

Louise Greenaway

Councillor

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A vibrant and sustainable Central Coast

Central
Coast
Council

The Director
Central Coast and Hunter Region
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Dear Sir

Review of the *Warnervale Airport (Restrictions) Act 1996*.

Introduction

This second review of the Warnervale Airport Restrictions Act (WAR Act) is disappointing given that Minister Anthony Roberts' media statement around the First Review said that "*everybody had a chance to have their say, council, community and other stakeholders*". He went on to say that he "*decided to leave the Act in place*" as "*I believe this remains the most appropriate way to currently regulate activities at the airport*". He added that "*the government would consider whether additional controls on future development at Warnervale Airport might be needed*". Yet rather than look at "*additional controls*", the government is conducting a Second Review, seemingly in response to lobbying.

For the record, I did not live on the Central Coast at the time the WAR Act was proposed. I was not involved in that community campaign, though I have since met many people who were, and have read a lot of the Hansard reports relating to parliamentary debate. Also, I do not live, or own property, under the flight path. I have no direct "interest" in the Airport.

However, I believe that openness and due process around decision-making is crucial. And I believe the original purpose of the WAR Act, (to protect the community and the environment, and to provide appropriate regulation of the site), is as relevant today as it was in 1996.

From Hansard, it appears that the WAR Act came about over community objections relating to the proposal to develop the Airport. It was not simply "the Airport" that people objected to, but the lack of consultation and the dearth of detail around the scope of the airport and its impacts on community amenity and the environment. Today, the population in the vicinity of the airport has vastly increased, as have pressures on the environment. Therefore the original issues that gave rise to the WAR Act not only remain current, but are even more crucial.

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Issues to consider

1. “Uncertainty”

The current Review has a stated objective *“to reduce uncertainty created by the activation of the ‘flight movement restriction’ provisions of the Act”*. I do not believe there is any “uncertainty” or ambiguity around the flight movement restriction provisions. There may have been uncertainty around whether or not those restrictions apply. However, in the event that it is agreed that the restrictions do apply, then, in my view, there is no “uncertainty” around the actual flight movement restriction provisions themselves. The WAR Act is quite clear; 88. There is no uncertainty to review.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

2. “Facilitating the operations of the Airport in a manner consistent with that prior to when the flight movement restrictions were triggered”

I note that the Terms of Reference (ToR) states that the Review *“should generally include consideration of legislative amendments required to facilitate the operations of the Airport in a manner consistent with that prior to when the flight movement restrictions were triggered”*. In my view, this is an unusual aspect on which to focus. As stated in the ToR, *“a compliance investigation by the Department determined that the former Wyong Council extended the runway thereby triggering the daily flight limit contained in the Act”*. It appears then, that the Reviewers have been specifically asked to consider how to let operations at the airport continue as if the runway extension, which (the ToR state) were undertaken by the former Wyong council, had never taken place.

If this is correct, it is in my view, a huge disservice to the community as it appears that the impact of amending the legislation would be to ameliorate the alleged actions of the former Council. It must be remembered that the Act was introduced to provide appropriate regulation of the site. Would it not be a travesty then, to amend the Act when it seems that it has functioned precisely as was intended?

The Department’s website says: *“commercial decisions about the Airport are a matter for Central Coast Council as its owner”*. It is unclear to me then, what the Review is looking at when tasked to consider *“legislative amendments required to facilitate the operations of the Airport in a manner consistent with that prior to when the flight movement restrictions were triggered”*. If this Review is not about commercial decisions, and not about the viability of any organisation, what basis is there for increasing the flight limits?

It would appear that commercial considerations are not valid considerations for the Reviewers. If that is the case, what is the impetus to *“facilitate the operations of the Airport in a manner consistent with that prior to when the flight movement restrictions were triggered”*?

The WAR Act should be retained and strengthened. It remains relevant and necessary.

3. “The airport operator must not cause or permit an aircraft to take off or land if the take off or landing would result in a contravention of [flight limits]”.

Section 6 of the WAR Act provides for flight limitations and states that the “Airport Operator” must not permit “a contravention of this section”. Max penalty: 100 penalty units.

My understanding is that it would be Council (ie the ratepayers) paying any fines rather than anyone operating an aircraft. Therefore Council regulates use of the Airport but also pays any fines for contravening the Act. In my view, this is an invidious position for council to be in as from my understanding, there is a view held by some, that Council should permit operations at the airport to continue despite the findings of the compliance investigation. If there is any amendment to the Act, it should be to ensure that fines are not borne by ratepayers

The WAR Act should be retained and strengthened. It remains relevant and necessary.

4. Central Coast Council resolved to “fully support the WAR Act” in 2017.

This position has remained unchanged despite five rescission motions.

Notwithstanding that enacting legislation is a State Government prerogative, I respectfully request that the Reviewers consider the views of the local community as reflected by the democratically elected council.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

5. In 2018 Central Coast Council resolved to seek legal advice about whether provisions of the WAR Act applied and if Council was complying with the Act

Council then acted in accordance with its understanding of that advice. As stated in the previous paragraph, notwithstanding that enacting legislation is a State Government prerogative, I respectfully request that the Reviewers consider the role and position of the democratically elected council.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

6. Central Coast Council engaged consultants to prepare an “Airport Masterplan” which cost the community \$450 000.

Staff recommended that the Masterplan be placed on public exhibition. The staff recommendation to councillors in 2017 referred to a 1200 m runway proposal and an 1800 m runway proposal. The Masterplan itself referred to a runway proposal of 1799 metres. Further, from my reading of the Masterplan there is no environmental assessment, just a statement that to extend the runway “*detailed environmental impact assessments will be required to justify and offset affected flora and fauna habitat.*” (p 34 of Part 1 of Masterplan). The community and the environment deserve full disclosure on all aspects of the Airport and the WAR Act seeks to provide this.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

7. Environmental Considerations

Since 1996, when the WAR Act became law, pressure on the Central Coast environment has intensified. Environmental lands in the vicinity include Porters Creek Wetland, riparian corridors and Endangered Ecological Communities. Porters Creek Wetland is the Central Coast’s largest remaining freshwater wetland and is a crucial asset for the region given the roles it plays in providing drinking water, flood mitigation (particularly important in light of recent flooding) and the health of Tuggerah Lakes. The wetlands should not be compromised.

The WAR Act emphasises and reinforces the need for proper process by requiring the appointment of an independent person/s to review any environmental impact study, and any other study, that relates to a proposal to extend the runway or construct a new runway.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

8. Community Amenity

Since 1996, when the WAR Act became law, the population in the vicinity of the airport site has markedly increased. The Act originally provided for independent noise studies and surveys to be conducted of effected residents. This remains a significant issue for residents of both Central Coast and Lake Macquarie Councils as each has urban release areas under the flight path. Lake Macquarie council has previously written to council expressing concerns around the “unreasonable impacts” that future expansion of the airport may have on Lake Macquarie residents. All aspects around the airport, including changes to flight limits should be made with full community consultation.

The WAR Act should be retained and strengthened. It remains relevant and necessary.

9. The Airport site occupies land in the Wyong Employment Zone

The Wyong Employment Zone has an important role in generating future employment for the region. The WEZ is vital to reducing the number of Central Coast residents who commute to work every day and return home exhausted, with a reduced capacity to participate in their local community.

This Review is focusing on the WAR Act, and the Department’s website specifically states that “*commercial decisions about the Airport are a matter for Central Coast Council as its owner*”. However, I am concerned about the possibility that the Review may inadvertently appear to endorse the use of the land as an Airport rather than development as an Employment Zone. I would ask that appropriate steps be taken to ensure this does not occur as our local residents deserve to employment opportunities in their region.

10. The WAR Act remains relevant and necessary. It should be retained and strengthened.

If this is the position adopted by the Reviewers, then there is no need to review:

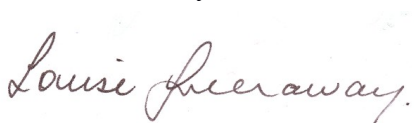
- flight movement restriction provisions; these are outlined in the WAR Act
- runway length provisions; these are outlined in the WAR Act

However, the Act may need to be strengthened to address the following issues:

- expansion proposal triggers – the WAR Act primarily focuses on the length of the runway which may not sufficiently address widening the runway or including lighting to conduct night flights. In 2017, Central Coast Council resolved that council “*not alter the position, length, width, thickness or strength of the current runway*”. This resolution could be rescinded so it would be valuable to include provisions in the Act limiting “expansion” to include issues beyond simply extending the runway.
- expansion proposal review framework – the establishment of a more effective and transparent expansion proposal review framework is supported in principle. Any amendments must ensure that consultation, transparency, community amenity and environmental protection measures are enhanced, not diminished.
- updating and aligning administrative matters, definitions and investigative powers – such amendments are supported in principle provided any such amendments ensure that consultation, transparency, community amenity and environmental protection measures are enhanced, not diminished
- flexibility – such amendments are supported in principle provided any such amendments ensure that consultation, transparency, community amenity and environmental protection measures are enhanced, not diminished
- review of the interaction and consistency of the Act with other legislation – this review is supported in principle provided any recommended amendments ensure that consultation, transparency, community amenity and environmental protection measures are enhanced, not diminished
- statutory frameworks for similar airports – the overriding consideration in this matter is that the original intent of the WAR Act was to protect the community and the environment, and to provide appropriate regulation of the Airport site. Whilst other airports may be governed by a lease or license, the WAR Act remains relevant and necessary due to the long-standing issues relating to operations at the airport, including a perceived lack of consultation, the dearth of detail around the scope of airport operations and proposals, and impacts on community amenity and the environment.

The WAR Act remains relevant and necessary. It should be retained and strengthened.

Yours sincerely

A handwritten signature in cursive script that reads "Louise Greenaway".

Louise Greenaway