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Department of Infrastructure and Regional Development
111 Alinga St
Canberra ACT 2601

RE: MODERNISING AIRSPACE PROTECTION – PUBLIC CONSULTATION PAPER

As an active participant in the provision of aviation advisory services to the construction industry, AvLaw Pty Ltd (AvLaw) is encouraged by this initiative by the Department of Infrastructure and Regional Development (the Department) and agrees it is both necessary and timely. The outcomes of the Aviation Safety Regulation Review represented an important acknowledgement of the importance of airspace protection and the emerging trends in both on and off-airport development, how it is to be managed safely and efficiently and the urgency that must be placed on it as a critical policy issue.

The unprecedented growth in major property markets in the past five years has been the major catalyst for the emergence of the *aviation and property development nexus*, in particular affecting Australia's most congested capital city airspace gateways. The importance placed on the need for a review of existing legislation and associated regulatory processes is an important step towards achieving appropriate outcomes, the basis upon which the long-term viability of key infrastructure assets and the potential for future land-use planning can be fully realised harmoniously.

AvLaw has proven experience in conducting safety, regulatory and technical assessments throughout Australia and abroad. Within the context of airspace protection and management, our team of specialists have consistently demonstrated high-level, technical expertise to present comprehensive aeronautical studies on behalf of CASA, as well as provided risk-based safety cases to support approvals for controlled activities for some of the country's tallest and most high-profile developments.

Please find *attached* AvLaw's comments in response to the Public Consultation Paper, which it has limited to the proposed outcomes discussed as part of Reform Proposal 1.

Yours sincerely

A handwritten signature in black ink, appearing to read "Amin Hamzavian".

Amin Hamzavian
Group General Manager

MODERNISING AIRSPACE PROTECTION – AVLAW RESPONSES

Reform Proposal 1

Prescribing Criteria for the Establishment of Prescribed Airspace (p.12)

As an example, when considering the charts currently available through the websites of capital city airports (e.g. Sydney, Bankstown, Brisbane etc.), there are some variances in the way in which various OLS, PAN-OPS charts are presented i.e. varying degrees of detail with regard to contours. Whilst acknowledging each individual airport operator (at least in the examples referenced) are separate entities, AvLaw would encourage the standardisation of charts in the event this key policy reform outcome is implemented.

The inclusion of the RTCC as part of what would be considered prescribed airspace is encouraged given it is not specifically referenced in the Airports (Protection of Airspace) Regulations 1996, however has (in AvLaw's experience) been applied as the most limiting control surface when assessing the impact of certain property developments (and associated crane activity) in Sydney.

Streamlining the Handling of Applications for Intrusions – Proponent's obligation (p.13)

AvLaw encourages the amendment of the regulations to include a reference to the requirement for the provision of a safety case and aviation impact statement to supplement applications for controlled activities. AvLaw notes that, as an example, the Sydney Airport *Airspace Protection Form* already includes a reference to the supplementation of a safety case to support the application form. In our experience, we have often been invited to assist Proponents after the aforementioned form has been submitted, and upon review, note a common trend in how the question relating to the provision of a safety case has been addressed. Our experience suggests a lack of understanding of the implications to airspace management associated with the proposed prescribed airspace penetration. In many cases, that section of the form has either been left blank or a vague reference to lighting to mark the highest point of the structure (temporary and/or permanent) is all that is included. With this in mind, should the proposed regulatory change take effect, we would encourage this being supplemented with advisory material being distributed/made available, particularly through key channels and industry groups that target those most likely to apply for controlled activities. As an example, AvLaw has contributed articles on this subject matter to publications such as *Urban Ideas* by The Urban Taskforce (*attached separately*) and is also a member of the Council for Tall Buildings and Urban Habitat (CTBUH). Through both these forums, we have been encouraged by how receptive the other participants are to learning more about the aeronautical impacts of their activities. A briefing note published by the Australian Airport Association (AAA) in May 2016 (*attached separately*) and other information available through the Airservices Australia site are good examples of valuable sources of information and comprehensive explanations of this subject matter, but ones which have more than likely been limited in reach to stakeholders to the aviation industry.

Streamlining the Handling of Applications for Intrusions – Submission timeframe (p.13)

AvLaw's experience liaising with our clients and the understanding of the DA process suggests the proposed submission timeframe for a controlled activity application to precede DA has the potential to be impractical and potentially result in multiple revisions/new applications being submitted by the same Proponent. Further explanatory information will also need to be provided to distinguish between various stages of the DA process i.e. 1, 2 or 3. Assuming the proposed reform implies the submission of an application for a controlled activity to be made 90 days prior to a Stage 1 DA, applied retrospectively, this reform proposal would be problematic with respect to the confirmation of a fixed building height and even more so if the intrusion of cranes will also need to be captured this early in the planning process. AvLaw notes also that CASA requires detailed architectural drawings and these are rarely available prior to the Stage 1 DA being submitted, and in particular note design competitions which generally occur at Stage 2 and which significantly impact the finished building and subsequent crane activity.