SYD

Ms Debra Just
Chief Executive Officer
Willoughby Council
PO Box 57
Chatswood NSW 2057

4 February 2020

Dear Ms Just

Airspace protection clause in local environmental plans

To ensure sustainable future growth and the safety of aircraft, airline passengers and local communities, airspace surrounding airports, including Sydney Airport, is protected.

Known as "prescribed airspace", Australian Government regulations have long recognised the need to restrict the height of buildings and other structures (such as cranes) near airports or under flight paths.

These regulations aim to ensure that:

- The airspace aircraft fly in is obstacle-free;
- Radar and other air navigation equipment can operate free from interference; and
- Airport safety lights are not obscured.

While these are Commonwealth regulations, the way in which they are recognised by NSW planning laws and, in particular, within local environmental plans (LEPs) is vitally important.

A number of LEPs across Sydney include a standard airspace protection clause. In Willoughby Council's case, this is cl. 6.6 of the *Willoughby Local Environmental Plan 2012*. The wording of the existing standard LEP clause is shown at **Attachment A**.

However, this clause recognises only two airspace protection surfaces, being the Obstacle Limitation Surface (OLS) and Protection of Air Navigation Services–Aircraft Operations (PANS-OPS).

As important as these surfaces are, in Sydney Airport's case, there are several other airspace protection surfaces that, collectively, comprise Sydney Airport's prescribed airspace. These are:

- Navigation aids protected surfaces
- High intensity light protection surfaces
- Radar terrain clearance chart
- Combined radar departure assessment surfaces
- Precision approach path indicator system protection surfaces

Further information can be found at: https://www.sydneyairport.com.au/corporate/planning-and-projects/airspace-protection-tile.

In the coming weeks, Sydney Airport will also be consulting councils and other key stakeholders about three other airspace protection surfaces. These relate to minimum sector altitudes, visual segment surfaces and aircraft circling areas.

We have noted that in some other LEPs – such as the *Hurstville Local Environmental Plan 2012* and the *Liverpool Local Environmental Plan 2008* – an alternative airspace protection clause has been used. The wording of this alternative LEP clause is also shown at **Attachment A**.

This alternative clause is not only simpler, by referring to prescribed airspace as defined in the *Airports Act 1996* (Cth), it captures *all* of the relevant airspace protection surfaces, rather than just two. In our opinion, it therefore provides a more effective regulatory mechanism.

When reviewing its LEP, we would urge council to consider replacing the existing standard airspace protection clause with the alternative clause.

If you would like further information, please feel free to contact Sydney Airport's Special Adviser Government and Community Relations, Mr Ted Plummer, on (02) 9667 6182 or at ted.plummer@syd.com.au.

Yours sincerely

Karen Halbert
General Manager Corporate Affairs

Attachment A

1. Existing standard LEP clause

Airspace operations

(1) The objectives of this clause are as follows—

(a) to provide for the effective and ongoing operation of the Sydney (Kingsford Smith) Airport by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport,

(b) to protect the community from undue risk from that operation.

(2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.

(3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—

(a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or

(b) the development will not penetrate the Limitation or Operations Surface.

(4) The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed.

(5) In this clause—

Limitation or Operations Surface means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the Obstacle Limitation Surface Map or the Procedures for Air Navigation Services Operations Surface Map for the Sydney (Kingsford Smith) Airport.

relevant Commonwealth body means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Sydney (Kingsford Smith) Airport.

2. Alternative LEP clause

Airspace operations

(1) The objective of this clause is to protect airspace around airports.

(2) The consent authority must not grant development consent to development that is a controlled activity within the meaning of Division 4 of Part 12 of the *Airports Act 1996* of the Commonwealth unless the applicant has obtained approval for the controlled activity under regulations made for the purposes of that Division.

Note.

Controlled activities include the construction or alteration of buildings or other structures that causes an intrusion into prescribed airspace (being generally airspace around airports). Controlled activities cannot be carried out without an approval granted under regulations made for the purposes of Division 4 of Part 12 of the *Airports Act 1996* of the Commonwealth.