Airports (Building Control) Regulations 2025

made under the

Airports Act 1996

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About this compilation

This compilation

This is a compilation of the *Airports (Building Control) Regulations 2025* that shows the text of the law as amended and in force on 1 April 2026 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Airports (Building Control) Regulations 2025*.

3 Authority

This instrument is made under the *Airports Act 1996*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

(a) airport-lessee company;
(b) airport site;
(c) ancillary development;
(d) associated site for Sydney West Airport;
(e) building activities;
(f) final master plan;
(g) major airport development;
(h) major development plan;
(i) State.

In this instrument:

Act means the *Airports Act 1996*.

airport building controller, for an airport site, means:

(a) a Commonwealth or State authority, local government body or person appointed under section 65 as the airport building controller for the site; or
(b) if no such authority, body or person is appointed—the Secretary.

appropriate building expert: see section 5.

appropriate demolition procedures expert: see section 6.

appropriate works expert: see section 7.

Australian building standards:

(a) in relation to a building activity other than a demolition, means:
  (i) the Building Code, as the Code is applied in the State in which the building activity is taking place; or
  (ii) if the Building Code is not applicable to the building activity, or a part of the building activity, on a particular airport site—the standards determined by the airport building controller for the airport site under section 66 for the building activity or part of the building activity, as existing from time to time; or

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(b) in relation to a demolition, means Australian Standard AS 2601-2001, *The demolition of structures*, as existing from time to time.

authorised person means:

(a) the Secretary; or

(b) a person appointed by the Secretary under section 81 as an authorised person.

building includes a structure.

building approval means:

(a) an approval granted under subsection 21(1) to carry out a building activity on an airport site; or

(b) if the approval is varied under subsection 36(1)—the varied approval.

Building Code means the *Building Code of Australia*, as existing from time to time.

Note: The Building Code is contained in volumes 1 and 2 of the National Construction Code and could, in 2025, be viewed on the website of the Australian Building Codes Board (https://ncc.abcb.gov.au).

building permit: see paragraph 10(a).

certificate of compliance means:

(a) a certificate issued under subsection 49(1) for a building or works; or

(b) if the certificate is varied under subsection 57(1)—the varied certificate.

demolition, in relation to a building or works, or a part of a building or works:

(a) means the demolition, destruction, dismantling or removal of the building or works, or a part of the building or works; but

(b) does not include the demolition, destruction, dismantling or removal of structures designed or used to provide support, access or containment during construction work, including formwork, falsework or scaffolding.

demolition authorisation: see paragraph 10(c).

earthworks or engineering works has a meaning affected by subsection 98(3) of the Act.

eligible alteration has the same meaning as in section 105 of the Act.

exempt building activity: see section 11.

infringement notice offence: see section 70.

infringement notice penalty: see section 70.

inspection stages, for a building activity, means:

(a) the stages specified in a notice under subsection 21(4) at which the building activity is to be inspected by an appropriate expert or a regulatory authority; or

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(b) if the stages are altered, as specified in a notice under subsection 36(4), the altered stages.

online lodgement facility means the facility maintained by the Department for the purposes of receiving online applications and requests in relation to building approvals and certificates of compliance, and for other purposes.

regulatory authority means:

(a) an authority or body authorised by law to regulate works for the supply of gas, water, electricity or sewerage services; or

(b) the Australian Communications and Media Authority.

Secretary means the Secretary to the Department.

stake, held by a person in a company, has the same meaning as in clause 11 of the Schedule to the Act.

structure has a meaning affected by subsection 98(2) of the Act.

works includes:

(a) earthworks or engineering works; and

(b) electrical works; and

(c) hydraulic works.

works permit: see paragraph 10(b).

5 Meaning of *appropriate building expert*

A person is an ***appropriate building expert***, in relation to a building activity (or a part of a building activity) on an airport site in a State, if the person:

(a) is generally recognised within the building industry as having expert knowledge about, or qualifications for, the construction of buildings; and

(b) has the appropriate qualifications for carrying out the building activity or part in that State.

Note: The following are examples of appropriate building experts in a State:

(a) a person licensed to practice as a building surveyor, architect, engineer or fire-safety engineer in the State;

(b) a person responsible for carrying out the building activity or part of the building activity;

(c) a corporation that carries on the business of being a building expert in the State.

6 Meaning of *appropriate demolition procedures expert*

A person is an ***appropriate demolition procedures expert***, in relation to a building activity (or a part of a building activity) on an airport site in a State if the person is registered or licensed to carry out the demolition of buildings in that State.

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7 Meaning of *appropriate works expert*

A person is an ***appropriate works expert***, in relation to a building activity (or a part of a building activity) on an airport site in a State, if the person:

(a) is generally recognised within the building industry as having expert knowledge about, or qualifications for, the carrying out of works; and

(b) has the appropriate qualifications for carrying out works in that State.

Note: The following are examples of appropriate works experts in a State:

(a) a person licensed to practice as an engineer in the State;

(b) a person qualified for the carrying out of that type of building activity;

(c) a person responsible for carrying out the building activity or part of the building activity;

(d) a corporation that carries on the business of being a works expert in the State.

8 Effect on State laws

Nothing in this instrument affects the operation of a State law in respect of the following:

(a) the registration of builders or other persons having professional qualifications relating to construction;

(b) builder insurance;

(c) work health and safety;

(d) the protection of persons against fire.

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Part 2—Building approvals

Division 1—Preliminary

9 Simplified outline of this Part

This Part is made for the purposes of Subdivision C of Division 5 of Part 5 of the Act.

This Division specifies the kinds of building approvals that may be granted to authorise building activities to be carried out on airport sites. These are building permits, works permits and demolition authorisations.

Division 2 declares the kinds of building activities that may be carried out on airport sites without a building approval and includes requirements in relation to those activities.

Divisions 3 to 6 provide for the grant of building approvals to authorise building activities to be carried out on airport sites, and for matters relating to such approvals.

Division 7 requires the Secretary to maintain a register of applications made under this Part, and provides for miscellaneous matters relating to building approvals.

10 Kinds of building approvals

The kinds of building approvals that may be granted under this Part to authorise the carrying out of a building activity on an airport site are the following:

(a) if the proposed building activity is the construction or alteration of a building—a building permit;

(b) if the proposed building activity is the construction or alteration of works—a works permit;

(c) if the proposed building activity is the demolition of a building or works—a demolition authorisation.

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Division 2—Exempt building activities

11 Building activities declared to be exempt

(1) For the purposes of subparagraphs 99(1)(d)(i) and (e)(i) and (3)(d)(i) and (e)(i) of the Act, the kinds of building activities (the ***exempt building activities***) that are exempt from Subdivision C of Division 5 of Part 5 of the Act are the following:

(a) the erection, or installation, of a manufactured home or moveable dwelling, or a similar construction;

(b) the erection of a building that is a class 10a building under the Building Code, having a floorspace of 10 square metres or less;

(c) the erection of a building that is a class 10b building under the Building Code, except:

(i) a fence more than 2 metres high; or

(ii) a mast, pole, antenna or similar structure that is erected on a building and is more than 3 metres higher than its highest point of attachment to the building; or

(iii) a mast, pole, antenna or similar structure that is not erected on a building and is more than 8 metres high; or

(iv) a wall (including a retaining wall) more than 1 metre high; or

(v) a sign, other than a sign that at its highest point is less than 8 metres above ground level or a sign that is erected by an airport-lessee company for an advisory purpose (such as the regulation of traffic);

(d) the repair, or alteration, of an existing building, if the repair or alteration:

(i) does not adversely affect any aspect of the safety, or the structural soundness, of the building; and

(ii) does not involve the underpinning, or replacement, of the footings; and

(iii) is in the nature of appropriate maintenance or cosmetic changes, or fit out, to the interior or exterior of the building;

(e) the repair, or alteration, of an existing building, if the repair or alteration:

(i) does not adversely affect any aspect of the safety, or the structural soundness, of the building; and

(ii) does not involve underpinning of, or replacement of, the footings; and

(iii) is essential because of an emergency relating to the safety of persons;

(f) the repair, or alteration, of existing works, if the repair or alteration is minor and:

(i) does not adversely affect the structural soundness of the works; and

(ii) is appropriate maintenance;

(g) subject to subsection (2), building activity involving work of a minor nature carried out on an airport site that the airport building controller for the airport site has determined, in writing, for the purposes of this paragraph.

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(2) The airport building controller for an airport site may determine work carried out on the airport site for the purposes of paragraph (1)(g) only if the controller is satisfied that the work:
  (a) is small-scale and of short duration; and
  (b) will involve no more than minor interference with the airport site; and
  (c) will not create a danger of injury to a person using the airport.

12 Exempt building activities—notices and certification

Notifying intention to commence exempt building activity

(1) A person intending to carry out an exempt building activity on an airport site, or to cause or permit such an activity to be carried out, must:
  (a) notify, in writing and through the online lodgement facility, the airport building controller for the airport site of the intention to carry out the activity; and
  (b) if the person is not the airport-lessee company for the airport site—provide a copy of the notice to the airport-lessee company.

(2) The person must comply with the requirement in subsection (1) before commencing the exempt building activity.

Certifying safety of building repaired or altered because of emergency

(3) If an exempt building activity mentioned in paragraph 11(1)(e) is carried out on an airport site, the person under whose direction the activity is carried out must, as soon as practicable, give the airport building controller for the airport site a certificate attesting to the structural safety of the building as repaired or altered.

13 Exempt building activities—records

(1) A person mentioned in subsection (2) must keep a record of all plans for carrying out an exempt building activity, and of details of all work undertaken in carrying out that activity, until the end of the period of one year beginning on the day on which the activity is completed.

(2) For subsection (1), the person is:
  (a) the person who carries out the activity; or
  (b) if the person carries out the activity on behalf of another person, and the other person agrees to keep the records—the other person.

(3) The airport building controller for an airport site on which exempt building activity is carried out may inspect a record referred to in subsection (1):
  (a) at any reasonable time on a day when the office of the person keeping the record is normally open for business; and
  (b) after giving the person written notice at least 24 hours before making the inspection.

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Division 3—Granting of building approvals

14 Application for building approval

(1) A person (the ***applicant***) may apply for a building approval to authorise the carrying out of a building activity on an airport site if the person is:

(a) the airport-lessee company for the airport site, or a person acting on behalf of the airport-lessee company; or

(b) the sub-lessee, or a person acting on behalf of the sub-lessee, of the building or of the land in or on which the building work is to be carried out; or

(c) a person who has an interest in land at the airport, or a person acting on behalf of the person who has an interest in land at the airport.

(2) The application must:

(a) be made to the airport building controller for the airport site through the online lodgement facility; and

(b) state the kind of building approval being applied for; and

(c) include the information mentioned in:

(i) section 15; and

(ii) if the application is for a building permit—section 16; and

(iii) if the application is for a works permit—section 17; and

(iv) if the application is for a demolition authorisation—section 18.

(3) The applicant must pay a fee in respect of the application of:

(a) if the application is for a building permit or a works permit—the amount, according to the total estimated cost of the proposed building or works, set out in Schedule 1 for the airport site; or

(b) if the application is for a demolition authorisation—$400.

(4) The application is properly made if subsections (2) and (3) are complied with.

15 Information to be included—all applications

For subparagraph 14(2)(c)(i), the information is the following:

(a) a description of the building activity and its location on the airport site;

(b) an estimate of the cost of the building activity;

(c) an estimate of the time necessary to complete the building activity;

(d) if there is a final master plan for the airport—a statement describing how the building activity is consistent with the plan;

(e) if:

(i) the airport is Sydney West Airport; and

(ii) Part 2 of an airport plan for the airport is in force;

a statement describing how the building activity is consistent with Part 2 of the plan;

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(f) if the building activity is, or comprises part of, a major airport development, and paragraph (g) does not apply—a statement describing how the activity is consistent with:
  (i) the approved major development plan for the airport; or
  (ii) any exemption declared under paragraph 90(1)(d) of the Act;

(g) if:
  (i) the airport is Sydney West Airport; and
  (ii) an airport plan for the airport is in force; and
  (iii) the building activity is, or comprises part of, a development covered by Part 3 of the airport plan; and
  (iv) the building activity is to occur wholly or partly before the Sydney West Airport completion day;

  a statement describing how the activity is consistent with Part 3 of the airport plan;

(h) if the building activity is not, or does not comprise part of, a major airport development—a statement to that effect;

(i) if the building activity is, or comprises part of, a draft major development plan—a statement to that effect;

(j) the site plan for the building activity, including a depiction of the proposed development resulting from the activity;

(k) any other information about the building activity required by a regulatory authority, or other body having a regulatory function, in relation to the resulting building, works or demolition;

(l) a statement setting out the precautions to be taken to:
  (i) protect persons using the airport site while the building activity is going on from injury arising from the activity; and
  (ii) protect property at the airport site from damage arising from the building activity;

(m) a statement setting out the proposed arrangements for clean-up and rehabilitation of the site of the building activity;

(n) if, under section 27, the consent of the airport-lessee company is required in respect of the application—the written notice and the reasons for the decision (if applicable) mentioned in that section;

(o) if, under section 29, a declaration by the airport-lessee company is required in respect of the application—the declaration.

Note: As a final master plan will include an environment strategy, paragraph (d) also requires a statement describing how the proposed building activity is consistent with that strategy.

16 Information to be included—building permit applications

(1) For subparagraph 14(2)(c)(ii), the information is the following:

(a) a statement that identifies the class or classes, under the Building Code, of the building proposed to be built or altered;

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(b) a statement that describes, in accordance with the provisions of the Building Code that deal with fire resistance and stability, the proposed type of construction of the building;
(c) a building plan that meets the requirements of subsections (2) and (3);
(d) specifications that meet the requirements of subsection (4);
(e) all certificates required, under any applicable law, approving arrangements for:
(i) the health and comfort of persons (including in relation to ventilation, air conditioning, insulation, sanitation, waste disposal, plumbing and drainage, electrical works, gas installations and lighting); or
(ii) fire resistance and fire protection; or
(iii) telecommunications services;
(f) any certificate issued, or report prepared, by an appropriate building expert approving the structural elements of the building plan;
(g) if approval of the building activity is required under the *Airports (Protection of Airspace) Regulations 2026*—a statement that the applicant has received, or has applied for, the approval.

Requirements for building plans

(2) The building plan must:
(a) show the dimensions of all parts of the building proposed to be built or altered, including the footings; and
(b) include a section plan of the building at the level of each floor, at an appropriate and legible scale; and
(c) depict each elevation of the building, at an appropriate and legible scale; and
(d) depict the designed provision of fire safety measures in the building; and
(e) give details of the construction materials proposed to be used for the building.

(3) If the building activity is the alteration or repair of an existing building, the building plan must be marked in such a way as to distinguish the proposed alteration or repair from the existing building.

Requirements for specifications

(4) The specifications must:
(a) describe in detail the type of construction and construction materials for the proposed building; and
(b) describe in detail the proposed methods of drainage, sewerage, water supply and gas supply (if any); and
(c) state whether it is intended to use in the building any second-hand material that could adversely affect the structural integrity of the building or have any other adverse safety consequence.

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17 Information to be included—works permit applications

For subparagraph 14(2)(c)(iii), the information is the following:

(a) the works plan;

(b) the specifications for the proposed works;

(c) all certificates required, under any applicable law, approving arrangements for electrical works, lighting, ventilation, plumbing and drainage, gas services, fire resistance and fire protection;

(d) any certificate issued, or report prepared, by an appropriate works expert approving the structural elements of the works plan;

(e) details of the construction materials proposed to be used for the works.

18 Information to be included—demolition authorisation applications

For subparagraph 14(2)(c)(iv), the information is the following:

(a) the demolition plan;

(b) the provisions of the Australian building standards with which the work is proposed to comply;

(c) any certificate issued, or report prepared, by an appropriate demolition procedures expert approving the structural elements of the demolition plan.

19 Further information

(1) The airport building controller for the airport site may request, by written notice, further information in relation to the application if:

(a) the controller reasonably requires the information to determine the application; and

(b) for an application in respect of a building activity that is, or comprises part of, a major airport development—the major development plan for that development has been decided, or taken to be approved, by the Minister under section 94 of the Act.

Note: Paragraph (1)(b) does not apply to a building activity at Sydney West Airport that is covered by Part 3 of an airport plan for the airport and that wholly or partly occurs before the Sydney West Airport completion day—see section 41.

(2) The information may be requested from:

(a) the applicant; or

(b) if the airport-lessee company for the airport site has the information—the airport-lessee company.

(3) If the notice specifies the period within which the information must be given, the airport building controller may extend the period on the request of the applicant. The period may be extended more than once.

(4) The airport building controller need not make a decision on the application until the requested information is received.

(5) The airport building controller may, by written notice, withdraw a request for further information made under subsection (1).

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20 Variation or withdrawal of application

(1) At any time before the airport building controller for the airport site has made a decision on the application, the applicant may:
  (a) vary the application, but only to the extent that the variation does not significantly alter the character, size or impact of the building activity or the resulting development; or
  (b) withdraw the application.

(2) The variation or withdrawal must be made to the airport building controller by notice through the online lodgement facility.

(3) The applicant must pay a fee in respect of the notice of:
  (a) $250; and
  (b) if:
    (i) the notice is to vary the application; and
    (ii) the estimated cost of the works, if constructed according to the application as varied, would be greater than that of the works if constructed according to the original application;

  the difference (if any) in the fee payable for the original application and the fee that would have been payable for the application as varied.

(4) If an application is withdrawn, the Commonwealth must refund the fee originally paid for the application.

21 Airport building controller to decide application

Decision

(1) The airport building controller for the airport site must deal with an application that is properly made under section 14 by:
  (a) granting the building approval; or
  (b) granting the building approval subject to one or more conditions the controller determines to be appropriate; or
  (c) undertaking to the applicant that the building approval will be granted if the applicant complies with any directions in the undertaking; or
  (d) refusing to grant the building approval.

(2) Subsection (1) is subject to subsections (6) and (7) and sections 22 to 25.

Notice of decision

(3) The airport building controller must give written notice of the decision to:
  (a) the applicant; and
  (b) if the applicant is not the airport-lessee company for the airport site—the airport-lessee company.

(4) The notice must:

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(a) if the decision is to grant the building approval—specify the inspection stages (if any) for the building activity; and

(b) for a decision mentioned in paragraph (1)(b), (c) or (d)—include a statement of the reasons for the decision.

When approval is subject to undertaking

(5) If the airport building controller gives an undertaking and directions under paragraph (1)(c), and the applicant complies with the directions, the controller must grant the building approval.

When building activity is, or comprises part of, a major airport development (other than at Sydney West Airport)

(6) If the proposed building activity is, or comprises part of, a major airport development, the airport building controller must not make a decision on the application before the major development plan for the development has been decided, or taken to be approved, by the Minister under section 94 of the Act.

(7) If the Minister refuses to approve the major development plan, the airport building controller must not deal with the application.

(8) The airport building controller must advise the applicant, orally or in writing, of the effect of subsections (6) and (7).

Note: Subsections (6) to (8) do not apply to a building activity at Sydney West Airport that is covered by Part 3 of an airport plan for the airport and that wholly or partly occurs before the Sydney West Airport completion day—see section 41.

When a decision to refuse to grant a building approval is taken to have been made

(9) The airport building controller is taken to have refused to grant the building approval if the controller has not given the applicant notice of a decision within 28 days after the later of the following:

(a) in the case that the proposed building activity is, or comprises part of, a major airport development for which a major development plan is not approved, or taken to be approved, under section 94 of the Act at the time the application is made—the major development plan is approved, or taken to be approved, under section 94 of the Act;

(b) if paragraph (a) does not apply—the application is received;

(c) if further information is requested under subsection 19(1), and paragraph (d) of this subsection does not apply—the further information is received;

(d) a request for further information under subsection 19(1) is withdrawn under subsection 19(5).

Note: Paragraph (a) does not apply to a building activity at Sydney West Airport that is covered by Part 3 of an airport plan for the airport and that wholly or partly occurs before the Sydney West Airport completion day—see section 41.

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22 Criteria for approval—all applications

The airport building controller for the airport site must not approve the application unless the controller is satisfied that:

(a) if the applicant is not the airport-lessee company for the airport site—the airport-lessee company has granted consent to the application, or consent subject to conditions, under section 27; and

(b) if approval of the proposed building activity is required under the *Airports (Protection of Airspace) Regulations 2026*—the Secretary has approved the proposed building activity under that instrument.

23 Criteria for approval—building permit applications

(1) If the application is for a building permit, the airport building controller for the airport site must not approve the application unless the controller:

(a) is satisfied that the proposed building, if completed in accordance with the plan and specification attached to the application, will be fit for occupancy; and

(b) is satisfied that the building activity will be carried out in accordance with appropriate standards; and

(c) has had regard to:

(i) public safety during the conduct of the building activity; and

(ii) amenity of buildings and services at the airport during the conduct of the building activity; and

(iii) the appropriateness of proposed linkages, for the building activity, with services and facilities outside the airport; and

(iv) the appropriateness of the proposed arrangements for the clean-up and rehabilitation of the site of the building activity.

(2) For paragraph (1)(b), the building activity will be carried out in accordance with appropriate standards if:

(a) the design of the proposed building ensures compliance with the applicable Australian building standards; or

(b) if the design does not ensure compliance with the applicable Australian building standards:

(i) the applicant identifies the non-compliance and provides a written explanation of the inappropriateness of compliance with the standards; and

(ii) the airport building controller approves the non-compliance.

(3) The airport building controller may be satisfied of a matter mentioned in paragraph (1)(a) or (b) by relying on:

(a) a certificate issued, or report prepared, by an appropriate building expert; or

(b) a certificate issued by a regulatory authority.

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24 Criteria for approval—works permit applications

(1) If the application is for a works permit, the airport building controller for the airport site must not approve the application unless the controller:

(a) is satisfied that the proposed works, if completed in accordance with the plan and specification attached to the application, will be fit for use; and

(b) is satisfied that the proposed works will be carried out in accordance with appropriate standards; and

(c) has had regard to:

(i) public safety during the conduct of the proposed works; and

(ii) amenity of buildings and services at the airport during the conduct of the proposed works; and

(iii) the appropriateness of proposed linkages, for the proposed works, with services and facilities outside the airport; and

(iv) the appropriateness of the proposed arrangements for the clean-up and rehabilitation of the site of the proposed works.

(2) For paragraph (1)(b), the proposed works will be carried out in accordance with appropriate standards if:

(a) the design of the proposed works ensures compliance with the applicable Australian building standards; or

(b) if the design does not ensure compliance with the applicable Australian building standards:

(i) the applicant identifies the non-compliance and provides a written explanation of the inappropriateness of compliance with the standards; and

(ii) the airport building controller approves the non-compliance.

(3) The airport building controller may be satisfied of a matter mentioned in paragraph (1)(a) or (b) by relying on a certificate issued, or report prepared, by an appropriate works expert.

25 Criteria for approval—demolition authorisation applications

(1) If the application is for a demolition authorisation, the airport building controller for the airport site must not approve the application unless the controller:

(a) is satisfied that the demolition will be carried out in accordance with applicable Australian building standards; and

(b) is satisfied that the demolition, if completed in accordance with the plan attached to the application, will cause no greater disruption to other activities at the airport than is the least disruption reasonably practicable; and

(c) has had regard to the following:

(i) public safety during the conduct of the demolition;

(ii) amenity of buildings and services at the airport during the conduct of the demolition;

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(iii) the appropriateness of the proposed arrangements for the clean-up and rehabilitation of the site of the demolition.

(2) The airport building controller may be satisfied of a matter mentioned in paragraph (1)(a) or (b) by relying on a certificate issued, or report prepared, by an appropriate demolition procedures expert.

26 Duration of building approval

(1) A building approval has effect from the time it is granted until the earliest of the following:

(a) the end of the applicable period for the approval;

(b) if the approval specifies a period shorter than the applicable period—the end of the specified period;

(c) if the applicable period is extended under this section—the end of the extended period;

(d) if the approval is revoked under section 37 before it would otherwise cease to be in force—the time it is revoked.

Note: It is an offence to carry out building activities on an airport site if the activity is not carried out in accordance with an approval granted under this instrument for the purposes of Division 5 of Part 5 of the Act—see subsections 99(1) and (3) of the Act.

(2) The ***applicable period*** for a building approval is the following period from the day on which the approval is granted:

(a) in the case of a building activity that:

(i) is on the airport site for Sydney West Airport; and

(ii) is, or comprises part of, a development covered by Part 3 of an airport plan for the airport; and

(iii) is to wholly or partly occur before the Sydney West Airport completion day;

5 years; or

(b) in any other case—3 years.

Extension of duration of building approval

(3) On application by the person carrying out the building activity authorised by the building approval (or a person acting on behalf of that person), the airport building controller for the airport site may extend the period for which the approval has effect for an additional period of one year.

(4) The application must be made before the approval ceases to be in force.

(5) The airport building controller may extend the period:

(a) after the approval has ceased to be in force; and

(b) no more than twice.

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Other matters

(6) The approval does not cease to have effect for the reason only that the person to whom it was granted has given up all, or any, of the person's interest in the proposed building, structure or works or the land on which it is to be constructed.

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Division 4—Requirements on airport-lessee company in relation to applications for building approval

27 Consent for applications not made by airport-lessee company

(1) If the applicant for a building approval to authorise the carrying out of a building activity on an airport site is not the airport-lessee company for the airport site, the applicant must give a copy of the application to the airport-lessee company.

(2) Subject to section 28, the airport-lessee company must:
  (a) consent to the application; or
  (b) consent to the application subject to any condition that the company considers appropriate; or
  (c) refuse to consent to the application.

(3) The airport-lessee company must give written notice of its decision:
  (a) to the applicant; and
  (b) to the airport building controller for the airport site;
and, if consent is refused, or is granted subject to a condition, the notice must set out the reasons for the decision.

(4) The notice must be given before the end of 28 days after the airport-lessee company receives the application, or, if the applicant has agreed to a longer period, the end of that longer period.

(5) Consent is taken to have been refused if, at the end of the period under subsection (4), the airport-lessee company has not given written notice to the applicant.

28 Considerations for grant or refusal of consent

Consideration of plans and planning objectives

(1) The airport-lessee company must not refuse consent to the application unless the application is inconsistent with:
  (a) the final master plan for the airport (if any); or
  (b) an approved major development plan for the airport (if any); or
  (c) in the case of Sydney West Airport:
    (i) if Part 2 of an airport plan for the airport is in force—Part 2 of the airport plan; or
    (ii) if the building activity wholly or partly occurs before the Sydney West Airport completion day, an airport plan for the airport is in force, and the proposed building activity is, or comprises part of, a development covered by Part 3 of the airport plan—Part 3 of the airport plan; or
  (d) the airport-lessee company's planning objectives for the airport.

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Note: It is possible that a proposal that, under paragraphs (a), (b) and (c), has no inconsistency, could, nevertheless, be found to be unsatisfactory under paragraph (d). It is also possible that a proposal that is inconsistent in a way mentioned in subsection (l) is preserved from refusal of consent under subsection (4).

(2) In determining whether to refuse consent because a proposed building activity is inconsistent with a plan mentioned in paragraph (l)(a), (b) or (c), the airport-lessee company must have regard to the significance of the inconsistency.

(3) In determining whether to refuse consent because a proposed building activity is inconsistent with planning objectives for the airport, the airport-lessee company must have regard to the significance of the inconsistency and, in particular, to:

(a) the type, location, shape, size, height, density, design and external appearance of the development that will result from the proposed building activity; and

(b) if a building is intended to be constructed—the siting of the building in relation to the size and shape of the site it will occupy; and

(c) the relationship the results of the activity will have to:

(i) existing buildings and other structures on adjoining land at the airport; and

(ii) other approved development on adjoining land at the airport; and

(d) if appropriate—the proposed means of entrance to, and exit from, the resulting development and, in particular, whether adequate provision has been made for loading, unloading, manoeuvring and parking of vehicles; and

(e) if appropriate—the management of travel of vehicles and pedestrians to and from the resulting development; and

(f) the impact the building activity, or resulting development, is likely to have on the environment and, if an adverse impact is likely, whether it is reasonably possible to protect the environment.

Consideration of legislative and contractual obligations

(4) The airport-lessee company must not refuse consent to the application if, to do so, would be inconsistent with an obligation of the company relating directly or indirectly to approval of the application:

(a) as lessor under a sublease to which subsection 22(2) of the Act, or subsection 26(2) of the *Airports (Transitional) Act 1996*, applies; or

(b) under an interest to which subsection 22(3) of the Act, or subsection 26(3) of the *Airports (Transitional) Act 1996*, applies; or

(c) in the case of the airport-lessee company for Sydney West Airport—under a contract with the Commonwealth that relates to the airport.

(5) Subsection (4) applies despite subsection (1).

Consideration of whether to impose conditions

(6) In determining whether it is appropriate to grant consent subject to conditions, the airport-lessee company must have regard to possible impacts of the proposed building activity on:

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(a) the safety and security of persons at the airport, in general; and
(b) airport services and the efficient operation of the airport.

29 Declarations confirming consistency of applications with plans

An application for a building approval to authorise the carrying out of a building activity on the airport site must be supported by a declaration from the airport-lessee company for the airport site as to whether the application is consistent with:

(a) the final master plan for the airport site (if any); and
(b) the approved major development plan for the airport site (if any); and
(c) in the case of Sydney West Airport:
    (i) if Part 2 of an airport plan for the airport is in force—Part 2 of the airport plan; or
    (ii) if the building activity wholly or partly occurs before the Sydney West Airport completion day, an airport plan for the airport is in force, and the proposed building activity is, or comprises part of, a development covered by Part 3 of the airport plan—Part 3 of the airport plan.

30 Requirement to publish details of applications

(1) The airport-lessee company for an airport site must publish the following information about an application for a building approval to authorise the carrying out of a building activity on the airport site:
    (a) the name of the applicant;
    (b) the day on which the airport-lessee company:
        (i) if the company is the applicant—submitted the application to the airport building controller for the airport site; or
        (ii) if the company is not the applicant—received the application;
    (c) a description of the proposed building activity covered by the application;
    (d) the location of the building activity on the airport site.

(2) The information must be published:
    (a) on the airport's website; and
    (b) within 5 business days after the day mentioned in paragraph (1)(b).

31 Requirement to publish details of decisions etc. about applications

(1) The airport-lessee company for an airport site must publish the following information about an event mentioned in subsection (2) that relates to an application for a building approval to authorise the carrying out of a building activity on the airport site:
    (a) details of the event;
    (b) the day on which the event occurred.

(2) For subsection (1), the events are the following:

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(a) the applicant varies or withdraws the application under subsection 20(1);
(b) the airport building controller for the airport site makes a decision on the application under subsection 21(1);
(c) the application is taken to have been refused by the airport building controller for the airport site by operation of subsection 21(9);
(d) the airport-lessee company consents, or refuses to consent, under subsection 27(2) to the application;
(e) the consent of the airport-lessee company to the application is taken to have been refused by operation of subsection 27(5).

(3) The information must be published:
(a) on the airport's website; and
(b) within 5 business days after the event occurs.

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Division 5—Conditions of building approvals

32 Conditions of building approvals

(1) Subject to subsection (3), the following conditions are imposed on a building approval that authorises the carrying out of a building activity on an airport site:

(a) if the approval is a building permit—the materials used in the building and the methods of use of those materials must comply with the Australian building standards for materials of that type when used in a building of that type;

(b) if the approval is a works permit—the materials used in the works and the methods of use of those materials must comply with the Australian building standards for materials of that type when used in works of that type;

(c) the activity must be carried out with appropriate expertise;

(d) the activity must be carried out in accordance with the plan, specifications and conditions in respect of which the approval is granted;

(e) the activity must be carried out, and supervised, by appropriately qualified and licensed persons;

(f) all necessary safety precautions must be taken in carrying out the activity;

(g) at least 7 days before the expected date on which the activity, or a part of the activity, will reach an inspection stage:

(i) the airport building controller for the airport site must be notified of that expectation; and

(ii) further work on the activity or part must not occur until a regulatory authority or other appropriate expert has inspected the activity or part and found it to be in accordance with the approval;

(h) if the inspection mentioned in subparagraph (g)(ii) is not carried out by a regulatory authority—a certificate to that effect must be provided to the airport building controller for the airport site;

(i) if the airport building controller requires, by written notice, access within a reasonable period to inspect the activity—the controller must be given access to the activity in accordance with the notice;

(j) if the airport building controller requires, by written notice, works to be opened within a reasonable period to enable the controller to verify that the works have been properly performed—the works must be opened up for the controller in accordance with the notice;

(k) work performed, or materials used, in carrying out the activity must not be defective;

(l) if the airport building controller requires, by written notice, that tests in relation to the works are carried out—the tests must be carried out in accordance with the notice and the controller must be provided with the results of the tests;

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(m) if the airport building controller requires, by written notice, detailed drawings of the resulting construction, in the form actually constructed—the drawings must be given to the controller;

(n) as soon as the building activity is complete, the site of the building activity must be cleaned up and rehabilitated;

(o) the activity must be completed before the building approval ceases to have effect under section 26.

(2) A written notice or request mentioned in subsection (1) must be given to:

(a) the person carrying out the activity; and

(b) the person (if any) on whose behalf the work is being carried out.

(3) The airport building controller may determine, in writing, that a condition mentioned in subsection (1) is not imposed on the building approval.

33 Airport building controller may impose further conditions

(1) The airport building controller for an airport site may, at any time, impose a condition mentioned in subsection (2) on a building approval that authorises the carrying out of a building activity on the airport site.

(2) For subsection (1), the conditions that may be imposed are the following:

(a) a condition that the activity, or certain types of activities, not be carried out at specified times, being times at which other activities at the airport should not be disrupted;

(b) a condition that the airport building controller considers to be appropriate to protect persons from injury, or property from damage, while the activity is being carried out;

(c) if the airport building controller considers that the carrying out of an activity by a person is a significant contravention of the Act or this instrument—a condition that the person stops carrying out the activity.

(3) Subsection (2) does not limit paragraph 21(1)(b).

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Division 6—Variation and revocation of building approvals

34 Application to vary building approval

(1) A person (the ***applicant***) may apply for a variation of a building approval that authorises the carrying out of a building activity on an airport site if the person is:

(a) the airport-lessee company for the airport site, or a person acting on behalf of the airport-lessee company; or

(b) the sub-lessee, or a person acting on behalf of the sub-lessee, of the building or of the land in or on which the building work is to be carried out; or

(c) a person who has an interest in land at the airport, or a person acting on behalf of the person who has an interest in land at the airport.

(2) The application must:

(a) be made to the airport building controller for the airport site through the online lodgement facility; and

(b) include notice of the variation sought; and

(c) be made before a certificate of compliance relating to the approval is issued.

(3) The applicant must pay a fee in respect of the application that is the total of:

(a) $250; and

(b) if the estimated cost of the works, if constructed according to the approval as varied, would be greater than that of the works if constructed according to the original approval—the difference (if any) in the application fee payable for the application for the original approval and the application fee that would have been payable for the application for the approval as varied.

(4) The application is properly made if subsections (2) and (3) are complied with.

35 Further information

(1) The airport building controller for the airport site may request, by written notice, further information in relation to the application if the controller reasonably requires the information to determine the application.

(2) The information may be requested from:

(a) the applicant; or

(b) if the airport-lessee company for the airport site has the information—the airport-lessee company.

(3) If the notice specifies the period within which the information must be given, the airport building controller may extend the period on the request of the applicant. The period may be extended more than once.

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(4) The airport building controller need not make a decision on the application until the requested information is received.

(5) The airport building controller may, by written notice, withdraw a request for further information made under subsection (1).

36 Airport building controller to decide application

Decision

(1) The airport building controller for the airport site must deal with an application that is properly made under section 34 by:
  (a) granting the varied building approval; or
  (b) granting the varied building approval subject to any condition the controller determines to be appropriate; or
  (c) undertaking to the applicant that the varied building approval will be granted if the applicant complies with any direction in the undertaking; or
  (d) refusing to grant the varied building approval.

(2) The airport building controller must not approve the application if:
  (a) the variation will significantly alter the character, size or impact of the building activity, or the resulting development; or
  (b) if the building activity is on the airport site for an airport other than Sydney West Airport—the variation relates to a major airport development and there is no major development plan approved for the development; or
  (c) if the building activity is on the airport site for Sydney West Airport:
    (i) the variation relates to a major airport development; and
    (ii) there is no major development plan approved for the development; and
    (iii) if the building activity is to wholly or partly occur before the Sydney West Airport completion day—the development is not covered by Part 3 of an airport plan for the airport.

Notice of decision

(3) The airport building controller must give written notice of the decision to:
  (a) the applicant; and
  (b) if the applicant is not the airport-lessee company for the airport site—the airport-lessee company.

(4) The notice must:
  (a) if the decision alters the inspection stages for the building activity—specify the altered inspection stages; and
  (b) include a statement of the reasons for the decision if the decision is:
    (i) to grant the varied building approval subject to conditions; or
    (ii) to refuse to grant the varied building approval.

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When a decision to refuse to grant a varied building approval is taken to have been made

(5) The airport building controller is taken to have refused to grant a varied building approval if the controller has not given the applicant notice of its decision within 21 days after the later of the following:
  (a) the application is received;
  (b) if further information is requested under subsection 35(1), and paragraph (c) of this subsection does not apply—the further information is received;
  (c) a request for further information under subsection 35(1) is withdrawn under subsection 35(5).

37 Airport building controller may revoke building approval

(1) The airport building controller for an airport site may revoke a building approval that authorises the carrying out of a building activity on the airport site if:
  (a) the activity has not begun before the end of the 2-year period beginning on the day the approval was granted and, in the opinion of the controller, is not likely to begin before the approval ceases to have effect; or
  (b) the activity has ceased and, in the opinion of the controller, is not likely to be resumed; or
  (c) the activity is not being carried out, or can no longer be carried out, in accordance with:
    (i) a plan, specification or standard in respect of which the approval was granted; or
    (ii) a condition of the approval; or
    (iii) applicable Australian building standards; or
  (d) the controller is satisfied that the application, or a document or statement supplied in support of the application, was false or misleading in a material particular; or
  (e) the person carrying out the activity fails to comply with a condition of the approval; or
  (f) the activity has not ceased, or has recommenced without the written consent of the controller, in contravention of:
    (i) a condition of the approval mentioned in paragraph 33(2)(c); or
    (ii) a remedial direction under section 103 of the Act.

(2) The airport building controller may revoke the approval on the request of the person who holds the approval.

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Division 7—Other matters

38 Register of applications

(1) The Department must maintain a register of applications made through the online lodgement facility for:
  (a) building approvals to authorise the carrying out of building activities on airport sites; and
  (b) variations of such building approvals.

(2) The register must show:
  (a) the result of each application; and
  (b) for each approved application—the conditions imposed on the approval.

(3) The following may access entries on the register relating to building activities on an airport site:
  (a) the airport building controller for the airport site;
  (b) an authorised person.

39 Oversight of approval process

(1) This section provides for the monitoring of approvals granted by the airport building controller for an airport site of building activities carried out on the airport site.

Authorised person may request documents or things

(2) An authorised person may require, by written notice given to the airport building controller, a copy of any of the following:
  (a) an application for a building approval made to the controller;
  (b) a document or other thing:
    (i) given by the applicant in support of the application; or
    (ii) made by the controller in connection with the application; or
    (iii) made in connection with the application by a person or a regulatory authority (other than the controller) and in the possession of the controller.

(3) The airport building controller must comply with the notice before the end of 28 days after it is given.

Authorised person may inspect airport site

(4) The airport building controller (except if the controller is the Secretary) must give an authorised person access to inspect building activity being carried out on the airport site at any reasonable time, after 2 days written notice given to:
  (a) the controller; and
  (b) the person carrying out the building activity.

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40 Inspections—airport building controller to be timely

(1) This section applies if work in relation to a building activity being carried out on an airport site is stopped, until the airport building controller for the airport site has made an inspection, under:

(a) the Act; or

(b) this instrument; or

(c) a condition imposed on the building approval that authorises the carrying out of the building activity on the airport site.

(2) The airport building controller must make the inspection as soon as is reasonably practicable.

41 Sydney West Airport—application of this Part to building activities on airport site

(1) The provisions mentioned in subsection (2) of this section do not apply in relation to an application for a building approval to authorise the carrying out of a building activity that:

(a) is proposed to be carried out on the airport site for Sydney West Airport; and

(b) is, or comprises part of, a development covered by Part 3 of an airport plan for Sydney West airport; and

(c) is to wholly or partly occur before the Sydney West Airport completion day.

(2) The provisions are the following:

(a) paragraph 19(1)(b);

(b) subsections 21(6) to (8);

(c) paragraph 21(9)(a).

42 Sydney West Airport—when building activities on associated sites are taken to be activities carried out on airport site

For the purposes of this instrument, if:

(a) a building activity is, or comprises part of, an ancillary development on an associated site for Sydney West Airport; and

(b) the ancillary development is covered by Part 3 of an airport plan for the airport;

the activity is taken to be a building activity carried out on the airport site for Sydney West Airport.

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Part 3—Certificates of compliance

Division 1—Preliminary

43 Simplified outline of this Part

This Part is made for the purposes of Subdivision D of Division 5 of Part 5 of the Act.

Division 2 declares the kinds of buildings or works that may be occupied or used without a certificate of compliance (or a similar certificate or document) being issued.

Divisions 3 to 6 provide for the issue of certificates of compliance that authorise the occupancy or use of buildings or works, and matters relating to such certificates.

44 References to *building* and *building or works* in this Part

In this Part:

(a) a reference to a ***building*** includes a reference to a part of a building; and

(b) a reference to a ***building or works*** includes a reference to eligible alterations in respect of a building or works.

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Division 2—Exempt buildings and works

45 Buildings and works declared to be exempt

(1) For the purposes of paragraphs 106(1)(e) and (4)(e) of the Act, the kinds of buildings and works that are exempt from Subdivision D of Division 5 of Part 5 of the Act are the following:

(a) a building on an airport site that:

(i) was completed before the airport site was first leased; and

(ii) continues to have the use it had immediately before that time; and

(iii) has been maintained in a condition consistent with the structural needs of that use;

(b) works on an airport site that:

(i) were completed before the airport site was first leased; and

(ii) continue to have the use they had immediately before that time; and

(iii) have been maintained in a condition consistent with the structural needs of that use;

(c) an eligible alteration of the structure of a building mentioned in paragraph (a), or of works mentioned in paragraph (b), that:

(i) was completed before the airport site was first leased; and

(ii) does not affect the safety or structural soundness of the building or works; and

(iii) is appropriate maintenance; and

(iv) does not involve underpinning or replacement of footings; and

(v) if the alteration is of the structure of a building—is in the nature of cosmetic change or fit out to the interior or exterior of the building;

(d) a building or works on an airport site, or the repair or alteration of a building or works on an airport site, that was completed by the carrying out of an exempt building activity.

(2) For subparagraphs (1)(a)(i), (b)(i) and (c)(i), the ***first lease*** of an airport site is the first lease granted for the airport site under:

(a) the *Airports (Transitional) Act 1996*; or

(b) if an airport lease for the airport site was not granted under that Act—the Act.

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Division 3—Issue of certificates of compliance

46 Application for certificate of compliance

(1) A person (the ***applicant***) may apply for a certificate of compliance for a building or works on an airport site if the person is:
  (a) the airport-lessee company for the airport site; or
  (b) the person carrying out the building activity that has resulted in the building or works; or
  (c) a person whose interest in the building or works, or the land on which the building or works are located, entitles the person to carry out the building activity that has resulted in the building or works.

(2) The application must be made to the airport building controller for the airport site through the online lodgement facility.

(3) If the building or works are not the subject of a building approval given by the airport building controller then, before the controller begins to investigate whether the building or works are to be treated as complying with this instrument:
  (a) the controller must estimate the time that will be required to carry out the investigation; and
  (b) the applicant must pay, for the application, a fee worked out by multiplying $125 by the number of hours (taking any fraction of an hour as one hour) of the estimated time.

(4) In making the estimate, the airport building controller must:
  (a) invite the applicant to comment on the investigation and, in particular, the time likely to be required to carry out the investigation; and
  (b) take into account any comments made by the applicant.

(5) The application is properly made if:
  (a) subsection (2) is complied with; and
  (b) in the case that the applicant is required to pay a fee under subsection (3)—paragraph (3)(b) is complied with.

47 Further information

(1) The airport building controller for the airport site may request from the applicant, by written notice, further information in relation to the application if the controller reasonably requires the information to determine the application.

(2) If the notice specifies the period within which the information must be given, the airport building controller may extend the period on the request of the applicant. The period may be extended more than once.

(3) The airport building controller need not make a decision on the application until the requested information is received.

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(4) The airport building controller may, by written notice, withdraw a request for further information made under subsection (1).

48 Variation or withdrawal of application

(1) At any time before the airport building controller for the airport site has made a decision on the application, the applicant may vary or withdraw the application.

(2) The variation or withdrawal must be made to the airport building controller by notice through the online lodgement facility.

(3) If:
   (a) the notice is to vary the application; and
   (b) the estimated cost of investigating whether the building or works are to be treated as complying with this instrument would be greater than the costs of investigating that matter according to the original application;

the applicant must pay a fee in respect of the notice of the difference in the fee payable for the original application and the fee that would have been payable for the application as varied.

(4) If an application is withdrawn, the Commonwealth must refund the fee originally paid for the application.

49 Airport building controller to decide application

(1) The airport building controller for the airport site must deal with an application that is properly made under section 46 by:
   (a) issuing the certificate of compliance; or
   (b) issuing the certificate of compliance subject to any condition the controller determines to be appropriate; or
   (c) refusing to issue the certificate of compliance.

(2) Subsection (1) is subject to subsections (3) and (4) and section 50.

(3) If, under the Building Code, different parts of a building are differently classified, the airport building controller may issue:
   (a) one certificate for the building; or
   (b) different certificates for different parts of the building.

(4) If the airport building controller is satisfied, under subsection (1), in respect of part only of the building or works, the controller may issue a certificate for that part.

Notice of decision

(5) The airport building controller must give written notice of the decision to:
   (a) the applicant; and
   (b) if the applicant is not the airport-lessee company for the airport site—the airport-lessee company.

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(6) The notice must include a statement of the reasons for the decision if the decision is:

(a) to issue the certificate subject to conditions; or

(b) to refuse to issue the certificate.

When a decision to refuse to issue a certificate is taken to have been made

(7) The airport building controller is taken to have refused to issue a certificate if the controller has not given the applicant notice of the decision within 14 days after the later of the following:

(a) the application is received;

(b) if further information is requested under subsection 47(1), and paragraph (c) of this subsection does not apply—the further information is received;

(c) a request for further information under subsection 47(1) is withdrawn under subsection 47(4).

50 Criteria for approval

(1) The airport building controller for the airport site must not approve the application unless the controller is satisfied that:

(a) the building or works have been completed in accordance with the plans and specifications submitted to the controller with the application for the building approval (the ***applicable building approval***) that authorised the building activity resulting in the building or works; and

(b) subsection (2) applies in relation to the building or works as completed; and

(c) the building or works as completed make proper provision, in accordance with the Australian building standards, for the health and amenity, safety and comfort of any occupants or users; and

(d) the building or works as completed can reasonably be used for their intended purpose; and

(e) if the application is in respect of a building—the building as completed:

(i) is consistent with the applicable building approval; and

(ii) has been carried out in accordance with the Australian building standards in relation to the building activity; and

(iii) makes adequate provision, in its proposed use, for the protection of occupants against fire; and

(iv) makes adequate provision, in its proposed use, for disposal of refuse, and for sewerage, drainage, heating and cooling; and

(v) makes adequate provision, in its proposed use, for services, installations and ancillary equipment likely to be required by users; and

(f) if the application is in respect of works—the works as completed are consistent with the applicable building approval.

(2) This subsection applies in relation to building or works if:

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(a) the airport building controller is satisfied that the building or works as completed have been carried out in compliance with the Australian building standards; or

(b) if the building or works have not been carried out in compliance with the Australian building standards—the airport building controller approves the non-compliance.

(3) For the purposes of being satisfied of a matter mentioned in this section, the airport building controller may rely on a certificate issued, or report prepared, by an appropriate building expert or a regulatory authority.

51 Content of certificate of compliance

A certificate of compliance for a building or works must:

(a) identify the building or works; and

(b) identify the land on which the building activities resulting in the building or works were carried out; and

(c) set out the conditions of the certificate; and

(d) include a statement that the airport building controller for the airport site who issued the certificate is satisfied in respect of the matters mentioned in section 50; and

(e) for a certificate in respect of a building—set out the classification of the building under the Building Code.

52 Duration and transfer of certificate of compliance

(1) A certificate of compliance for a building or works has effect from the time it is issued until:

(a) the building or works cease to exist, or undergo an alteration that is not accommodated by the information on which the certificate is based; or

(b) if, under section 58 or 59, the certificate is revoked before it would otherwise cease to be in force—when it is revoked.

(2) If a person is the successor, for the time being, in title to the interest in the building or works of the holder of the original certificate, in respect of which the certificate was issued:

(a) the certificate is taken to be transferred to the person; and

(b) the person is taken to be the holder of the certificate.

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Division 4—Conditions of certificates of compliance

53 Conditions of certificates of compliance

The following conditions are imposed on a certificate of compliance:

(a) if the certificate is in respect of a building:

(i) the building must not be used for a purpose that is inconsistent with the classification of the building under the Building Code; and

(ii) the building must be maintained in a condition that is consistent with that classification;

(b) if the certificate is in respect of works:

(i) the works must not be used for a purpose that is inconsistent with the standards to which the works were constructed; and

(ii) the works must be maintained in a condition that is consistent with their use.

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Division 5—Variation and revocation of certificates of compliance

54 Application to vary certificate of compliance

(1) A person (the ***applicant***) may apply for a variation of a certificate of compliance for a building or works on an airport site if the person is:
  (a) the airport-lessee company for the airport site; or
  (b) the holder of the certificate; or
  (c) a person whose interest in the building or works, or the land on which the building or works is located, entitles the person to carry out the building activity that has resulted in the building or works.

(2) The application must be made to the airport building controller for the airport site through the online lodgement facility.

(3) If the airport building controller did not grant the building approval that authorised the building activities resulting in the building or works, before the controller begins to investigate whether the building or works comply with this instrument:
  (a) the controller must estimate the time that will be required to carry out the investigation; and
  (b) the applicant must pay, for the application, a fee worked out by multiplying $125 by the number of hours (taking any fraction of an hour as one hour) of the estimated time.

(4) In making the estimate, the airport building controller must:
  (a) invite the applicant to comment on the investigation and, in particular, the time likely to be required to carry out the investigation; and
  (b) take into account any comments made by the applicant.

(5) The application is properly made if:
  (a) subsection (2) is complied with; and
  (b) in the case that the applicant is required to pay a fee under subsection (3)—paragraph (3)(b) is complied with.

55 Further information

(1) The airport building controller for the airport site may request from the applicant, by written notice, further information in relation to the application if the controller reasonably requires the information to determine the application.

(2) If the notice specifies the period within which the information must be given, the airport building controller may extend the period on the request of the applicant. The period may be extended more than once.

(3) The airport building controller need not make a decision on the application until the requested information is received.

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(4) The airport building controller may, by written notice, withdraw a request for further information made under subsection (1).

56 Airport building controller to decide application

Decision

(1) The airport building controller for the airport site must deal with an application that is properly made under section 54 by:
  (a) issuing the varied certificate; or
  (b) issuing the varied certificate subject to any conditions the controller determines to be appropriate; or
  (c) refusing to issue the varied certificate.

(2) In considering whether to issue a varied certificate, the airport building controller must take into account the matters mentioned in section 50 as if the controller were considering the application for the issue of the original certificate.

Notice of decision

(3) The airport building controller must give written notice of the decision to:
  (a) the applicant; and
  (b) if the applicant is not the airport-lessee company for the airport site—the airport-lessee company.

(4) The notice must include a statement of the reasons for the decision if the decision is:
  (a) to issue the varied certificate subject to conditions; or
  (b) to refuse to issue a varied certificate.

When a decision to refuse to issue a varied certificate of compliance is taken to have been made

(5) The airport building controller is taken to have refused to issue a varied certificate if the controller has not given the applicant notice of the decision within 14 days after the later of the following:
  (a) the application is received;
  (b) if further information is requested under subsection 55(1), and paragraph (c) of this subsection does not apply—the further information is received;
  (c) a request for further information under subsection 55(1) is withdrawn under subsection 55(4).

57 Airport building controller may vary certificate of compliance on own initiative

(1) The airport building controller for the airport site may, on the controller's own initiative:
  (a) issue a varied certificate; or

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(b) issue a varied certificate subject to any conditions the controller determines to be appropriate;

if the controller is satisfied that the variation is, or the imposition of the conditions are, necessary in the public interest to ensure that building or works are safe for occupancy or use.

Notice of decision

(2) The airport building controller must give written notice of the decision, and the reasons for the decision, to:

(a) the holder of the certificate; and

(b) if the holder of the certificate is not the airport-lessee company for the airport site—the airport-lessee company.

58 Airport building controller may revoke certificate of compliance

(1) The airport building controller for the airport site may revoke a certificate of compliance issued for a building or works if:

(a) the building or works cease to be suitable for the purpose mentioned in the certificate; or

(b) the controller is satisfied that the application, or a document or statement supplied in support of the application, for the certificate was false or misleading in a material particular; or

(c) the holder of the certificate fails to comply with a condition of the certificate imposed by the operation of section 53.

Notice of decision

(2) The airport building controller must give written notice of the decision, and the reasons for the decision, to:

(a) the holder of the certificate; and

(b) if the holder of the certificate is not the airport-lessee company for the airport site—the airport-lessee company.

59 When certificate of compliance is taken to be revoked

A certificate of compliance is taken to be revoked if:

(a) in the case that the certificate was the only certificate issued for the building or works—another certificate of compliance is issued for the building or works; or

(b) in the case that the certificate was issued for a part of the building or works—another certificate of compliance is issued for that part of the building or works (including an amalgamated certificate issued under section 60 that covers other parts of the building or works).

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Division 6—Other matters

60 Airport building controller may issue certificates of compliance in place of previous certificates

(1) This section applies if the airport building controller for an airport site has, during the construction of a building or works on the airport site, issued separate certificates of compliance for different parts of the building or works.

(2) The airport building controller may issue:
  (a) a certificate for the building or works as completed, in place of the previously issued certificates for the building or works; or
  (b) a certificate for the parts of the building or works as completed that have the same classification under the Australian building standards, in place of the previously issued certificates for those parts of the building or works; or
  (c) different certificates of compliance for the different parts of the building or works as completed.

61 Transfer or termination of airport lease has no effect on certificate of compliance

The transfer or termination of an airport lease has no effect on a certificate of compliance under this instrument.

62 Function of certificate of compliance

A certificate of compliance for a building or works carried out on an airport site issued by the airport building controller for the airport site is evidence that the building or works may be occupied or used, but is not evidence that the controller has authorised the building or works to be used for a particular purpose.

63 Airport building controller may issue certified copy of certificate of compliance

(1) This section applies if the airport building controller for an airport site is satisfied that:
  (a) a certificate of compliance for a building or works on the airport site has been lost or destroyed; and
  (b) the certificate is in force; and
  (c) the content of the certificate is reliably ascertainable.

(2) The airport building controller may issue a copy of the certificate to:
  (a) the holder of the certificate; or
  (b) a person authorised, in writing, by the holder of the certificate to hold the copy.

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(3) The airport building controller must endorse on the copy a statement that the copy is a true copy of the original certificate.

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Part 4—Airport building controller

Division 1—Preliminary

64 Simplified outline of this Part

This Part is made for the purposes of Subdivisions C and D of Division 5 of Part 5 of the Act.

Division 2 provides for the appointment of airport building controllers for airport sites. Airport building controllers may be Commonwealth or State authorities, local government bodies or entities qualified to approve building activities and to certify the occupation and use of buildings and works constructed on airport sites. If an appointment is not made under Division 2, the Secretary is the airport building controller for the airport site.

Division 2 also makes provision for other matters relating to airport building controllers.

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Division 2—Airport building controller

65 Secretary may appoint airport building controller for an airport site

Appointment

(1) The Secretary may appoint, as the airport building controller for an airport site:
  (a) an authority of the Commonwealth; or
  (b) an authority of the State in which the airport site is located; or
  (c) a local government body; or
  (d) a person (a ***relevant entity***) who is an individual, body or corporation:
    (i) qualified under the law of the State in which the airport site is located to approve building activity or certify the fitness of buildings or works in the State; and
    (ii) that does not hold a stake of more than 5% in the airport-lessee company for the airport; and
    (iii) in the case of a body or a corporation—in which the airport-lessee company for the airport site does not hold a stake of more than 5%.

(2) However, the Secretary may only make an appointment under paragraph (1)(b) or (c) if the relevant State in which the airport site is located agrees to the appointment.

(3) For subparagraph (1)(d)(i), an individual is ***qualified*** under the law of a State to approve building activities or to certify the fitness of buildings or works in the State if the individual:
  (a) if the State law requires the individual to have obtained particular education qualifications—has obtained those qualifications; and
  (b) if the State law requires the individual to be licensed (however described)—is so licensed; and
  (c) if the State law requires the individual to have particular practical experience—has that practical experience.

(4) A body or corporation is taken to be qualified for the purposes of subparagraph (1)(d)(i) if one of the following kinds of individual is so qualified:
  (a) an employee or independent contractor of the body or corporation;
  (b) a director or other officer of the body or corporation.

Circumstances in which relevant entities may be appointed despite lacking qualifications

(5) A relevant entity may be appointed as the airport building controller for an airport site although not qualified under subparagraph (1)(d)(i) if the Secretary is satisfied that:
  (a) there is no relevant entity so qualified that is reasonably available for the appointment; and

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(b) subject to subsection (6), the relevant entity's qualifications or experience give it sufficient capacity to discharge the powers, duties and responsibilities of an airport building controller for the airport site.

(6) For paragraph (5)(b), in deciding whether qualifications or experience give sufficient capacity for the discharge of the powers, duties and responsibilities of an airport building controller for the airport site, the Secretary must have regard to whether the qualifications or experience relate to a field similar to building approval or certification such as building, architecture or engineering.

Requirement for Secretary to consult with airport-lessee company

(7) At least 14 days before appointing the airport building controller for an airport site, the Secretary must give written notice of the proposed appointment to the airport-lessee company for the airport site and invite the airport-lessee company to make any submission it thinks appropriate in relation to the proposal.

(8) In determining whether to make a particular appointment, the Secretary must have regard to any submissions by the airport-lessee company received before the day specified in the notice as the day on which the appointment is proposed to be made.

66 Airport building controller may determine standards that apply to building activities

The airport building controller for an airport site may determine, in writing, standards that apply in relation to a building activity, or a part of a building activity, on the airport site if:

(a) the Building Code does not apply to the building activity or part; and

(b) the building activity or part is not a demolition; and

(c) the standards are the kinds of standard mentioned in paragraph 100(2)(d), (e) or (f) or 107(2)(d), (e) or (f) of the Act; and

(d) the controller is satisfied that the standards are customary standards for the building activity or part.

Note: Standards determined under this section are ***Australian building standards*** in relation to the building activity or part—see the definition of that expression in section 4.

67 Immunity from certain liability

(1) An airport building controller for an airport site has no liability for anything done, or omitted to be done, in good faith, in reasonable reliance on a certificate issued, or report prepared, by an appropriate building expert or an appropriate works expert.

(2) An airport building controller for an airport site has no liability for anything necessarily or reasonably done, or omitted to be done, in good faith:

(a) in exercising a power or function under this instrument; or

(b) in the reasonable belief that the act or omission was done in the exercise of a power or function under this instrument.

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68 Confidential information

An airport building controller for an airport site appointed under section 65 must not disclose any information received or obtained by the controller in the performance of the controller's powers or functions to any person who does not have a lawful, and proper, need to see the information.

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Part 5—Infringement notices

Division 1—Preliminary

69 Simplified outline of this Part

This Part is made for the purposes of subsection 111(1) of the Act.

A person who is alleged to have committed certain offences (called infringement notice offences) may pay a monetary penalty specified in an infringement notice instead of having the matter dealt with by a court.

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Division 2—Infringement notices

70 Infringement notice offences and infringement notice penalties

An offence against a provision of the Act mentioned in column 1 of an item in the following table is an ***infringement notice offence***. The penalty (the ***infringement notice penalty***) for the offence is the penalty mentioned in column 2 of the item.

Infringement notice offences and infringement notice penalties

Item	Column 1 Provision	Column 2 Infringement notice penalty in penalty units
1	subsection 75(2) (draft master plan to be given to Minister after acquisition or grant of airport lease)	50
2	subsection 76(2) (new draft master plan to be submitted before expiry of old plan)	50
3	subsection 78(3) (replacement of final master plan)	50
4	subsection 81(9) (approval of draft by Minister)	50
5	subsection 85(2) (notification of matters that may affect the achievement of final master plan)	20
6	subsection 86(3) (publication of final master plan or variation of final master plan)	50
7	subsection 89A(2) (sensitive development prohibited except in exceptional circumstances)	80
8	subsection 90(3) (major airport development must not be carried out except in accordance with approved major development plan etc.)	400
9	subsections 90(6) (major airport development must not be carried out except in accordance with approved major development plan etc.)	80
10	subsection 96(3) (publication of major development plan or variation of major development plan)	50
11	subsection 96AA(6) (cessation of approval of major development plan in exceptional circumstances)	50
12	subsection 96J(2) (compliance with condition set out in airport plan)	400
13	subsection 96J(5) (compliance with condition set out in airport plan)	80
14	subsections 99(2) (building activities not to be carried out without approval)	50
15	subsections 99(4) (building activities not to be carried out without approval)	10
16	section 102 (contravening conditions)	10
17	subsection 103(3) (remedial directions)	10

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Infringement notice offences and infringement notice penalties		
Item	**Column 1** **Provision**	**Column 2** **Infringement notice penalty in penalty units**
18	subsection 106(3) (requirement for certificate of compliance)	50
19	subsection 106(6) (requirement for certificate of compliance)	10
20	section 108 (contravening conditions)	10
21	subsection 109(3) (remedial directions)	10

71 When infringement notice may be given

(1) If the airport building controller for an airport site believes on reasonable grounds that a person has committed an infringement notice offence, the controller may give the person an infringement notice for the alleged contravention.

Note: The infringement notice penalty in respect of an offence is set at one-fifth of the maximum fine that a court could impose for the offence—see subsection 111(2) of the Act.

(2) The infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place.

(3) A single infringement notice must relate only to a single contravention of a single provision unless subsection (4) applies.

(4) The airport building controller may give a person a single infringement notice relating to multiple contraventions of a single provision if:

(a) the provision requires the person to do a thing within a particular period or before a particular time; and

(b) the person fails or refuses to do that thing within that period or before that time; and

(c) the failure or refusal occurs on more than one day; and

(d) each contravention is constituted by the failure or refusal on one of those days.

Note: For continuing offences, see subsection 4K(2) of the *Crimes Act 1914*.

72 Matters to be included in infringement notice

(1) An infringement notice must:

(a) be identified by a unique number; and

(b) state the day on which the notice is given; and

(c) state the name and address of the person to whom the notice is given; and

(d) state the name and contact details of the airport building controller who gave the notice, and that the controller gave the notice under subsection 71(1) of this instrument; and

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(e) give brief details of the alleged contravention, or each alleged contravention, to which the notice relates, including:
  (i) the provision of the Act that was allegedly contravened; and
  (ii) the maximum penalty that a court could impose for each contravention, if the provision were contravened; and
  (iii) the time (if known) and day of, and the place of, each alleged contravention; and
(f) state the amount payable as the infringement notice penalty; and
(g) give an explanation of how payment of the amount is to be made; and
(h) state that, if the person pays the amount within the period specified in section 73, then (unless the notice is withdrawn) the person will not be liable to be prosecuted in a court for the alleged contravention; and
(i) state that payment of the amount is not an admission of guilt; and
(j) state that the person may apply to the Secretary, or to the airport building controller who gave the notice, to have the period in which to pay the amount extended or for permission to enter an arrangement to pay the amount by instalments; and
(k) state that the person may make written representations to the Secretary, before the end of the 28-day period after the notice is given, seeking the withdrawal of the notice; and
(l) state that if the notice is withdrawn, the person may be prosecuted in a court for the alleged contravention; and
(m) state that the person may choose not to pay the amount and, if the person does so, the person may be prosecuted in a court for the alleged contravention; and
(n) state that, if the infringement notice penalty is paid in time:
  (i) the person's liability in respect of the offence is discharged; and
  (ii) further proceedings cannot be taken against the person for the offence; and
  (iii) the person is not taken to have been convicted of the offence; and
(o) state that, if none of the things mentioned in paragraph (h) or (j) is done within the time specified, the person may be prosecuted in relation to the alleged offence.

(2) An infringement notice may contain any other information that the airport building controller who gave the notice considers necessary.

73 When infringement notice penalty must be paid

An infringement notice penalty must be paid:
(a) if no other paragraph applies—before the end of 28 days after the infringement notice is given; or
(b) if an application made under section 74 is granted:
  (i) before the end of the further period granted in response to an application mentioned in paragraph 74(1)(a); or

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(ii) by instalments, as granted in response to an application mentioned in paragraph 74(1)(b); or

(c) if an application made under section 74 is refused—the later of the following:

(i) 7 days after the day on which the notice under subsection 74(5) is given;

(ii) the period mentioned in paragraph (a); or

(d) if the notice is not withdrawn under section 75 in response to representations—28 days after the day on which the notice under subsection 75(4) is given.

74 Extension of time to pay

Application

(1) A person to whom an infringement notice has been given may apply in writing (whether before or after the end of the 28-day period mentioned in section 73) to the airport building controller who gave the notice or the Secretary requesting:

(a) a further period for payment of the infringement notice penalty; or

(b) permission for an arrangement for payment of the amount of the infringement notice penalty by instalments.

The person who receives the request is the ***decision-maker***.

(2) An application made after the end of the 28-day period must include a statement explaining why the alleged offender could not deal with the notice within that period.

(3) On receiving an application, the decision-maker must grant or refuse the request.

(4) The decision-maker may extend the period for payment of an infringement notice more than once.

Notice of decision

(5) The decision-maker must give the person notice, in writing, of a decision under subsection (3).

(6) If the decision is to grant the request, the notice of the decision must state the following:

(a) the person's name and address;

(b) the day the infringement notice was given;

(c) the identifying number of the infringement notice;

(d) the day the request was made;

(e) the details of the request;

(f) the day the request was granted;

(g) if the request was for a further period for payment of the infringement notice penalty—the further period that is granted;

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(h) if the request was for permission for an arrangement for payment of the amount of the infringement notice penalty by instalments—the details of the arrangement that is granted;

(i) that, if the amount of the infringement notice penalty is paid within the period specified in section 73, the person will not be prosecuted for the alleged offence;

(j) that, if that amount is not so paid, the person may be prosecuted for the alleged offence.

(7) If the decision is to refuse to grant the request, the notice of the decision must:

(a) state the following:

(i) the information mentioned in paragraphs (6)(a) to (e);

(ii) that, if the amount of the infringement notice penalty is paid within the period specified in section 73, the person will not be prosecuted for the alleged offence;

(iii) that, if that amount is not so paid, the person may be prosecuted for the alleged offence; and

(b) be accompanied by the reasons for the decision.

75 Withdrawal of infringement notice

Representations seeking withdrawal of notice

(1) A person to whom an infringement notice has been given may make written representations to the Secretary seeking the withdrawal of the notice.

Withdrawal of notice

(2) The Secretary may withdraw the infringement notice (whether or not the person has made written representations seeking the withdrawal).

(3) When deciding whether or not to withdraw the infringement notice, the Secretary:

(a) must take into account any written representations seeking the withdrawal; and

(b) may take into account the following:

(i) whether the person has been convicted previously of an offence against Part 5 of the Act;

(ii) the circumstances of the alleged contravention;

(iii) whether another infringement notice has previously been given to the person for an offence constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the alleged contravention;

(iv) any other matter the Secretary considers relevant.

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Notice of decision

(4) The Secretary must give the person notice, in writing, of a decision under subsection (2).

(5) If the decision is to withdraw the infringement notice, the notice of the decision must state the following:
  (a) the person's name and address;
  (b) the day the infringement notice was given;
  (c) the identifying number of the infringement notice;
  (d) that the infringement notice is withdrawn;
  (e) that the person may be prosecuted in a court for the alleged contravention.

(6) If the decision is to refuse to withdraw the infringement notice, the notice of the decision must:
  (a) state the following:
    (i) the information mentioned in paragraphs (5)(a) to (c);
    (ii) that, if the amount of the infringement notice penalty is paid within the period specified in section 73, the person will not be prosecuted for the alleged offence;
    (iii) that, if that amount is not so paid, the person may be prosecuted for the alleged offence; and
  (b) be accompanied by the reasons for the decision.

Refund of amount if infringement notice withdrawn

(7) If:
  (a) the Secretary withdraws the infringement notice; and
  (b) the person has already paid the amount stated in the notice;

the Commonwealth must refund to the person an amount equal to the amount paid.

Representations not admissible

(8) Evidence or information that the person gives to the Secretary in the course of making representations under subsection (1) is not admissible in evidence against the person in any proceedings (other than proceedings for an offence based on the evidence or information given being false or misleading).

76 Effect of payment of amount

(1) If the person pays the amount stated in the infringement notice in accordance with section 73:
  (a) any liability of the person for the alleged contravention is discharged; and
  (b) the person may not be prosecuted in a court for the alleged contravention; and
  (c) the person is not regarded as having admitted guilt for the alleged contravention; and

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(d) the person is not regarded as having been convicted of the alleged offence.

(2) Subsection (1) does not apply if the notice has been withdrawn.

77 Matter not to be taken into account in determining sentence

(1) This section applies if a person served with an infringement notice:
(a) elects not to pay the infringement notice penalty; and
(b) is prosecuted for, and convicted of, the alleged offence mentioned in the infringement notice.

(2) In determining the penalty to be imposed, the court must not take into account the fact that the person chose not to pay the infringement notice penalty.

78 Payment of penalty by cheque

If a cheque is given to the Commonwealth in payment of all or part of the amount of an infringement notice penalty, the payment is taken not to have been made unless the cheque is honoured on presentation.

79 Effect of this Division

This Division does not:
(a) require an infringement notice to be given to a person for an alleged contravention of an infringement notice provision; or
(b) affect the liability of a person for an alleged contravention of an infringement notice provision if:
(i) an infringement notice is not given to the person for the contravention; or
(ii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or
(c) limit a court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened an infringement notice provision.

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Part 6—Miscellaneous

80 Review by Administrative Review Tribunal

An application may be made to the Administrative Review Tribunal by a person described in an item in column 2 of the following table for review of a decision mentioned in column 1 of the item.

Review by Administrative Review Tribunal

Item	Column 1 Reviewable decision	Column 2 Person who may apply for review of decision
1	A decision under subsection 11(2) to refuse to determine work for the purposes of paragraph 11(1)(g)	the applicant for an approval affected by the decision
2	A decision under paragraph 21(1)(b) to grant a building approval subject to conditions	the applicant for the approval
3	A decision under paragraph 21(1)(c) to grant a building approval subject to the applicant complying with directions	the applicant for the approval
4	A decision under paragraph 21(1)(d) to refuse to grant a building approval	the applicant for the approval
5	A decision under paragraph 23(2)(b) or 24(2)(b) to refuse to approve a non-compliance with an Australian building standard	the applicant for the approval
6	A decision under subsection 26(3) to refuse to extend the duration of a building approval	the person carrying out the building activity authorised by the approval
7	A decision under paragraph 27(2)(b) to consent to an application for a building approval subject to conditions	the applicant for the approval
8	A decision under paragraph 27(2)(c) to refuse to consent to an application for a building approval	the applicant for the approval
9	A decision under section 33 to impose a condition on a building approval	the person carrying out the building activity authorised by the approval
10	A decision under paragraph 36(1)(b) to grant a varied building approval subject to conditions	the applicant for the approval
11	A decision under paragraph 36(1)(c) to grant a varied building approval subject to the applicant complying with directions	the applicant for the approval
12	A decision under paragraph 36(1)(d) to refuse to grant a varied building approval	the applicant for the approval
13	A decision under subsection 37(1) to revoke a building approval	the person carrying out the building activity authorised by the approval

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Review by Administrative Review Tribunal		
Item	**Column 1** **Reviewable decision**	**Column 2** **Person who may apply for review of decision**
14	A decision under paragraph 46(3)(a) to estimate a time that will be taken to investigate a building or works for the issue of a certificate of compliance	the applicant for the certificate
15	A decision under paragraph 49(1)(b) to issue a certificate of compliance for a building or works subject to conditions	the applicant for the certificate
16	A decision under paragraph 49(1)(c) to refuse to issue a certificate of compliance for a building or works	the applicant for the certificate
17	A decision under paragraph 54(3)(a) to estimate a time that will be taken to investigate a building or structure for the issue of a varied certificate of compliance	the applicant for the variation
18	A decision under paragraph 56(1)(b) to issue a varied certificate of compliance subject to conditions	the applicant for the variation
19	A decision under paragraph 56(1)(c) to refuse to vary a certificate of compliance	the applicant for the variation
20	A decision under subsection 57(1)(a) to issue a varied certificate of compliance	the holder of the certificate
21	A decision under subsection 57(1)(b) to issue a varied certificate of compliance subject to conditions	the holder of the certificate
22	A decision under section 58 to revoke a certificate of compliance	the holder of the certificate
23	A decision under subsection 63(2) to refuse to issue a certified copy of a certificate of compliance	the person who applied for the certified copy
24	A decision under subsection 74(3) to refuse a request in relation to the payment of an infringement notice penalty	the person served with the infringement notice

81 Secretary may appoint authorised persons

The Secretary may, in writing, appoint a person as an authorised person for the purposes of sections 38 and 39 if the Secretary is satisfied that:

(a) the person is an appropriate expert with the required skills and experience to exercise the powers and perform the duties of an authorised person; and

(b) if the person is an officer of the Department—the functions of the person as an officer of the Department are relevant to the functions of an authorised person.

82 Delegation by Secretary

(1) The Secretary may, in writing, delegate to an SES employee, or acting SES employee, in the Department one or more of the Secretary's functions or powers under this instrument.

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Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

Directions to delegate

(2) A person performing functions or exercising powers under a delegation under subsection (1) must comply with any written directions of the Secretary under subsection (3).

(3) The Secretary may, in writing, give directions for the purposes of subsection (2).

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Part 7—Transitional arrangements

Division 1—Transitional arrangements in relation to the commencement of this instrument

83 Definitions

In this Division:

old regulations means the *Airports (Building Control) Regulations 1996*, as in force immediately before 1 April 2026.

Note: This instrument commenced, and the old regulations were repealed, on 1 April 2026.

84 Instruments made and other things done under the old regulations

(1) If:

(a) an instrument (the ***subordinate instrument***) was made for a particular purpose under a provision of the old regulations; and

(b) the subordinate instrument was in effect or in force immediately before 1 April 2026; and

(c) the subordinate instrument could be made for that purpose under a provision of this instrument;

then, despite the repeal of the old regulations by this instrument, the subordinate instrument continues in effect or in force, on and after 1 April 2026, as if it were made for that purpose under that provision of this instrument.

Example: The appointment of the airport building controller for an airport site by the Secretary under regulation 4.01 of the old regulations that was in force immediately before the commencement of this instrument continues in force after that commencement as if it were made under section 65 of this instrument.

(2) If:

(a) any other thing was done for a particular purpose under the old regulations; and

(b) the thing could be done for that purpose under this instrument;

the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.

(3) Without limiting subsection (2), a reference in that subsection to a thing being done includes a reference to a notice or a consent being given.

85 Conduct, event, circumstances occurring before commencement

(1) To avoid doubt, a function or duty may be performed, or a power exercised, under this instrument in relation to conduct engaged in, an event that occurred, or a circumstance that arose, before 1 April 2026.

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Example: A refund of an application fee may be paid in relation to an application made before commencement.

(2) This section does not limit anything in this Division or section 7 of the *Acts Interpretation Act 1901* (as that Act applies in relation to this instrument because of paragraph 13(1)(a) of the *Legislation Act 2003*).

86 Applications made, but not determined, before commencement

If:

(a) an application was made for a particular purpose under the old regulations; and

(b) immediately before 1 April 2026, the application was not determined or withdrawn;

this instrument applies in relation to the application as if it had been made for that purpose under this instrument.

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Clause 1

Schedule 1—Fees for applications for building permits and works permits

Note: See section 14.

1 Adelaide and Parafield Airports

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	750
2	25 001 to 50 000	750
3	50 001 to 100 000	750
4	100 001 to 200 000	1 200
5	200 001 to 300 000	1 800
6	300 001 to 400 000	2 400
7	400 001 to 500 000	3 000
8	500 001 to 1 000 000	6 000
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	18 000
11	3 000 001 to 4 000 000	24 000
12	4 000 001 to 5 000 000	30 000
13	5 000 001 to 10 000 000	60 000
14	10 000 001 to 20 000 000	120 000
15	20 000 001 to 30 000 000	180 000
16	30 000 001 to 40 000 000	210 000
17	40 000 001 to 50 000 000	210 000
18	50 000 001 or more	210 000

2 Alice Springs Airport

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	750
2	25 001 to 50 000	1 200
3	50 001 to 100 000	1 800
4	100 001 to 200 000	2 700
5	200 001 to 300 000	3 600
6	300 001 to 400 000	4 500
7	400 001 to 500 000	5 400
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000

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Item	Total estimated cost of proposed building or works ($)	Application fee ($)
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

3 Brisbane, Archerfield and Gold Coast Airports

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 200
2	25 001 to 50 000	1 800
3	50 001 to 100 000	2 400
4	100 001 to 200 000	3 600
5	200 001 to 300 000	4 500
6	300 001 to 400 000	5 400
7	400 001 to 500 000	6 300
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

4 Canberra Airport

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	450
2	25 001 to 50 000	600
3	50 001 to 100 000	900
4	100 001 to 200 000	1 275

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Clause 5

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
5	200 001 to 300 000	1 650
6	300 001 to 400 000	2 025
7	400 001 to 500 000	2 400
8	500 001 to 1 000 000	3 900
9	1 000 001 to 2 000 000	6 150
10	2 000 001 to 3 000 000	8 400
11	3 000 001 to 4 000 000	10 650
12	4 000 001 to 5 000 000	12 900
13	5 000 001 to 10 000 000	24 150
14	10 000 001 to 20 000 000	39 300
15	20 000 001 to 30 000 000	54 300
16	30 000 001 to 40 000 000	69 300
17	40 000 001 to 50 000 000	84 300
18	50 000 001 or more	99 300

5 Darwin International Airport

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	750
2	25 001 to 50 000	1 200
3	50 001 to 100 000	1 800
4	100 001 to 200 000	2 700
5	200 001 to 300 000	3 600
6	300 001 to 400 000	4 500
7	400 001 to 500 000	5 400
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

6 Hobart International Airport

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Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 680
2	25 001 to 50 000	1 875
3	50 001 to 100 000	2 250
4	100 001 to 200 000	3 900
5	200 001 to 300 000	4 800
6	300 001 to 400 000	5 700
7	400 001 to 500 000	6 600
8	500 001 to 1 000 000	12 000
9	1 000 001 to 2 000 000	18 000
10	2 000 001 to 3 000 000	24 000
11	3 000 001 to 4 000 000	30 000
12	4 000 001 to 5 000 000	36 000
13	5 000 001 to 10 000 000	66 000
14	10 000 001 to 20 000 000	126 000
15	20 000 001 to 30 000 000	186 000
16	30 000 001 to 40 000 000	246 000
17	40 000 001 to 50 000 000	306 000
18	50 000 001 or more	429 000

7 Launceston Airport

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 680
2	25 001 to 50 000	1 875
3	50 001 to 100 000	2 250
4	100 001 to 200 000	3 000
5	200 001 to 300 000	4 125
6	300 001 to 400 000	4 875
7	400 001 to 500 000	5 625
8	500 001 to 1 000 000	9 375
9	1 000 001 to 2 000 000	19 575
10	2 000 001 to 3 000 000	24 375
11	3 000 001 to 4 000 000	31 875
12	4 000 001 to 5 000 000	39 375
13	5 000 001 to 10 000 000	76 875
14	10 000 001 to 20 000 000	151 875
15	20 000 001 to 30 000 000	226 875
16	30 000 001 to 40 000 000	301 875
17	40 000 001 to 50 000 000	376 875

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Clause 8

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
18	50 000 001 or more	528 000

8 Melbourne (Tullamarine), Essendon Fields and Moorabbin Airports

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 200
2	25 001 to 50 000	1 800
3	50 001 to 100 000	2 400
4	100 001 to 200 000	3 600
5	200 001 to 300 000	4 500
6	300 001 to 400 000	5 400
7	400 001 to 500 000	6 300
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

9 Perth and Jandakot Airports

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	750
2	25 001 to 50 000	1 200
3	50 001 to 100 000	1 800
4	100 001 to 200 000	2 700
5	200 001 to 300 000	3 600
6	300 001 to 400 000	4 500
7	400 001 to 500 000	5 400
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000

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Item	Total estimated cost of proposed building or works ($)	Application fee ($)
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

10 Sydney (Kingsford Smith), Sydney West, Camden and Bankstown Airports

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 200
2	25 001 to 50 000	1 800
3	50 001 to 100 000	2 400
4	100 001 to 200 000	3 600
5	200 001 to 300 000	4 500
6	300 001 to 400 000	5 400
7	400 001 to 500 000	6 300
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

11 Townsville Airport

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
1	Up to 25 000	1 200
2	25 001 to 50 000	1 800
3	50 001 to 100 000	2 400
4	100 001 to 200 000	3 600
5	200 001 to 300 000	4 500
6	300 001 to 400 000	5 400
7	400 001 to 500 000	6 300

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Clause 11

Item	Total estimated cost of proposed building or works ($)	Application fee ($)
8	500 001 to 1 000 000	8 400
9	1 000 001 to 2 000 000	12 000
10	2 000 001 to 3 000 000	15 000
11	3 000 001 to 4 000 000	18 000
12	4 000 001 to 5 000 000	21 000
13	5 000 001 to 10 000 000	30 000
14	10 000 001 to 20 000 000	60 000
15	20 000 001 to 30 000 000	90 000
16	30 000 001 to 40 000 000	120 000
17	40 000 001 to 50 000 000	150 000
18	50 000 001 or more	210 000

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

C[x] = Compilation No. x

ch = Chapter(s)

cl = clause(s)

cont. = continued

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

Ord = Ordinance

orig = original

p = page(s)

para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

pt = Part(s)

r = regulation(s)/Court rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)

sch = Schedule(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

sub ch = Sub-Chapter(s)

sub div = Subdivision(s)

sub pt = Subpart(s)

<u>underlining</u> = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Airports (Building Control) Regulations 2025	17 Dec 2025 (F2025L01578)	1 Apr 2026 (s 2(1) item 1)	
Airports (Protection of Airspace) Legislation (Repeal and Consequential Amendments) Regulations 2026	10 Mar 2026 (F2026L00229)	sch 1 (item 6): 1 Apr 2026 (s 2(1) item 3)	—

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Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
Part 2	
Division 3	
s 22.....	am F2026L00229

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