out in Attachment B.

The Regulations commenced on the day after they were registered on the Federal Register of Legislation.

Authority

The Regulations amend existing regulations under section 252 of the *Airports Act 1996*. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Airports Amendment (Sydney West Airport Site Measures No. 2) Regulations 2018

This Disallowable Legislative Instrument 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 Disallowable Legislative Instrument

The purpose of the legislative instrument is to amend the *Airports Regulations 1997* (the Regulations) to make a minor update to the Sydney West Airport Site definition under Part 1.19A of Schedule 1 of the Regulations.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Alan Tudge

Minister for Cities, Urban Infrastructure and Population

Details of the Airports Amendment (Sydney West Airport Site Measures No. 2) Regulations 2018

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the Airports Amendment (Sydney West Airport Site Measures No. 2) Regulations 2018.

Section 2 - Commencement

Subsection 2(1) provides for the Regulations to commence on the day after they were registered.

Subsection 2(2) confirms that column 3 in the commencement table under subsection 2(1) does not form part of the Regulations. This allows the commencement date to be published in column 3.

Section 3 - Authority

This section provides that the Regulations are made under the Airports Act 1996.

Section 4 - Schedule(s)

This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

Schedule 1 - Amendments

Item 1 – Subclause 19A(3) of Schedule 1

Subclause 19A(3) of Schedule 1 to the Principal Regulations previously provided that the Sydney West Airport site included the area of land which the subclause described by reference to its boundaries.

This item replaces subclause 19A(3) with a new subclause. New subclause 19A(3) provides that the Sydney West Airport site includes the land that makes up Lot 11 in Deposited Plan 1239207, County of Cumberland, Parish of Bringelly. New subclause 19A(3) describes an area of land largely similar to that previously described in subclause 19A(3), but with a slightly modified boundary.

Section 251B of the Act makes clear that the Principal Regulations may be amended to describe an area of land as part of an airport site even if the land is not a Commonwealth place at the time the amending regulation commences. New subclause 19A(3) describes an area of land that is not currently a Commonwealth place, but will form part of the Sydney West Airport site if and when the Commonwealth acquires the land, provided that the land will be used, or intended to be developed for use, as an airport.