

Department of Environment,
Land, Water and Planning8 Nicholson Street
East Melbourne, Victoria 3002
PO Box 500
East Melbourne 8002
delwp.vic.gov.au

Ref: FOL/15/43594

Mr Luke Shannon
General Manager, Planning and Development
Melton City Council
PO Box 21
MELTON VIC 3337

Attn: Bob Baggio, Manager Planning Services

Dear Mr Shannon

PROPOSED AMENDMENT TO SECTION 173 AGREEMENT MADE UNDER THE PLANNING AND ENVIRONMENT ACT 1987, DIGGERS REST SOUTH

I understand Melton City Council has received a formal application to amend the section 173 Agreement applying to land at Diggers Rest South. This matter has been brought to the attention of the Department of Environment, Land, Water and Planning (DELWP) by Australia Pacific Airports (Melbourne) Pty Ltd (the airport), in copying DELWP into its objection to the proposed amendment.

Correspondence and meetings between council and DELWP over the last two years have conveyed the state's concerns about any change to the section 173 Agreement to enable smaller lots at Diggers Rest South. As you would be aware, the then Executive Director, Planning and Building Systems wrote to council's Chief Executive Officer in May 2015 to express DELWP's concerns that any variation was being entertained, given state planning policy and legislation ensuring Melbourne Airport's protection. The letter also requested that council notify DELWP of any proposal or formal request to amend the agreement. Council's response of October 2015 to DELWP included advice that should a formal application be made to council, council officers would recommend its refusal.

Since DELWP's original letter to council, which reaffirmed the state's commitment to protecting Melbourne Airport's curfew-free operation, the National Airports Safeguarding Framework and the refresh of Plan Melbourne (which continues to recognise Melbourne Airport's state significance) have been implemented in planning schemes.

Most recently, on 20 September 2017, the Minister for Planning wrote to all councils within Melbourne Airport's environs advising of the status of the airport's planning for the third runway and 2018 master plan and the need to safeguard the airport, given its economic importance to Victoria. These more recent steps highlight the importance of preserving the existing protections applying within the airport's environs, ahead of the airport's planning process and a future state review to ensure that planning schemes remain effective in implementing state protections for the airport.

As outlined in the Minister's letter, Victoria supports the use of the 'N' or 'number above' noise contours for strategic planning purposes; that is, when assessing an application which would have the effect of intensifying density and sensitive use in the airport environs, such as a planning scheme amendment or removal of an agreement. The subject land falls entirely within all the N contours shown in the approved 2013 Melbourne Airport Master Plan.

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



Any reduction in the minimum lot size currently permitted through the s173 Agreement would be inconsistent with existing State Planning Policy, the National Airports Safeguarding Framework and the intent of Part 3C of the *Planning and Environment Act 1987* to protect the environs of Melbourne Airport and its ongoing 24 hour a day curfew free status.

Should you have any questions in relation to this matter, please contact me on 8392 5416 or john.m.phillips@delwp.vic.gov.au.

Yours sincerely



17/10/2017

John Phillips
Acting Executive Director
Planning, Building and Heritage

cc Michael Jarvis, Executive Planning
Melbourne Airport

Pip Spence, A/Deputy Secretary
Department of Infrastructure and Regional Development