

## **EXPLANATORY STATEMENT**

Minute No.2018/21 - Deputy Prime Minister and Minister for Infrastructure and Transport

Subject - *Airports Act 1996*

*Airports Amendment (Melbourne Airport Site Measures No. 2) Regulations 2018*

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

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

Regulation 1.03 of the *Airports Regulations 1997* (the principal Regulations) declares airport sites for the purposes of section 5 of the Act. The Melbourne (Tullamarine) Airport site is the area comprising the parcels of land specified in Part 1.14 of Schedule 1 to the principal Regulations.

The *Airports Amendment (Melbourne Airport Site Measures No. 2) Regulations 2018* (the Regulations) update the description of the Melbourne (Tullamarine) Airport site, as set out in clause 14 of Schedule 1 to the principal Regulations, by inserting descriptions of several access roads associated with land already part of the Melbourne (Tullamarine) Airport site.

This enables development on the subject land to be considered as part of a Major Development Plan under section 89 of the Act.

Specifically, the roads are required to support a proposed new parallel east-west runway. This runway was foreshadowed in Melbourne Airport's 2013 Master Plan, which was subject to extensive community consultation and approved on 18 December 2013.

The roads:

- total approximately 84130m<sup>2</sup>
- are located at:
  - Crown Allotment 2007, Parish of Tullamarine, being general law land, as contained within Conveyance Book 453 No. 366
  - Victorian certificate of title Volume 11857 Folio 276, being Lot 1 on Title Plan 962272K
  - Victorian certificate of title Volume 11857 Folio 290, being Lot 1 on Title Plan 962273H
- are being compulsorily acquired by the Commonwealth to facilitate the expansion of Melbourne (Tullamarine) Airport and anticipated aviation development, to meet predicted passenger growth.

The roads only provide access to land that is already part of the Melbourne (Tullamarine) Airport site.

Section 251B of the Act allows the making of a regulation amending a Part of Schedule 1 by inserting a description of land even if, at the time the amending regulation commences, the land is not owned by the Commonwealth.

Subsection 161(1) of the Act provides that if there is an airport lease relating to an airport site for an airport, the Governor-General must not make any regulations varying the site unless the lessee has given written consent to the making of those regulations. Australian Pacific Airports (Melbourne) Pty. Ltd. provided this written consent on 15 May 2018.

An additional minor amendment has also been made to update the Victorian certificate of title Volume and Folio numbers for table item 35A of clause 14 of Schedule 1 to the principal Regulations.

A statement from the Office of Best Practice Regulation noting there is no requirement for a Regulatory Impact Statement due to minor impacts has been obtained (OBPR ID 18814 and 17818).

Details of the Regulations are set out in Attachment A.

The Statement of Compatibility with Human rights is set out in Attachment B.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence the day after they are registered on the Federal Register of Legislative Instruments.

Authority:      Section 252 of the  
*Airports Act 1996*

**Details of the *Airports Amendment (Melbourne Airport Site Measures No. 2) Regulations 2018***

**Section 1 - Name**

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

**Section 2 - Commencement**

This section provides for the Regulations to commence the day after they are registered on the Federal Register of Legislative Instruments.

**Section 3 - Authority**

This section provides that the *Airports Amendment (Melbourne Airport Site Measures No. 2) Regulations 2018* are made under the *Airports Act 1996*.

**Section 4 - Schedules**

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

**Schedule 1 – Amendments**

**Item 1 – After paragraph 14(a) of Schedule 1**

This item provides that the following land description be inserted after paragraph 14(a) of Schedule 1:

- the land in Crown Allotment 2007, Parish of Tullamarine, being general law land, as contained within Conveyance Book 453 No. 366

**Item 2 – Clause 14 of Schedule 1 (table item 35A)**

This item provides that table item 35A of clause 14 of Schedule 1 be repealed.

**Item 3 – Clause 14 of Schedule 1 (at the end of the table)**

This item provides that the following land descriptions be added at the end of the table of clause 14 of Schedule 1:

- Victorian certificate of title Volume 11857 Folio 276, being Lot 1 on Title Plan 962272K

- Victorian certificate of title Volume 11857 Folio 290, being Lot 1 on Title Plan 962273H
- Victorian certificate of title Volume 11994 Folio 306, being Lot 1 on Plan of Subdivision 129124

**Statement of Compatibility with Human Rights**

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

***Airports Amendment (Melbourne Airport Site Measures No. 2) Regulations 2018***

This 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 this Legislative Instrument**

This Legislative Instrument amends the principal Regulations to:

- update the description of the Melbourne (Tullamarine) Airport site, as set out in clause 14 of Schedule 1 to the principal Regulations, by inserting descriptions of several access road associated with land already part of the Melbourne (Tullamarine) Airport site; and
- update the Victorian certificate of title Volume and Folio numbers for table item 35A of clause 14 of Schedule 1 to the principal Regulations.

**Human rights implications**

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

**Conclusion**

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

MICHAEL MCCORMACK

Deputy Prime Minister and Minister for Infrastructure and Transport