



Office of the Mayor Frank Carbone



The Hon Chris Bowen MP
Member for McMahon
PO Box W210
Fairfield West
NSW 2165

Dear Mr Bowen




HORSLEY PARK & CECIL PARK URBAN INVESTIGATION AREA – UNFAIR AIRCRAFT NOISE RESTRICTIONS




I refer to our discussions and those we have both had with the people of Horsley Park & Cecil Park over a number of years. I also refer to my recent correspondence with the Hon. Catherine King MP, Minister for Infrastructure, Transport, Regional Development & Local Government (see attached my letter of 16 June 2022 and her response of 3 August 2022).

It would appear that the Minister has “signed off” on the advice of agency staff and perhaps not consulted you, nor had the benefit of understanding the community’s widespread discontent, regarding the unfair and unnecessary decisions made by the State Government and previous Federal Government.



From her letter it seems unlikely that the Minister’s attention has been drawn to the relevant Australian Standard (AS 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction) that permits new houses and other forms of residential development within the 20-25 ANEC contour with appropriate noise attenuation measures.



Section 2 of the Standard (see attached), in particular Table 2.1, indicates that houses, units, apartments, schools, hospitals, nursing homes, etc., are “conditionally acceptable” within 20 to 25 ANEC contour. Note 2 points to the relevant “conditions”, that is noise attenuation measures, as detailed in later parts of the Standard. Fairfield Development Control Plan (also attached) provides an approach that conforms to the Standard. Land owners at Horsley Park have accepted these provisions since 2014, as a workable solution to minimise any future aircraft noise, when the Federal Government formally announced its decision to proceed with the airport.

I believe that the reintroduction of the allowance to have granny flat housing (that was in place previously) in the affected area, is of greatest importance and would address an important housing need for many of the landowners to have an alternative housing option available on their land. Under NSW planning provisions, granny flat housing is small in scale (maximum floor area of 60m²) and cannot be subdivided. Allowing this form of secondary housing would not result in any significant increase in the population of the area affected by the 20-25 ANEC, but rather would provide an affected landowner, and perhaps their extended family, an additional housing option available to them.

I would greatly appreciate if you would bring these matters to the attention of the Minister and would welcome an opportunity to meet with you and her, either in our local area or in her office in Canberra.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Frank Carbone'.

FRANK CARBONE
MAYOR OF FAIRFIELD CITY

23 August 2022

Attch:

SECTION 2 BUILDING SITING AGAINST AIRCRAFT NOISE INTRUSION

2.1 DETERMINATION OF NOISE EXPOSURE OF BUILDING SITE

2.1.1 Aerodromes with ANEF charts

ANEF charts for the major Australian city airports, military aerodromes and for many of the country aerodromes are available from the appropriate authorities. All or some of the noise exposure contours of 20, 25, 30, 35 and 40 ANEF are shown on these charts.

These contours indicate land areas around aerodromes which are forecast to be exposed to aircraft noise of certain levels as defined in Clause 1.5.6; the higher the ANEF value the greater is the noise exposure.

Locate the position of the building site on the ANEF chart and determine the highest value ANEF contour which crosses the building site.

If the building site is outside the 20 ANEF contour, noise from sources other than aircraft may dominate; therefore, there is usually no need to proceed further in this Standard as the construction of the building need not specifically be designed to provide protection against aircraft noise intrusion. Nevertheless, if it is desired that premises be insulated against aircraft noise, the procedures of this Standard may be followed.

NOTES:

- 1 The individual aerodrome operators should be approached regarding the availability of ANEF charts.
- 2 For certain highly specialized building types such as auditoria or recording studios, specialist acoustic advice should always be sought.

2.1.2 Aerodromes without ANEF charts

The ANEF system takes account of noise levels, frequency and time of day of aircraft noise events. Therefore it is always preferable to use an ANEF chart to predict aircraft noise exposure at a site. If one does not exist, the preparation of an ANEF chart for the particular aerodrome should be requested through the aerodrome owner.

Where aerodrome usage is confined to a small number of civil, non-jet aircraft movements the production of an ANEF chart may not be justified and is unlikely to occur. In these cases refer to Appendix E.

2.2 DETERMINATION OF BUILDING SITE ACCEPTABILITY

2.2.1 General

The acceptability of the building site is dependent on the type of building proposed and on the ANEF zone in which it is to be located.

2.2.2 Determination of acceptability

For the particular building type under consideration, determine from Table 2.1 the building site acceptability, i.e. acceptable, conditionally acceptable or unacceptable, for the ANEF zone in which it is to be located.

2.3 ACTION RESULTING FROM ACCEPTABILITY DETERMINATION

2.3.1 Acceptable

If from Table 2.1, the building site is classified as 'acceptable', there is usually no need for the building construction to provide protection specifically against aircraft noise. However, it should not be inferred that aircraft noise will be unnoticeable in areas outside the ANEF 20 contour. (See Notes 1, 2 and 3 of Table 2.1.)

2.3.2 Conditionally acceptable

If from Table 2.1, the building site is classified as 'conditionally acceptable', the maximum aircraft noise levels for the relevant aircraft and the required noise reduction should be determined from the procedure of Clauses 3.1 and 3.2, and the aircraft noise attenuation to be expected from the proposed construction should be determined in accordance with Clause 3.3 (see Notes 1 and 3 of Table 2.1).

2.3.3 Unacceptable

If, from Table 2.1 the building site is classified as 'unacceptable', construction of the proposed building should not normally be considered. Where in the community interest redevelopment is to occur in such areas, e.g. a hotel in the immediate vicinity of an aerodrome, refer to the notes to Table 2.1.

TABLE 2.1
BUILDING SITE ACCEPTABILITY BASED ON ANEF ZONES
 (To be used in conjunction with Table 3.3)

Building type	ANEF zone of site		
	Acceptable	Conditionally acceptable	Unacceptable
House, home unit, flat, caravan park	Less than 20 ANEF (Note 1)	20 to 25 ANEF (Note 2)	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF (Note 1)	20 to 25 ANEF (Note 2)	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF (Note 1)	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF (Note 1)	20 to 30 ANEF	Greater than 30 ANEF
Commercial building	Less than 25 ANEF	25 to 35 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	Acceptable in all ANEF zones		

NOTES:

- 1 The actual location of the 20 ANEF contour is difficult to define accurately, mainly because of variation in aircraft flight paths. Because of this, the procedure of Clause 2.3.2 may be followed for building sites outside but near to the 20 ANEF contour.
- 2 Within 20 ANEF to 25 ANEF, some people may find that the land is not compatible with residential or educational uses. Land use authorities may consider that the incorporation of noise control features in the construction of residences or schools is appropriate (see also Figure A1 of Appendix A).
- 3 There will be cases where a building of a particular type will contain spaces used for activities which would generally be found in a different type of building (e.g. an office in an industrial building). In these cases Table 2.1 should be used to determine site acceptability, but internal design noise levels within the specific spaces should be determined by Table 3.3.
- 4 This Standard does not recommend development in unacceptable areas. However, where the relevant planning authority determines that any development may be necessary within existing built-up areas designated as unacceptable, it is recommended that such development should achieve the required ANR determined according to Clause 3.2. For residences, schools, etc., the effect of aircraft noise on outdoor areas associated with the buildings should be considered.
- 5 In no case should new development take place in greenfield sites deemed unacceptable because such development may impact airport operations.

Aircraft Noise in Horsley and Cecil Park - In April 2014 the Federal Government announced its decision to proceed with an airport at Badgerys Creek. As a result, Fairfield City Council at the August Outcomes Committee 2014 endorsed amendments to the City Wide DCP requiring new residential development in Horsley Park and Cecil Park to meet 'deemed to satisfy' criteria for insulation measures to mitigate the impacts of aircraft noise.

The amendments replace a previous interim policy endorsed by Council in May 2014 and are required to mitigate the impacts of aircraft noise on new residential development in Horsley Park and Cecil Park.

The provisions also provide scope for applicants to request a variation on the deemed to satisfy criteria by submitting a report by a qualified acoustic consultant that the measures proposed to be included in a new residential building comply with Australian Standard AS 2021-2000, Acoustic – Aircraft Noise Intrusion – building, siting and construction.

For more information see Chapter 4A page 13.

2.5.11 Landscape Plan

Is to be included for all development (except for development application for change of use or occupations) which provides information detailing trees to be removed, existing and proposed planting (for proposed planting documentation on the type of species and their growth at full maturity is needed), retaining walls, garbage enclosures, detention basins, fences and paving. (See Appendix F of Fairfield City Wide DCP 2013).

2.5.12 Heritage Assessment

The provisions of State Environmental Planning Policy SEPP (Exempt and Complying Development Codes) 2008, known as the "the Codes SEPP", regarding exempt and complying development do not apply to heritage items, with minor exceptions.

In considering the proposal for any work on a heritage item or its site, Council is required to assess its likely impact on the significance of the item. If the work is minor, approval may be obtained through an exchange of letters between the applicant and Council, for which no fee is payable. Interior work to houses such as kitchen and bathroom renovations can be carried out without notifying Council.

Otherwise, a development application will be needed so an assessment can be made about whether the proposal is appropriate.

If the work is on a site near the heritage item (the visual catchment), Council is required to consider its likely impact on the heritage significance of the item. This requirement does not apply to exempt or complying development in the vicinity of an item.

When considering heritage impacts, Council may require the applicant to submit a Statement of Heritage Impact or a Conservation Management Plan. Appendix G Heritage and Development provides a flow chart illustrating the process. Applicants are encouraged to consult with the Heritage Advisor before submitting applications for work on or near heritage items. Advice on design, and on the preparation of a Statement of Heritage Impact, is available at no cost.

Clause 2.5.13 Social Impact Statement

A Social Impact Assessment (SIA) refers to the assessment of the likely social consequences of a proposed development on affected groups of people and on their way of life, life chances, health, culture and capacity to sustain these. Fairfield City exhibits significant cultural diversity with more than 50% of residents born overseas and the unemployment rate consistently higher than for Sydney and NSW.

- c) **Dust suppression and visual amenity** - Landscaping plans should demonstrate appropriate landscaping that will assist to both reduce dust (permitted through environmental regulations) and visually screen quarry sites.

4A.6 Aircraft Noise

4A.6.1 Overview

The Australian Government has confirmed that Badgerys Creek will be the site for a Western Sydney Airport in the Liverpool City Council area. The final Environmental Impact Statement prepared for the Western Sydney Airport in 2016 included aircraft flight paths that impact on various parts of Fairfield City.

To mitigate the impacts of aircraft noise, development in Horsley Park and Cecil Park proposing residential, educational establishment, place of worship, childcare centres and any other sensitive land uses must meet 'deemed to satisfy' criteria for insulation. The requirements also apply to alterations and additions to existing development.

The provisions also provide scope for applicants to request a variation on the deemed to satisfy criteria by submitting a report by a qualified acoustic consultant that the measures proposed to be included in a new residential building comply with Australian Standard AS 2021-2015, Acoustic – Aircraft Noise Intrusion – building, siting and construction.

AS2021-2015 provides an assessment of potential aircraft noise exposure around airports based on the Australian Noise Exposure Forecast (ANEF) system and is widely referred to in guiding strategic land use planning in the vicinity of airports.

Note: At this stage, Council does not have any detailed information regarding the Western Sydney Airport. You should make your own enquiries with the Commonwealth Government Department responsible via the website <http://www.infrastructure.gov.au/aviation> or <http://westernsydneyairport.gov.au>


4A.6.2 Objectives

- a) To mitigate against the acoustic impacts of aircraft noise on new residential development in Horsley Park and Cecil Park as a result of a Western Sydney Airport at Badgerys Creek.
- b) To provide clarification of measures required in buildings to mitigate against aircraft noise by achieving compliance with relevant deemed to satisfy criteria.
- c) To ensure measures to mitigate against aircraft noise are consistent with provisions contained in the Australian Standard – Aircraft Noise Intrusion – building, siting and construction.

4A.6.3 Controls - Design for impacts of Aircraft Noise

Prior to the issue of a construction certificate, amended architectural plans and details indicating compliance with either Option 1 or 2 detailed in the following table shall be submitted to the Principal Certifying Authority for approval.

Option 1 - Deemed to satisfy requirements		
Element	Ratings	Deemed to satisfy requirements
Wall construction	Achieve a minimum construction of Rw of 52dB	Brick veneer construction with all joints filled solid with mortar, timber stud frame lined with 1 layer 10mm plasterboard and 75mm R1.5 insulation batts between all studs. All plasterboard joints to be sealed taped and set.
Roof / Ceiling construction	Achieve a minimum construction of Rw of 52dB	Pitched roof clad with concrete or terracotta roof tiles with R3.0 insulation batts laid

		<p>between ceiling joists and a medium duty sarking over all rafters to the underside of the roof tiles.</p> <p>The Ceiling shall be a minimum of 1 layer 13mm plasterboard with all joints sealed, taped and set.</p>
Windows	Bedroom windows to achieve a minimum Rw of 32dB	All bedroom windows/glass doors – 6.38mm laminated glass and acoustic seals. Minimum Rw32.
	Living rooms to achieve a minimum Rw of 30dB	All lounge/dining/family/kitchen/study windows/glass- 6mm glass and acoustic seals. Minimum Rw30
	Other windows Achieve a minimum Rw of 25dB	All other windows to achieve a minimum Rw 25
	Note	All windows shall be certified by the manufacture to achieve the required Rw rating with acoustic seals.
External Entry Doors	External doors to achieve a minimum Rw of 32dB	<p>Be a minimum of 35MM thick Solid core construction or 6.38 laminated glass or similar.</p> <p>Doors must be fitted with acoustic seals such as Lorient IS7025, IS8011si or Raven RP47 or equivalent to achieve the same Rw or a minimum 30dB</p>
Plasterboard corner details	Maintain rating between all walls and ceiling.	Plasterboard must be well sealed at corners and joints.
Ventilation and Penetrations	Must not compromise the external building envelope and maintain all external wall window and ceiling ratings.	<p>All opening in walls and ceiling shall be sealed to maintain the integrity of the Rw rating.</p> <ul style="list-style-type: none"> • Sealed with non-setting mastic or synthetic rubber, • Fibreglass or Rockwool insulation • Sponge rubber.
<p> Option 2 - Acoustic Report</p> <p>Submit an Acoustic Report prepared by a qualified acoustic consultant detailing compliance with AS 2021-2000, Acoustic – Aircraft Noise Intrusion – building, siting and construction.</p>		

Key dB – Decibels, measure of Sound level
 Rw – Wight Sound Reduction Index, rate the effectiveness of a soundproofing system or material

4A.7 Criteria for Rural Building Design

4A.7.1 Overview

The controls as described below set out the criteria for building design on rural land. Sensitive siting and design of structures and the use of landscaping are important to minimise the impact of the overall development on the landscape.

Consideration also needs to be given to the design and siting of buildings on rural land prior to determining the subdivision layout, as this will determine the future pattern of the built environment. Controls for subdivision of rural land are set out in Chapter 14, Section 14.3.



The Hon Catherine King MP

**Minister for Infrastructure, Transport, Regional Development and Local Government
Member for Ballarat**

Ref: MC22-004175

Cr Frank Carbone
Mayor
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

via: fcarbone@fairfieldcity.nsw.gov.au

FAIRFIELD CITY COUNCIL

TO:
FILE:

11 AUG 2022

DOC ID:
CRM:
SCAN DATE:

Dear Mayor

Frank,

Thank you for your kind letter of 16 June 2022 offering congratulations on my appointment as the Minister for Infrastructure, Transport, Regional Development and Local Government, and highlighting NSW state planning restrictions in relation to the future second runway at the Western Sydney International (Nancy-Bird Walton) Airport (WSI).

It is an incredible honour and privilege to have the opportunity to serve our nation and I am very pleased to have been appointed to this key portfolio which gives me the opportunity to help build a better future for Australians in every corner of the country – from the cities and the suburbs to the regions and remote Australia.

I note the concerns of you and your community about planning restrictions affecting residents of Horsley Park and Cecil Park. Land-use planning and zoning around WSI is the responsibility of the NSW Government's Department of Planning and Environment, managed through NSW legislation and policy, and implemented by NSW and local governments. The Australian and NSW Governments have agreed that new residential development around WSI should not be permitted where the Australian Noise Exposure Concept noise contour for WSI exceeds 20 (ANEC 20) and this position, with minor exceptions for pre-approvals, has been given effect in State Environment Planning Policy since late 2018.

The business case for WSI was based on it being a 24-hour, curfew-free international airport that is anticipated to serve more than 80 million passengers by the 2060s. Its location at Badgerys Creek was selected to minimise aircraft noise impacts to existing communities, as inevitably in the long term there will be noise from airport operations experienced in surrounding areas. It is important that the Government continues to act to preserve our investment in WSI by advocating that future planning approvals reflect the expected operation of the airport.

While the airport is initially expected to only handle around five million passengers a year, the need for a second parallel runway would be triggered when demand approaches 37 million passengers annually. This is estimated to occur around 2050. The Australian Government remains fully committed to a second runway at WSI which will bring significant economic and employment opportunities to Western Sydney.

Restricting the types of buildings that can be constructed near the airport will keep the number of people potentially affected by aircraft noise to a minimum, and reduce future community pressure for a curfew or other operating restrictions on WSI.

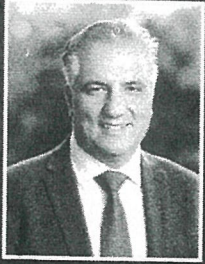
The Australian Government values the contribution local government makes to the Australian community, and welcomes your policy ideas. I do look forward to engaging with you - and seeking your views as I discharge my Ministerial responsibilities.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a final flourish.

Catherine King MP

3/8/2022



Office of the Mayor Frank Carbone



16 June 2022



The Hon. Catherine King
Minister for Infrastructure, Transport,
Regional Development & Local Government
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 26001

Dear Minister,

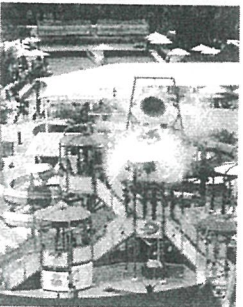


HORSLEY PARK & CECIL PARK URBAN INVESTIGATION AREA – UNFAIR AIRCRAFT NOISE RESTRICTIONS

Firstly, I wish to congratulate you on your appointment as Minister and to extend my congratulations to your party for its election to Government. I look forward to working closely with you in your vital portfolio for the benefit of the City of Fairfield.



I am writing to respectfully request your urgent review of the unfair and inequitable aircraft noise restrictions that, under instructions from the former Federal Government, were imposed by the NSW State Government on landowners in Horsley Park and Cecil Park in 2020. These restrictions resulted in the removal of development rights that has created unnecessary hardship for over 300 landowners in the area.



Specifically, the restrictions were brought into force by the State Government in November 2020 under the former *State Environmental Planning Policy (SEPP) - Western Sydney Aerotropolis* (now known as the *SEPP – Precincts Western Parkland City – Chp.4 Western Sydney Aerotropolis*) that prohibits 'noise sensitive development' (that includes all forms of residential development) or subdivision for the purposes of noise sensitive development, on all land in Horsley Park and Cecil Park affected by the 20-25 ANEC aircraft noise area associated with the Western Sydney Airport at Badgerys Creek. I want to emphasise here that the "noise impacts" are associated with the proposed future second runway that has not yet been designed and will not be built until sometime beyond 2060, if ever!

Email fc@fairfieldcity.nsw.gov.au Phone (02) 9725 0203
Fairfield City Council, Administration Centre, 86 Avoca Road, Wakeley NSW 2176
Mail Fairfield City Council, PO Box 21, Fairfield NSW 1860 ABN 83 140 439 239
Hearing Impaired (NRS) 133 677 Interpreter Service (TIS) 131 450



It is alarming to Council and landowners that these restrictions were imposed without any prior consultation or adequate forewarning to the affected landowners. The only concession offered was that landowners who had a registered vacant lot could apply to have a single residential dwelling constructed, however this measure is tokenistic given that nearly all of the existing properties located under the 20-25 ANEC already had some form of residential accommodation on them.

These changes are both unfair and inequitable given that similar land adjoining airports across Australia (including Kingsford Smith), affected by the 20-25 ANEC aircraft noise contour, do not suffer from the same restrictions.

In 2021, Council engaged independent noise experts (Marshall Day Acoustics) to undertake a review of the SEPP provisions affecting Horsley Park and Cecil Park that confirmed that the restrictions are inconsistent with the relevant Australian Standard (AS 2021:2015 *Acoustics – Aircraft Noise Intrusion – Building Siting and Construction*) that can permit new houses and other forms of residential development within the 20-25 ANEC contour with appropriate noise attenuation measures.

Since the introduction of the restrictions, Fairfield City Council has been comprehensively urging both the current State and former Federal Governments to undertake a review of the controls, but at this stage has not succeeded in having the interests of the affected landowners addressed. Your Ministerial colleague and the local Federal Member for this area, Chris Bowen MP, and I addressed a public meeting in March 2021 and have had many discussions with the affected local residents about the inequity of these restrictions and the need for a review.

I believe that the reintroduction of the allowance to have granny flat housing (that was in place previously) in the affected area, is of greatest importance and would address an important housing need for many of the landowners to have an alternative housing option available on their land. Under NSW planning provisions, granny flat housing is small in scale (maximum floor area of 60m²) and cannot be subdivided. Allowing this form of secondary housing would not result in any significant increase in the population of the area affected by the 20-25 ANEC, but rather would provide an affected landowner, and perhaps their extended family, an additional housing option available to them.

Extensive information regarding the above can be viewed on Council's website via the following link:

<https://www.fairfieldcity.nsw.gov.au/Planning-and-Building/Planning-and-Policies/Airport-Information>

This website includes copies of correspondence with various representatives and agencies of the NSW State and former Federal Governments, as well as details of community meetings and a copy of the Marshall Day Acoustics Study.

In light of the above, I would greatly appreciate if you would provide your earnest consideration to my request regarding the land rights of the community of Horsley Park and Cecil Park that have been unfairly treated by the former Federal Government.

Yours faithfully,

A handwritten signature in black ink that reads "Frank Carbone". The signature is written in a cursive, flowing style.

Frank Carbone
MAYOR OF FAIRFIELD CITY

cc: The Hon. Chris Bowen MP, Member for McMahon
The Hon. Dai Le MP, Member for Fowler