



22 July 2019

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Submission on Draft Civil Aviation Bill

Queenstown Airport Corporation ("QAC") is pleased to have the opportunity to engage with the Ministry of Transport ("MoT") on the release of its exposure draft of the Civil Aviation Bill ("Bill"). We appreciate that the MoT has extended the timeframe for submissions to ensure that stakeholders have adequate time to consider the Bill, and provide views.

QAC has contributed to, and endorses, the submission of the NZ Airports Association ("NZ Airports") on the Bill. QAC sets out its specific views on some topics below.

Civil Aviation Act 1990 – Aviation Safety

We are supportive of the policy enhancements pertaining to aviation safety and make specific reference to the proposals in the Bill that relate to:

1) Drug and alcohol management:

We agree with the Bill's intent to mitigate the risk of drug and alcohol impairment in the commercial aviation sector, and support its proposal to introduce:

- a) a mandatory drug and alcohol management plan ("DAMP") by commercial operators;
- b) mandatory random testing by commercial operators; and
- c) system oversight, by granting the Director of Civil Aviation the power to conduct non-notified testing of safety sensitive workers.

We are comfortable that the aviation sector would be treated differently to the maritime sector, and agree that:

- the smaller number of operators in the aviation industry would make the enforcement of these provisions more practicable; and
- the more significant risk (i.e. the carriage of passengers) justifies any additional administrative burden.

QAC supports MoT's assessment that the proposed provisions will better manage risks associated with drugs and alcohol, resulting in the safety of passengers and aviation workers. QAC establishes and enforces its own DAMP procedures, but we consider that having these embedded in legislation, as an industry standard, will assist QAC in ensuring they are consistently implemented by all operators at the airport.

2) Fit and proper person:

We also consider that it is appropriate that the Director be required to take into account a person's use of drugs or alcohol in considering whether they are sufficiently 'fit and proper' to enter the aviation system. This is not out of place with the other mandatory considerations currently in place. Further, although these factors are required to be taken into account by the Director, their materiality to the decision is ultimately subject to the Director's discretion. Where there is good reason for the Director to override any history with drugs or alcohol, they are given the power to do so. We think this is appropriate.

QAC supports the improvements to the 'fit and proper' test more generally, and considers that the Director should be properly informed before they make any decisions. In some instances, this will require the Director to obtain information from third parties. QAC also supports the clarification that parties handing over this information will not be penalised under the Privacy Act, provided the information is only handed over to the Director for the purposes specified (i.e. determining character).

We welcome the proposal in the Bill to expand the consideration of a person's compliance history with the transport security regulatory requirements beyond New Zealand, to other jurisdictions.

3) Unmanned aircraft (Drones):

Drone ownership and usage is increasing exponentially. Tourism destinations such as Queenstown lead this trend. By way of example, last year, Queenstown Air Traffic Control tower received more than double the number of drone reports of any other control tower in New Zealand. For this reason, drone management has become a significant focus area for QAC.

We are monitoring advice on best practice and are undertaking targeted consultation with industry professionals in addition to the continued monitoring of drone management developments and best practice from Civil Aviation Authority ("CAA") and abroad. A significant increase in public and pilot drone awareness information is being rolled out across available mediums.

We agree that the current provisions governing responsibility for aircraft - that assume a pilot in command on the aircraft, and the confined definition of accident that assumes a manned aircraft - have not kept pace with a changing environment. We welcome MoT's response to a changing and evolving technology world and intent to ensure that the legislative environment can support CAA to be a responsive and a results-driven organization.

It is in this context that we support further direction on the responsibility for responding to risks created by drones. Our preference is that the Director has more control, and more responsibility, when it comes to drone management. However, in some instances, QAC may need to step in to respond to a situation, and it is important that we have the ability to take action. We therefore support a combination of both Option 2 (requiring action from the Director), and Option 3 (empowering airports as a backstop).

Civil Aviation Act 1990 – Security

We are generally supportive of the policy enhancements related to the provision of security, including the clarification of Aviation Security Service ("Avsec") powers, and the possible contestability of aviation security service providers (between Avsec, airports, and airlines – with the consent of the applicable airport). We make specific reference to section 115 of the Bill, which would give more discretion to airport operators over the layout of their aerodromes.

Global air travel is growing rapidly and, while New Zealand is a niche visitor destination because of its remote location, it has experienced its strongest ever growth cycle, with several consecutive years of international visitor arrival growth. This growth has primarily been driven by increases in international air capacity, competitive pricing and the country's global reputation as a beautiful, safe and friendly destination.

Queenstown Airport itself has experienced strong growth and annual passenger movements (arrivals and departures) have increased from 600,000 passenger movements per annum in 2005 to 2.2 million in 2018. To date we have responded to sustained passenger growth by delivering infrastructure as needed. We continue to work closely with aviation and tourism partners to identify future opportunities, particularly creating operational efficiencies through technology and process innovation. We strongly support MoT's decision to include alternative airport designs and common departure terminal in the Bill.

Granting airports additional flexibility in design and configuration of airport terminals, including removing the requirement for segregation between screened domestic and international passengers (i.e. the ability to combine screening at the appropriate level to cater for domestic and international passengers), would deliver efficiency benefits, improve the customer experience and make the most sustainable use of resources and infrastructure. Airports are likely to have the best information on their own terminal design, and it is appropriate to give them more ownership over this process, subject to oversight from the Director. Any additional flexibility on configurations could help us to respond to fluctuations in passenger movements and changes to capacity requirements.

We note that the proposed section 115 does not provide clear direction on the process by which an alternative terminal configuration might be approved. We request that the Bill is amended to expressly set out that the aerodrome can make an application, the process for doing so, and the specific criteria for the Minister to consider (e.g. the efficiency benefits in the proposed layout, and the impact on any security requirements).

Airport Authorities Act 1966 – Economic Regulation

We are concerned with the proposal in the Bill to amend the provisions relating to setting prices. We do not agree that the provisions in the Airport Authorities Act ("AAA") relating to pricing (section 4A) and commercial operations (section 4(3)) are redundant.

QAC has a strong relationship with its airline customers, and a history of constructive consultation. Airports and airlines naturally have some different business perspectives, therefore agreement on all service, pricing and investment matters is not always possible. We think the scheme set out in the AAA works well as it currently stands by achieving balance between the parties. It is well understood by all parties and promotes detailed engagement on complex issues.

QAC's purpose is to connect people and sustain the Southern Lakes region. This means making journeys safe, efficient and friendly for our customers; providing value and memories for our customers; making sustainable use of our land, respecting our unique environment; and working together to deliver balanced outcomes for our team, community and stakeholders. It is therefore important that we are able to properly plan for, and fund infrastructure investment. The balance struck in the AAA gives airports confidence to achieve this. We would be very concerned if the proposals resulted in outcomes where individual airlines had power to delay or prevent infrastructure investment that would benefit all users of the airport, and the broader community.

Given Queenstown Lakes District Council's majority ownership of QAC, we are a Council Controlled Trading Organisation ("CCTO") for the purposes of the Local Government Act 2002 ("LGA"). Section 59 sets out the principal objectives of a CCTO which are to:

- (a) achieve the objectives of its Shareholders, both commercial and non-commercial, as specified in the statement of intent; and
- (b) be a good employer; and
- (c) exhibit a sense of social and environmental responsibility by having regard to the interests of the community in which it operates and by endeavoring to accommodate or encourage these when able to do so; and
- (d) conduct its affairs in accordance with sound business practice.

We understand that this gives us grounds to operate in accordance with sound business practice, as it does for any other CCTO. Given the long-term planning framework we must operate under and significant investment decisions, the direction in the LGA is not sufficient to provide long-term certainty on our statutory objectives to provide us with ongoing confidence that we should operate in a commercial manner to meet the needs of stakeholders including the communities we serve.

The equilibrium that currently exists in QAC's operating paradigm is currently well (but delicately) balanced. It requires the continued operation of section 4A (the power to set charges), section 4B (the requirement to consult), and section 4(3) (the requirement to operate commercially).

In the absence of further explanation as to the redundancy of section 4A and section 4(3), QAC considers that the removal of these provisions is unnecessary and would have unintended consequences. We do not support the deletion of these sections.

Proposed Amalgamation of Civil Aviation Act 1990 and Airports Authorities Act 1966

As stated on the MoT website¹ the two Acts serve different requirements and have two different objectives "The Civil Aviation Act 1990 establishes the framework for civil aviation safety, security and economic regulation in New Zealand and ensures that New Zealand obligations under international civil aviation agreements are implemented. The Airport Authorities Act 1966 gives a range of functions and powers to airport authorities to establish and operate airports."

QAC considers that the proposed amalgamation does not deliver on MoT's objectives to improve decision-making and improve usability of the legislation. QAC does not support the amalgamation of the two Acts. However, if it is decided to proceed with a single Act, then the provision of an overview section and purposes to describe each Part's contents and guide their application in practice would be required. We refer to the NZ Airports submission for further detail on this point.

We value the opportunity to provide comments on the Bill and MOT's consideration of our submission.

¹ <https://www.transport.govt.nz/air/caa-act1990-aa-act1966-review-consultation/>