



Appeals Convenor
Environmental Protection Act 1986

**REPORT TO THE
MINISTER FOR ENVIRONMENT**

**APPEALS IN OBJECTION TO THE CONTENT OF, AND RECOMMENDATIONS
IN, AN ENVIRONMENTAL PROTECTION AUTHORITY REPORT**

**EPA REPORT 1616: BUSSELTON-MARGARET RIVER AIRPORT
EXPANSION – REVISED PROPOSAL**

PROPONENT: CITY OF BUSSELTON

Appeal Numbers 017.001–007 of 2018

September 2018

Appeals Summary

This report relates to seven appeals received in relation to the content of, and recommendations in, the Environmental Protection Authority (EPA) Report 1616 for the Busselton-Margaret River Airport (BMRA) expansion, located approximately 6.5 kilometres south-east of Busselton.

The key issue of the third-party appellants related to the impacts to amenity from aircraft noise. Specific issues raised by the appellants included night-time flights, larger aircraft, increased training circuits, noise amelioration measures, non-conforming activities, the removal of certain noise limits and impacts to livestock. Some appellants also raised matters considered to be beyond the scope of the appeals which are discussed under 'Other Matters'.

In contrast, by its appeal the City of Busselton sought for the standard hours of operation to be extended until midnight and submitted that the EPA's decision that the hours of operation be between 0600 and 2300 hours, was not based on scientific evidence or projected environmental impacts.

In considering the appeals, the Appeals Convenor had regard to information provided by the EPA, the City of Busselton and the third-party appellants; information provided as part of the assessment of the revised proposal; and discussions with the appellants and the City of Busselton.

The EPA advised that its assessment considered the impacts to the key environmental factor of Social Surroundings, particularly the increase in noise emissions, and it concluded that the impacts were manageable as there would be restrictions on the BMRA, including the limitation of night-time flights and the provision of noise amelioration measures in the noise management plan (NMP). In relation to the proponent's request for extended hours of operation, the EPA maintained its recommendation that the hours should remain between 0600 to 2300 in order to minimise noise impacts during sensitive hours.

Taking into account the available information, the Appeals Convenor considered that the EPA's assessment of the revised proposal had regard to the potential environmental impacts raised by the appellants. The Appeals Convenor also considered that the EPA's conclusion that the revised proposal is environmentally acceptable subject to the recommended conditions, is supported by the available evidence. Based on this, the Appeals Convenor recommended that the appeals be dismissed.

Recommendation

It is recommended that the appeals be dismissed.

INTRODUCTION

This report relates to seven appeals lodged in objection to the content of, and recommendations in, the Environmental Protection Authority (EPA) Report 1616 for the Busselton-Margaret River Airport (BMRA) expansion – revised proposal. The BMRA is located approximately 6.5 kilometres south-east of Busselton's town centre as shown in Figure 1.

The appellants to the appeal are: Rob and Vanessa Willmott; Greg and Mary Chapman; Graeme Cotterill; Kieran and Carolyn Chapman; Jake Willmott; Karen Mahar; (third-party appellants) and the City of Busselton (the proponent).

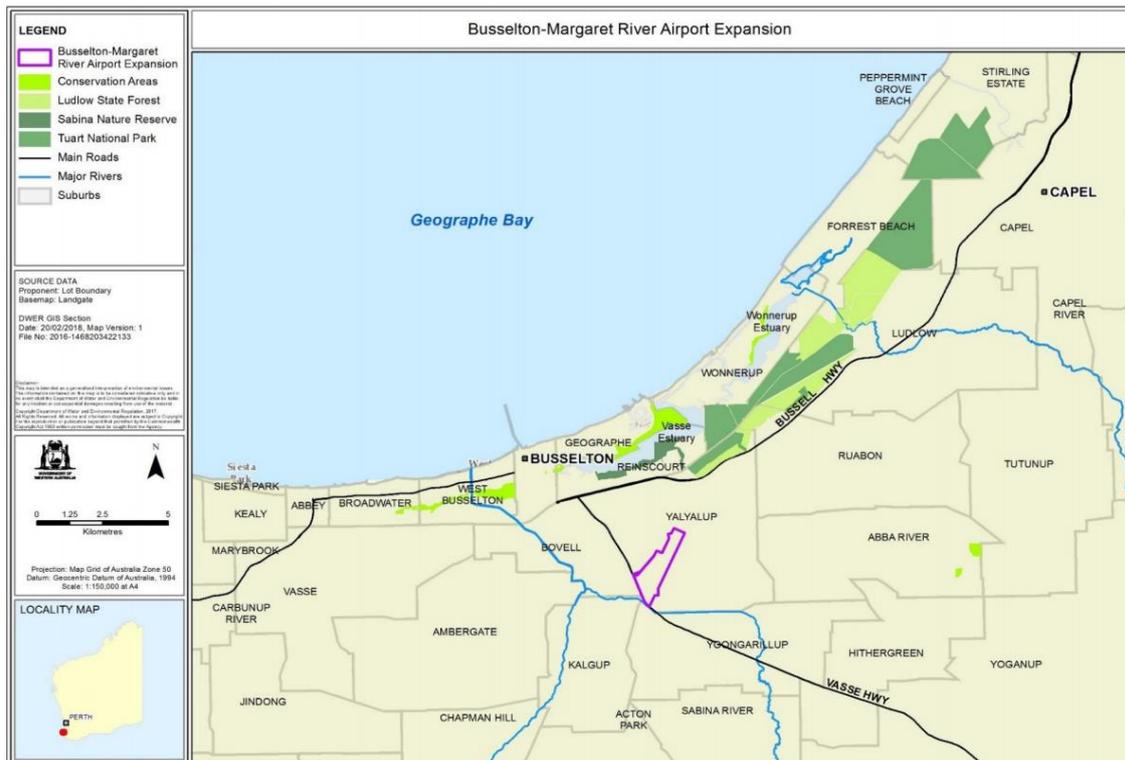


Figure 1 – Location of the revised proposal (purple) (Source: EPA, 2018)

The BMRA currently operates under Ministerial Statements 901 and 1009, which require the implementation of a noise management plan (NMP) and provide for limited aircraft movements outside the standard hours of operation (12 annual non-conforming activities between 2300 and 0600). The BMRA is predominantly used for general aviation, recreational aviation and emergency services, with only 12 per cent of aircraft movements comprising of charter flights.

The EPA set the level of assessment for the proposal at Public Environmental Review (PER) on 30 November 2016. During the EPA's assessment process, the proponent applied to have the physical infrastructure components, such as upgrading the runway, removed from the proposal. On 13 December 2016, the EPA Chairman concluded this was unlikely to result in a significant increase in environmental impact, and gave consent under section 43A of the *Environmental Protection Act 1986* (EP Act) for the changes. The revised proposal introduces larger aircraft types (Boeing 737 (B737)) and aircraft operator types (freight), and amends the standard hours of operation which includes introducing up to five weekly night-time flights. Table 1, below, sets out the current operations and the proposed changes in the context of the appeals.

Table 1 – Existing operations and proposed changes relevant to the appeals

	Existing Operation	Proposed Changes
Standard hours of operation		
Emergency Services	Unrestricted	No change
Light Aviation	Unrestricted	0600 to 2200
General Aviation	0700 to 1900 (May-November) 0600 to 2100 (December-April)	
Open and Closed Charter Flights	0600 to 2200	0600 to 2300
Regular Passenger Transport Flights	0600 to 2300	Up to five flights per week between 2300 to 0600
Other		
Flight training circuits	Four <i>Aircraft under 65 dB(A)</i>	Six <i>Aircraft under 85 dB(A)</i>
Flight training heights	<ul style="list-style-type: none"> The objective of these <i>[Flight Training]</i> Guidelines is to seek to avoid training over all residences, urban areas and over sensitive land use areas. In CASA approved training areas the City seeks under these Guidelines that pilots observe a minimum height of 1500ft over developed areas including rural residences at all times when and where safe and practicable. Environmental approval for the Airport requires that all aircraft fly a minimum of 640 ft (AGL) over wetlands and estuaries of the Vasse and Wonnerup areas to avoid bird strike and disturbance of waterbird habitat. 	<p>Removed</p> <ul style="list-style-type: none"> All aircraft fly a minimum of 640 ft (AGL) over wetlands and estuaries of the Vasse and Wonnerup areas to avoid bird strike and disturbance of waterbird habitat.
Aircraft Noise Management (Section 3.1.3 NMP)	The Aircraft Noise levels identified in this table are not to be exceeded at any residential or other noise-sensitive location when determined as an $L_{A\ Slow}$ value at any point within 15m of the identified building.	Removed
Aircraft Noise Management (Section 3.2 NMP)	No aircraft shall generate noise levels experience at sensitive locations exceeding 85 dB(A) $L_{A\ slow}$.	Where aircraft generate noise levels ... exceeding 85 dB(A) $L_{A\ slow}$, noise amelioration process may apply
Consultation Process for Special Events	Referral to the EPA for information and advice for consideration	Removed

In June 2018, the EPA released Report 1616, concluding that the revised proposal is environmentally acceptable subject to the recommended conditions which includes the implementation of the NMP. It was in relation to this report that the appeals were received.

This document is the Appeals Convenor's formal report to the Minister for Environment under section 109(3) of the EP Act.

OVERVIEW OF APPEALS PROCESS

In accordance with section 106 of the EP Act, a report was obtained from the EPA in relation to the issues raised in the appeals. The proponent was also given the opportunity to address the matters raised in the third-party appeals.

During the appeals investigation, the Appeals Convenor consulted the appellants and the proponent. One appellant requested, and was provided, an opportunity to respond to the advice provided by the EPA in accordance with section 106 of the EP Act.

The environmental appeals process is a merits-based process. For appeals in relation to an EPA report and recommendations, the Appeals Convenor normally considers the environmental merits of the assessment by the EPA, based on objectives as set by the EPA as well as other environmental factors. The appeals process considers environmental significance, relevance of factors, additional information not considered by the EPA, technical errors and attainment of policy objectives. Where the development has been the subject of previous EPA assessments, those assessments and any subsequent Ministerial appeal decisions also need to be taken into account.

OUTCOME SOUGHT BY APPELLANTS

The third-party appellants are seeking that the revised proposal not be implemented, and if it is to be implemented, that it be subject to more stringent operational restrictions.

By its appeal, the proponent is seeking for the permitted standard hours of operation (0600 to 2300 hours) to be extended until midnight.

GROUNDINGS OF APPEAL

The grounds raised in the appeals relate to the following issues:

- noise;
- impacts to livestock; and
- standard hours of operation.

Some appellants also raised matters considered to be beyond the scope of the appeals, and these are discussed under 'Other Matters'.

GROUND 1: NOISE

The main concern of the third-party appellants was in relation to unreasonable impacts to amenity from increased aircraft noise due to night-time flights, larger aircraft, increased number of permitted training circuits, noise amelioration measures and removal of the 85 dB(A) noise limit from sections 3.1.3 and 3.2 of the NMP.

In relation to the above, the appellants specifically raised the following issues:

- operating hours should end earlier, such as at 2000 or 2200 hours;
- night-time flights are likely to be larger jet aircraft on flight paths that will subject thousands of residents to noise levels capable of causing sleep disturbance;
- larger aircraft (B737 and Airbus A320) should not be permitted;
- the revised proposal appears to contemplate up to Code 4E aircraft (such as the Airbus A330) and this should not be part of the approval as no noise modelling has been undertaken;

- planes currently exceed the 85 dB(A) limit and the proposed changes to the BMRA will exacerbate this through more frequent flights and louder aircraft;
- there should be additional noise monitoring and enforcement of noise restrictions;
- the timeframes and distribution of cost for the noise amelioration process is unclear;
- the number of events required to meet the noise amelioration criteria is too high;
- the number of flight training circuits should not be increased and the noise limits for flight training aircraft should remain as prescribed in the current NMP (2015);
- the increase in flight training circuits was not in the proponent's Environmental Review Document (ERD) and thus was not assessed by the EPA or subject to public consultation;
- two flight training guidelines were removed and should be retained (see Table 1); and
- the EPA should not be removed from the consultation process for certain non-conforming activities (referred to as Special Events in the NMP (2018)).

In contrast, by its appeal the proponent sought for the standard hours of operation to be extended until midnight and submitted that there was no scientific evidence or projected environmental impacts that supported the EPA's determination that the standard hours of operation should be between 0600 and 2300 hours. The proponent considered that there are appropriate mitigation measures in place to minimise impacts, including noise amelioration, noise abatement zones and redesigning flight paths to avoid residential areas.

Consideration

Social Surroundings was identified as a key environmental factor by the EPA due to the generation of noise emissions from aircraft which may unreasonably interfere with the health, welfare, convenience and comfort of people, particularly at night-time.¹

The EPA's environmental objective for Social Surroundings is to 'protect social surroundings from significant harm' and its *Environmental Factor Guideline for Social Surroundings* (the Guideline) states that:

For the purpose of [Environmental Impact Assessments], amenity values include both visual amenity, and the ability for people to live and recreate within their surroundings without any unreasonable interference with their health, welfare, convenience and comfort.²

The Guideline acknowledges that amenity values can be highly subjective, with individuals potentially having varying levels of perception or tolerance for impacts such as noise.

The Commonwealth *Airports Act 1996* does not apply to the BMRA and the Western Australian *Environmental Protection (Noise) Regulations 1997* do not apply to aircraft noise. In Report 1616, the EPA noted that 'no State government transport policy exists that specifically relates to aircraft noise issues for regional airports in Western Australia'.³ The proponent based its assessment on measures in Australian Standard 2021:2015 *Acoustics – Aircraft noise intrusion – Building siting and construction* (AS2021:2015) and the *National Airports Safeguarding Framework Principles and guidelines – Guideline A – Measures for Managing Impacts of Aircraft Noise* (2016) (NASFP). The EPA considered that these

¹ EPA, *Report and Recommendations for Busselton-Margaret River Airport expansion – revised proposal* (Report 1616), June 2018, page 9.

² Environmental Protection Authority 2016, *Environmental Factor Guideline: Social Surroundings*, EPA, Western Australia, page 3.

³ EPA, *Report and Recommendations for Busselton-Margaret River Airport expansion – revised proposal* (Report 1616), June 2018, page 7.

documents do not directly apply to the BMRA as they are used for assessing impacts on new land developments; the noise amelioration criteria in AS2021:2015 are based on non-jet aircraft movements; and the Australian Noise Exposure Forecast (ANEF) system referenced in AS2021:2015 is not generally applicable to the BMRA due to the small number of flights. However, in the absence of an applicable standard, the EPA applied AS2021:2015 and the NASFP where relevant and as far as practicable.

This ground of appeal has been considered as follows:

- increased noise;
- noise amelioration;
- flight training;
- special events; and
- inadequate standard hours of operation.

Increased noise

In Report 1616, the EPA stated that the revised proposal has the potential to affect noise-sensitive premises (including residential, accommodation, hospitals or education facilities) and thus potentially impact on the amenity of people due to the noise emissions generated from aircraft, particularly at night-time.

Having regard to the EP Act principles and the environmental objective for Social Surroundings, the EPA considered that the impacts may be manageable but there was uncertainty as to whether the above impacts remained significant, and therefore did not support some of the proponent's proposed changes for the following reasons:

- extending the standard hours of operation until midnight would increase noise emissions from jet aircraft during sensitive hours and disturb sleep, and thus the standard hours of operation should be between 0600 and 2300 with a restricted number of flights between 2300 and 0600 hours (up to five per week); and
- the increase in noise emissions from larger jet aircraft and the increase in number of aircraft coupled with the proposed increase to the amelioration criteria would result in a significant change in noise-level exposure to residents near the BMRA; therefore, the amelioration criteria for 75 dB(A) and 80 dB(A) should be maintained as under the existing approval.

Following from the above, the EPA concluded that the revised proposal is environmentally acceptable with restrictions and ongoing management for night-time flights and noise amelioration criteria, and recommended that the revised proposal be implemented subject to the recommended conditions.

In response to this element of the appeal, the EPA acknowledged that scheduled night-time flights (five per week between 2300 and 0600 hours) are not part of the existing approval, but noted that there is currently provision for night-time flights in the form of 12 non-conforming activities per year outside the standard hours of operation and unrestricted hours for emergency services. In respect of night-time flights, larger aircraft and noise monitoring the EPA advised that it:

... concluded that impacts could be managed as night-time and evening flights that occur during sensitive hours (movements between the hours of 1900 and 0700) in accordance with the AS2021:2015, attract a penalty of being weighted four times greater than a daytime event, when applying noise mitigation measures such as noise amelioration packages...

The EPA also recommended that the larger jet aircrafts should be restricted to using the airport between the hours of 0600 and 2300 as opposed to 0600 and 0000 as per the proponent's request. The EPA considered this would minimise the impact from the introduction of the large jet aircrafts and was in line with other airports around Australia.

Further, the EPA recommended that the number of events triggering amelioration measures should be maintained for the noise levels of 75 dB(A) (>12 events per day), 80 dB(A) (>6 events per day) and 85 dB(A) (regularly exceeds)... In accordance with the NMP (2018) residences thought to be experiencing the above noise criterion would be investigated and may be eligible for amelioration measures seeking to maintain indoor noise amenity.⁴

In regard to the concern regarding Code 4E aircraft (such as the A330) utilising the BMRA, the EPA also noted that the revised proposal comprised the 'introduction of additional aircraft types (B737)⁵ and also stated that:

The proponent has used the B737 aircraft for noise modelling as it would be the noisiest of the jet aircrafts to use the airport, thus presenting the worst-case scenario. Noise levels generated by the B737 are generally 3–7 dB(A) higher than those of the current noisiest aircraft (F100) using the BMRA, as indicated by AS2021:2015.⁶

It is noted that the proponent's ERD states that B737-800 was used for the $L_{A\ max}$ contours as it is the noisiest of the aircraft expected to comprise the most frequent regular passenger transport and freight flights. Therefore, it is considered that the EPA's assessment considered the noise impacts of the noisiest aircraft expected to use the BMRA, being B737-800, in concluding whether or not the revised proposal is environmentally acceptable.

In relation to the removal of the 85 dB(A) limit from section 3.1.3 and 3.2 of the NMP, the EPA stated that:

The proponent proposes to remove this limit and considers that 'noise limits not to be exceeded' are not practical or enforceable, as the sound level depends on many factors including the type of aircraft, location of the aircraft and receiver, meteorological conditions and topography.

The proponent is proposing a maximum noise level of 85 dB(A). The associated intention is not to prohibit aircraft from using the BMRA after an exceedance, but to manage noise impacts using the maximum noise level as a trigger for amendments to operations to mitigate the noise impact or for implementing noise amelioration measures. This amendment would result in the B737 aircraft being able to use the BMRA with the potential that noise amelioration action would be triggered.⁷

With regard to noise monitoring and enforcement of limits, the EPA noted that:

... the proponent's NMP (2018) in Section 4 contains a process for lodging noise complaints which are investigated by the proponent. Section 5 of the NMP (2018) also outlines that noise monitoring at affected noise sensitive premises (outdoors and/or indoors) will be scheduled in response to requests or complaints or significant changes in operations.⁸

Generally, the EPA was of the view that the implementation of the recommended conditions and provisions in the NMP, particularly in relation to noise amelioration, would be adequate in minimising the impacts of aircraft noise.

⁴ EPA, *Response to the Appeals*, 20 July 2018, page 7 and 11.

⁵ Ibid. page 2.

⁶ EPA, *Report and Recommendations for Busselton-Margaret River Airport expansion – revised proposal* (Report 1616), June 2018, page 13.

⁷ Ibid. page 13 and 14.

⁸ EPA, *Response to the Appeals*, 20 July 2018, page 4.

Noise amelioration

The NMP (2018) provides for noise monitoring to be undertaken to confirm noise levels, and where these exceed the criteria (Table 2, below), the proponent will be required to undertake the noise amelioration process, as set out in Tables 8 and 9 in section 6.2.3 of the NMP.

Table 2 – Outdoor Noise Amelioration Criteria in the NMP (2018)

Outdoor Noise Amelioration Criteria
Noise Amelioration action is required where $L_{A\max}$ regularly exceeds ² – (1) 85 dB(A); or (2) 80 dB(A) for > 6 events ¹ per day; or (3) 75 dB(A) for > 12 events ¹ per day.
Notes: ¹ Each aircraft noise event occurring between 7pm and 7am is to be counted as 4 events. ² Regularly exceeds refers to events occurring at uniform (even / constant) intervals. Noise generated by Emergency Service Aircraft operating in emergency situations are not to be taken to count towards the monitored noise events for amelioration purposes.
AND / OR
Table 2.1 Building Site Acceptability based on ANEF zones in AS2021:2015; where a house, home, unit, flat, caravan park falls in the 20–25 ANEF zone.

The proponent advised that mitigation measures for sleeping areas may include upgrades to roofs, ceilings, windows and external doors; insulating ceilings; enclosing the eaves; providing air conditioning; and sealing openings.⁹ The EPA also stated that:

Literature including the AS2021:2015 and State Planning Policy 5.1 *Land use planning in the vicinity of Perth Airport* (2015) specify that indoor sound levels for sleeping areas should be below 50 dB(A). The proponent has adopted this indoor noise criterion as one of the target levels to ensure adequate design of insulation packages.¹⁰

Some appellants were of the view that the amelioration assessment process in the NMP was unclear in terms of the responsibility of involved parties. With regard to these concerns, the EPA stated:

The City of Busselton would bear the cost for monitoring requirements and noise amelioration for any affected residences in accordance with the Noise Management Plan.¹¹

It is noted that the noise amelioration process table and flow chart in the NMP (2018) does not appear to have minimum timeframes or targets in which each step of the process is expected to be completed.

Several appellants also noted the number of events required to meet the outdoor noise criteria (shown above in Table 2) and were concerned that it would be difficult to trigger noise amelioration as the BMRA only has a small number of flights. However, the below Table 3 shows that due to the weighting applied during sensitive hours (with one event being counted as four events) a high number of flights per day is not necessarily required to meet the noise amelioration criteria. Additionally, the period of sensitive hours is longer (1900 to 0700) when compared to the night-time hours (2300 to 0600), thereby providing a longer

⁹ City of Busselton, Public Environmental Review – Response to Submissions, 10 January 2018, page 15.

¹⁰ EPA, *Report and Recommendations for Busselton-Margaret River Airport expansion – revised proposal* (Report 1616), June 2018, page 16.

¹¹ *Ibid.* page 28

period of time where the weighting is applicable. It is noted that in this context an 'event' refers to one aircraft movement.

Table 3 – Examples of noise amelioration criteria

	Between 0700-1900 (day-time hours)	Between 1900-0700 (sensitive hours)	Total events (in a day)	Amelioration criteria triggered?
Example 1: 75 dB(A)	1 event at 75 dB(A)	3 events at 75 dB(A) (weighted to 12 events)	4 events (weighted to 13 events)	Yes
Example 2: 75 dB(A)	5 events at 75 dB(A)	1 event at 75 dB(A) (weighted to 4 events)	6 events (weighted to 9 events)	No
Example 3: 80 dB(A)	0 events at 80 dB(A)	2 events at 80 dB(A) (weighted to 8 events)	2 events (weighted to 8 events)	Yes
Example 4: 80 dB(A)	4 events at 80 dB(A)	0 events at 80 dB(A)	4 events	No

Flight training

In response to this element of the appeal, the EPA acknowledged that the proponent's ERD did not specifically mention the increase in training circuits but noted that it was detailed in the draft NMP (2017). The EPA noted that, during the public review period, there were public submissions on increased training circuits and noise limits, both of which were addressed by the proponent in its response to submissions:

The number of continuous flight training circuits has been set at 6 in any one flight training session in the proposed NMP (2017) which has been increased from 4 in the approved NMP (2015). The proposed increase is based on consultation with the local Aero Club (OEPA and City approved flight training operator) which requested a minor increase in circuit numbers to make their flight training sessions cost effective for students. Further, since the implementation of the NMP (2012), noise complaints regarding flight training have significantly reduced due to the permit approval process required to be met by flight training operators and to date there has only been one permit issued by the City of Busselton for approved flight training.¹²

The EPA advised that it considered that noise impacts from flight training could be managed through the NMP (2018) by:

- restricting aircraft type to single engine aircraft with 1500 kilograms maximum take-off weight;
- specifying flying heights and cumulative total flying hours per licensed instructor;
- limiting the hours of operation for flight training; and
- the issuing of permits by the proponent, which requires operators to abide by the Fly Neighbourly Agreement (FNA) and the relevant sections in the NMP.

¹² City of Busselton, Public Environmental Review – Response to Submissions, 10 January 2018, page 8 and 9.

Special Event

The proponent had originally proposed to change the number of non-conforming activities to be unlimited (currently limited to 12 under the existing approval); however the EPA did not support this change and stated in Report 1616 that it:

... considers that for certain situations outside the scheduled five night-time flights per week, (as allowed for in the current approved project under Ministerial Statement 901 and 1009), the 12 special events of single events or circumstances per year should be maintained. This would accommodate situations including inclement weather, unserviceable aircraft or one-off events.¹³

The NMP states that 'any application that does not conform to the standard hours of operation or conditions ... is considered a Special Event'¹⁴. Section 3.2.4 sets out two types of approvals for Special Event applications: those that can be approved by the Chief Executive Officer (CEO) of the City of Busselton and those that can only be approved by the Council of the City of Busselton (Council). The CEO can approve applications for a single event or circumstance that is attributable to inclement weather, unserviceable aircraft or one-off events. In contrast, any other application will require Council approval and will be subject to a multiple-step consultation process. The multiple-step consultation process requires the application to be released for a public consultation period and it is noted that section 8 of the NMP (2018) contains communication and consultation initiatives the proponent may utilise.

Inadequate standard hours of operation

In response to the proponent's appeal, the EPA maintained its view that the revised proposal has the potential to impact on noise-sensitive premises and the restriction of standard hours of operation is a factor in minimising noise from jet aircraft at night that may cause sleep disturbance:

The EPA concluded that the standard hours of operation from 0600 to 2300 should be maintained as currently approved. This would minimise the impact of noise from large jet aircraft during sensitive hours. Furthermore, the EPA has recommended that five-night time flights (10 movements) per week be permitted between the hours of 2300 and 0600 to accommodate interstate services...

The EPA, following discussions with the City of Busselton, also maintained the 12 annual special event flights as is currently approved under Ministerial Statement 1009. This allows for unforeseen delays and one off special events, thereby maximising the use of the five-night time flights per week for scheduled flights between the hours of 2300 and 0600.¹⁵

Additionally, noting that the proponent is in the process of having revised flight paths endorsed by Airservices Australia (ASA) which may minimise impacts to residential areas, the EPA advised that recommended condition 6 allows for the review of the NMP and any published flight paths endorsed by ASA. In Report 1616, the EPA also stated that it expects the proponent to consult with the community on the revised flight paths in accordance with the communication and consultation process in the NMP (2018).

Conclusion

Taking the above information into account, it is considered that the EPA had regard to the matters raised under this ground of appeal in its assessment of the revised proposal in respect of the environmental factor Social Surroundings. The EPA's view that the standard

¹³ EPA, *Report and Recommendations for Busselton-Margaret River Airport expansion – revised proposal* (Report 1616), June 2018, page 18.

¹⁴ City of Busselton (2018 Version 1). *Busselton-Margaret River Airport Noise Management Plan*, page 31.

¹⁵ EPA, Response to the appeal, 20 July 2018, page 5.

hours of operation should be maintained at between 0600 and 2300 hours to minimise impacts of noise from large jet aircraft during night-time hours is supported.

The proponent undertook noise modelling based on the loudest aircraft expected to use the airport to present a 'worst-case scenario' and this formed part of the EPA's assessment. Therefore, where louder aircraft types than those considered in the EPA's assessment are contemplated, it will be for the proponent to liaise with the Department of Water and Environmental Regulation and the EPA in relation to potential implications and whether further assessment is required.

It is noted that the EPA considered noise amelioration measures would minimise noise impacts and this, in addition to other restrictions, formed part of the EPA's conclusion that the impacts of aircraft noise are manageable. Although the NMP does not state minimum or target timeframes in which the amelioration process is to occur, it is considered that the process should be conducted in a timely manner and managed proactively to ensure impacts to affected residents are not prolonged.

The EPA was of the view that the restriction of 12 Special Events per year should be maintained. It is noted that NMP provides for a multiple-step consultation process to be carried out in relation to certain Special Events, and this includes the requirement to undertake public consultation which should provide an opportunity for affected residents and the wider community to provide submissions.

It is considered that the EPA's conclusion that the recommended conditions and provisions contained in the NMP will be sufficient to address the issues raised in this ground of appeal, should the revised proposal be implemented, is supported by the available information. It is therefore recommended that this ground of appeal be dismissed.

GROUND 2: IMPACTS TO LIVESTOCK

Two appellants submitted that the EPA had not considered the economic impacts of the revised proposal, namely the impact of increased noise to livestock. Both appellants stated that cattle have reacted negatively to aircraft noise such as bolting or damaging fences.

Consideration

In relation to impacts to livestock, the EPA advised:

Having regard to the EPA's EFG for Terrestrial Fauna, the information submitted by the proponent; and available information about significant fauna habitats in the area, the EPA did not identify Terrestrial Fauna (and consequently the issue of potential impacts to livestock as fauna) as a relevant environmental factor in its assessment.

During the assessment, the EPA noted the absence of existing knowledge and relevant policies and guidelines to assess the implication of noise impacts on livestock and dairy operations. However, noting the appellant's contention that the key issue is likely to be from low flying circuits, the EPA concluded that the draft 2017 NMP included measures to minimise noise impacts from flight training activities...¹⁶

Similarly, in response to public submissions during the PER process, the proponent stated that it had investigated and was not able to locate scientific evidence which supported that night-time airport operations have a detrimental effect on cattle and dairy farm operations. The proponent also noted, that there are other larger airports located within the vicinity of livestock, such as the Toowoomba Wellcamp Airport and Melbourne Airport.

¹⁶ EPA, *Response to the Appeals*, 20 July 2018, page 10.

Conclusion

Taking into account the information presented in respect of this ground of appeal, it is considered that the EPA's assessment was appropriate and had regard to matters raised by the appellants in concluding that the revised proposal is environmentally acceptable subject to the recommended conditions. It is therefore recommended that this ground of appeal be dismissed.

OTHER MATTERS

Some appellants also raised the following matters considered to be beyond the scope of the appeals:

- insufficient consultation from the proponent:
 - no results from sending objection letters or attending meetings to raise objections; and
 - poor consultation and communication prior to the construction of the airport;
- no resolution or unsatisfactory resolution of issues by the proponent;
- the revised proposal is incompatible with the airport's location and was not contemplated in the original decision to locate the airport at Four Mile Hill; and
- reduction of land values.

The EPA was of the view that adequate public consultation had been undertaken, noting that the proponent consulted with the community on a draft NMP (2016) and as a result of feedback the draft NMP (2017) was submitted with the ERD. In addition to this, the revised proposal underwent public consultation at the referral and PER stage of the EPA's assessment. The EPA also advised that the proponent formed the BMRA Consultative Group consisting of representatives from the City of Busselton, business and industry, airport users and community members to provide a forum for community and stakeholder engagement on airport planning and operations updates.

In addition to the above, the proponent advised it had undertaken significant consultation with relevant stakeholders which included letter and email notifications of community information sessions, individual meetings with residents, updates with members of the public from noise affected areas and community consultation on the noise management plan prior to the PER.

With regard to the appellants' dissatisfaction of the proponent's handling of noise complaints, it is noted that the proponent and the EPA stated that ASA has jurisdiction over airspace and is a body with whom noise complaints can also be lodged.¹⁷ The NMP (2018) states:

... the City recommends in the first instance that all noise complaints are lodged with the ASA Noise Complaints and Information Service (NCIS). Residents may also direct their noise complaints to the Aircraft Noise Ombudsman (ANO).¹⁸

The NMP states that although the proponent does not have jurisdiction to regulate activities in airspace (such as regulating height restrictions or flight paths through local laws), it will seek and enforce compliance by aircraft operators through the management of the BMRA's operations and report non-compliances to the relevant authority where outside its jurisdiction.

¹⁷ ASA is responsible for managing complaints and enquiries about aircraft noise and operations through the Noise Complaints and Information Service. ASA also undertakes environmental assessments for changes to aircraft operations. Website at: <http://www.airservicesaustralia.com>

¹⁸ City of Busselton (2018 Version 1). *Busselton-Margaret River Airport Noise Management Plan*, page 33.

In response to concerns about the location and the consultation process for the construction of the airport, the EPA advised that the airport was constructed at Four Mile Hill in 1996 following an EPA assessment which concluded the project was environmentally acceptable (EPA Bulletin 785), and this assessment included a four-week public review period. The EPA noted that, regardless of the revised proposal, the existing operations still have the capacity to grow in the future under the existing environmental approval, with the number of weekly aircraft movements expected to increase to 300 by 2038-39.

In regard to the appellants' concerns regarding potential impacts to land values, the EPA advised:

... that this proposal is a revised proposal and the airport is currently operational. Therefore, any reduction in land value would need to be attributable to the proposed amendments and in particular any additional noise impacts. The EPA's key consideration was the potential for the revised proposal to affect noise-sensitive premises and thereby potentially impact on the health, welfare, convenience and comfort of people, particularly at night-time, due to noise emissions generated from aircraft. The EPA concluded that the implementation of the 2018 NMP could manage noise impacts and maintain the indoor noise amenity of residents...¹⁹

CONCLUSION AND RECOMMENDATION

For the reasons detailed in this report, it is considered that the EPA's assessment of the revised proposal has had regard to the potential environmental impacts, particularly in relation to aircraft noise emissions. It is also considered that the EPA's conclusion that the revised proposal is environmentally acceptable, subject to the recommended conditions set out in Report 1616, is supported by the available evidence.

It is therefore recommended that the appeals be dismissed.

The final decision on whether or not the proposal should be implemented, and the precise wording of the conditions which apply to any such implementation, is to be made under section 45 of the EP Act.

Emma Gaunt
APPEALS CONVENOR

Investigating Officer:
Cassie Chew, A/Senior Appeals Officer

¹⁹ EPA, Response to the appeal, 20 July 2018, page 3.