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Review Manager
Office of the Commonwealth Ombudsman
Attn: Patrick, Director, Investigations Branch ACT & Commonwealth Investigations
GPO Box 442, Canberra ACT 2601
Via email: ombudsman@ombudsman.gov.au

Brisbane, 1 April 2025

Request for Review of Decision – Ref: 2023-713825

Dear Review Manager,

On behalf of Brisbane Flight Path Community Alliance (BFPCA), I write to formally request a review of the decision communicated to us in the letter dated 18 February 2025 (ref: 2023-713825), regarding our complaint against the Department of Infrastructure, Transport, Regional Development, Communications and the Arts.

We respectfully submit that the decision is fundamentally flawed, for the following reasons:

1. Failure to Investigate the Core Complaint

Our original complaint clearly alleged that the Department had failed in its statutory responsibility to provide effective regulatory oversight of Airservices Australia. This was the principal issue. However, the Ombudsman chose to investigate an adjacent matter—how agencies handle complaints—rather than the specific administrative failure of the Department. This shift in focus resulted in an inadequate and unsatisfactory response that did not address our concerns.

2. Over-Reliance on Historical Reviews

The response leaned heavily on prior investigations by the Aircraft Noise Ombudsman (ANO), Airservices' own PIR, and the Trax report—all of which are known to the community and do not respond to the substantive governance issue we raised. These past reviews do not absolve the Department of its ongoing oversight responsibilities under the *Air Services Act 1995*.



3. Inaccurate Acceptance of Departmental Claims

The Ombudsman's acceptance of the Department's claim that it "does not review or seek to intervene" in Airservices' operations is alarming and factually incorrect. The legislation and ministerial responsibilities clearly establish a regulatory and oversight role. Accepting such a position sets a dangerous precedent for unaccountable government.

4. Lack of Consequential Outcomes

Although the Ombudsman acknowledged that complainants perceive that no agency is taking responsibility, and that agencies should work better together, no binding recommendations or meaningful outcomes were issued. This effectively condones continued inaction and regulatory failure.

5. Ongoing Harm and Public Interest

The decision fails to account for the significant ongoing public harm being experienced by residents across Greater Brisbane—harm that is well-documented and acknowledged by multiple inquiries. The government's current response, including "engagement theatre" and references to future reforms, is insufficient and continues to erode public trust.

Request

We request that the Ombudsman's Office review this decision, taking into account the original scope and intent of our complaint. We urge the Office to reconsider whether the Department's abdication of regulatory oversight constitutes a breach of administrative fairness and whether further investigation is warranted.

We remain committed to engaging constructively with your Office and look forward to your response.

Best Regards

Professor Marcus Foth PhD FACS FQA JP (Qual.) Qld
Chair, Brisbane Flight Path Community Alliance, Inc.

Appendix: Point by point rebuttal

Issue	Commonwealth Ombudsman	BFPCA rebuttal
1	The Office of the Commonwealth Ombudsman (the Office) received some 800 complaints in December 2023 relating to the Brisbane Airport's New Parallel Runway.	Over 2,000 formal complaints were submitted to the Department of Infrastructure and Transport, which responded with a boilerplate reply that it trusts Airservices to do the right thing. Over 900 complainants escalated their complaint to the Commonwealth Ombudsman.
2	The complaints appeared to be part of a well-organised campaign.	BFPCA is unsure whether this is mentioned in order to insinuate a lack of merit or seriousness of the issues raised.
3	Before complaining to the Office, the complainants had complained to Airservices Australia, the Aircraft Noise Ombudsman, the Civil Aviation Safety Authority, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department), and the Minister for Infrastructure, Transport and Regional Development (the Minister).	Correct. Without that any of the raised issues and valid concerns were resolved.
4	A central theme of the complaints was that, in the view of the complainants, no agency was engaging with their concerns or taking responsibility for the issues raised by the complainants.	That is correct and that continues to be the case.
5	In response to the complaints, we sought information from Airservices Australia, the Aircraft Noise Ombudsman, the Civil Aviation Safety Authority and the Department.	During the investigation, BFPCA repeatedly stressed the point that the multiple complaint case is directed at the Department and the Department only. The main point is the Department's failure to provide adequate regulatory oversight over Airservices Australia.
6	The Office's role is to ensure fair and accountable administrative action by Australian Government entities. Where we become aware of an issue in how an agency has delivered its services, we have powers under the Ombudsman Act 1976 (the Act) to investigate.	Noted. Yet, BFPCA is disappointed that the investigation has been fruitless and no meaningful outcomes have been achieved as a result.
7	Under the Act, it is a matter for the Office whether and how to carry out an investigation. Following an investigation, the Office can make comments, suggestions and recommendations. However, we cannot compel an agency to take action or make a specific decision.	Noted.
8	What we found	This is all information that has been well known to complainants since this debacle started in

	<p>There are a number of different government agencies with roles that can touch on aircraft noise.</p> <p>Airservices Australia is a Commonwealth corporation responsible for safely and efficiently managing air traffic, including for flight path changes.</p> <p>Among other services, it operates a Noise Complaints and Information Service.</p> <p>It is accountable to the Minister and is governed by a board appointed by the Minister. Some of its functions are regulated by the Civil Aviation Safety Authority (CASA).</p> <p>The Aircraft Noise Ombudsman (ANO) is a part of Airservices Australia. It does not report to any executives within Airservices Australia but rather reports directly to the board of Airservices Australia.</p> <p>While it is intended to provide independent administrative review of Airservices' management of aircraft noise, including by handling complaints, it is not fully independent. It is established administratively rather than by legislation.</p> <p>It has a Charter which provides that the ANO and the board of Airservices Australia may agree on terms of reference for reviews by the ANO, and the ANO advised us that the board does not have a role in setting the terms of reference for the investigation of complaints or in accepting or rejecting draft reports by the ANO.</p> <p>While noting that advice from the ANO, we also note that the Senate Rural and Regional Affairs and Transport Committee has reported that "Airservices' Board Minutes— provided in response to written questions on notice from Senator McKim—revealed that the Board determines the terms of reference for ANO investigations and has previously rejected reports produced by the ANO."</p> <p>CASA is a Commonwealth statutory authority which among other things regulates some of the functions of Airservices Australia.</p>	<p>2020. So providing this information is not offering any new insights or findings.</p>
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	<p>It is overseen by a board which is appointed by the Minister.</p> <p>The Department is a Commonwealth government department with policy responsibility for aviation. It administers the Airports Act 1996 and supporting regulations.</p> <p>It reports to and supports the Minister, including advising the Minister with respect to the Minister's oversight of portfolio bodies such as Airservices Australia and CASA.</p> <p>Notwithstanding the various entities with responsibilities that might call for them to play a role in the event of significant concerns about aircraft noise, in practice the various agencies advised my Office that they regarded complaints about aircraft noise as a matter for Airservices Australia.</p>	
9	<p>Concerns about aircraft noise at Brisbane Airport have been the subject of several reviews and investigations.</p> <p>The issues around the Brisbane Airport flight path involving the use of a new parallel runway have been contentious since the commencement of operations in July 2020.</p> <p>Prior to July 2020 there was a process of community engagement conducted by Brisbane Airport Corporation in association with government (including Airservices Australia who provided technical expertise at some sessions), commencing in 2005- 2007.</p> <p>The complaints to the Office alleged, among other things, that this process of community engagement was not conducted in good faith. This allegation has been the subject of scrutiny through several different review processes.</p>	<p>The Commonwealth Ombudsman has decided to investigate a secondary issue that is not the core focus of the principal complaint. The main point is the Department's failure to provide adequate regulatory oversight over Airservices Australia.</p>
10	<p>The Airservices Australia Board asked the Aircraft Noise Ombudsman (ANO) to undertake a review of Airservices Australia's systems for community engagement.</p> <p>The review commenced in July 2019 and the ANO published their report in April 2020, making six recommendations to Airservices Australia.</p> <p>Airservices Australia responded to the ANO's report on 25 June 2020, stating it accepted the six recommendations made by the ANO.</p>	<p>This is just a historic summary and does not offer any new information.</p>

	<p>The ANO also conducted an Investigation specifically into complaints about the flight paths associated with the Brisbane Airport New Parallel Runway.</p> <p>The ANO published their report in August 2021, making four recommendations to Airservices Australia - three of which related to Airservices Australia's approach to community engagement, including around flight path changes.</p> <p>The ANO found that Airservices had not adequately addressed the question of whether the flight paths ultimately implemented at Brisbane Airport had a similar or different environmental impact to the flight paths originally proposed in 2007.</p> <p>Airservices Australia responded to the ANO's investigation report on 11 October 2021, accepting the four recommendations made by the ANO.</p>	
11	<p>Airservices Australia noted that over the two years prior it had been working to implement significant changes to improve its approach to community engagement.</p> <p>Airservices Australia has undertaken a number of projects since the Brisbane Airport's New Parallel Runway opened on 12 July 2020, including:</p> <ul style="list-style-type: none"> • a Post Implementation Review (PIR) which provided the opportunity for the community to provide feedback • Airservices Australia (in conjunction with Brisbane Airport Corporation) submitted a safety case and supporting material to request an increase in the tailwind limit for Simultaneous Opposite Direction Parallel Runway Operations (SODPROPS) at Brisbane Airport, from 5-knots to 7-knots • Trax International was appointed to conduct an independent review and make improvement recommendations across all aspects of the Brisbane PIR, with a particular focus on opportunities to limit and, where possible, reduce the impacts of aircraft noise • noise improvement trials 	<p>The fact is that Airservices has not implemented ANY significant changes.</p> <p>The community's feedback into the PIR process was largely ignored. No meaningful actions have been implemented as a result.</p> <p>The joint BAC / Airservices safety case was submitted multiple times and rejected by CASA. No change.</p> <p>Trax International have been appointed but there is no notable improvements to the situation affecting 220+ suburbs across Greater Brisbane.</p> <p>The Commonwealth Ombudsman has decided to investigate a secondary issue that is not the core focus of the principal complaint. The main point is the Department's failure to provide adequate regulatory oversight over Airservices Australia.</p>

	<ul style="list-style-type: none"> Noise Action Plan new Community Engagement Standard, published in September 2023. <p>In August 2022, Trax International's final report was released identifying 49 potential improvement opportunities to be implemented in four stages.</p> <p>Airservices Australia is continuing to work on the packages developed by Trax International.</p> <p>In August 2024, Airservices Australia advised that Trax International had been appointed to deliver packages three and four of the Noise Action Plan.</p>	
12	<p>The Government has now proposed a number of significant reforms that relate to aircraft noise.</p> <p>In February 2023, the Government released the Terms of Reference (TOR) for a new Aviation White Paper.</p> <p>Following submissions on the TOR and public consultation period, the Government released the Aviation Green Paper.</p> <p>Public consultation occurred during October and November 2023, with submissions closing on 30 November 2023.</p> <p>On 26 August 2024, the Government released the Aviation White Paper - Towards 2050.</p> <p>The Aviation White Paper contains 56 new initiatives, nine of which specifically relate to reducing the impacts of aircraft noise on Australian communities.</p> <p>The White Paper recommends the creation of an independent Aircraft Noise Ombuds Scheme and an Aviation Industry Ombuds Scheme.</p> <p>A Parliamentary inquiry has endorsed the proposed reforms.</p> <p>On 6 February 2024, the following matter was referred to the Rural and Regional Affairs and Transport References Committee for inquiry:</p> <p>The impact and mitigation of aircraft noise on residents and business in capital cities and regional towns, with particular reference to:</p>	<p>The Australian Government released the Aviation White Paper on 26 August 2024, led by Minister Catherine King MP, acknowledging the need for stronger protections against aviation noise. Following this, the Senate Inquiry into the impact and mitigation of aircraft noise, chaired by Senator Matt Canavan MP, was released on 27 November 2024, highlighting urgent reforms. The Government's official response was due on 27 February 2025, yet nothing has been issued.</p> <p>Shockingly, during Senate Estimates hearings on 24 February 2025, it was revealed that the Department of Infrastructure and Transport had not even sent a draft response to the Minister for review. Instead of taking real action, the government has spent nearly five years instructing Airservices Australia to conduct meaningless "engagement theatre"—leaving residents to suffer while directing distressed community members to a dedicated mental health and suicide prevention hotline (1300 687 327).</p>

	<ul style="list-style-type: none"> • the effect of aircraft noise on amenity, physical and mental wellbeing and everyday life of residents • the effect of aircraft noise on small business • any proposals for the mitigation and limitation of aircraft noise, including flight curfews, changes to flight paths and alternatives to air travel • any barriers to the mitigation and limitation of aircraft noise, and • any other related matters. <p>Submissions were invited addressing the terms of reference to assist the Committee with its consideration of the issues.</p> <p>Seven hundred submissions were received by the Committee and some of the complainants to this Office gave evidence to the Committee at public hearings.</p> <p>The report, which was tabled on 27 November 2024, made 21 recommendations.</p> <p>The report comments extensively on the history of the aircraft noise complaints around the Brisbane flight path changes in 2020.</p> <p>The Committee endorsed the White Papers' proposal for a new independent ANO and made a number of recommendations that specifically relate to aircraft noise and aircraft operations at Brisbane Airport.</p> <p>The Committee also made several recommendations about the Department being involved in relation to aircraft noise issues, community consultation and the provision of information to the community.</p>	
13	<p>Conclusion</p> <p>Given the extensive reviews that have been and were being undertaken about aircraft noise issues, including with respect to Brisbane Airport, we did not think it would be useful to conduct an additional extensive investigation into the same issues.</p>	<p>This is disappointing. The Commonwealth Ombudsman has decided to investigate a secondary issue that is not the core focus of the principal complaint. The main point is the Department's failure to provide adequate regulatory oversight over Airservices Australia.</p>

14	Instead, we looked at a central issue of how the agencies had handled complaints, how they had engaged with each other about the complaints and how they had engaged with the complainants, and whether there was room to improve this.	While this is useful in its own right, this was not the focus of our complaints. The main point is the Department's failure to provide adequate regulatory oversight over Airservices Australia.
15	Aircraft noise is a highly contentious issue for some in the community and it may not be possible to achieve safe and appropriate flight path and aircraft operation outcomes that resolve all such concerns.	We are well aware. Yet, having the apparently independent Commonwealth Ombudsman side with the aviation industry is disappointing to say the least.
16	There is also no single entity with responsibility for all the factors contributing to aircraft noise.	Incorrect. The legislation is clear. The buck stops with the Infrastructure Minister and her Department.
17	The Department advised us that it does not review or seek to intervene in Airservices Australia carrying out its responsibilities.	Yes, the Department issued a boilerplate response to complainants saying the same thing. That is precisely the reason why 900+ complainants decided to escalate the matter to the Commonwealth Ombudsman. This is not good enough. The regulatory oversight over Airservices Australia (including their board) rests with the Department and the Minister. They cannot be running their own show without scrutiny and oversight. They cannot be Aalaw unto themselves.
18	While it is appropriate that separate agencies respect each other's roles and responsibilities, at the same time departments need to be prepared to consider information pointing to potential concerns with the actions of portfolio bodies.	Yet, there are no consequences.
19	<p>Complaints can be a very valuable source of information for agencies.</p> <p>They can indicate potential significant issues and concerns that merit consideration.</p> <p>While it may be understandable that an agency receiving complaints about the actions of another agency would at first refer those complaints to that other agency, when the agencies have overlapping or connected roles it is appropriate that they engage with each other and with those complaints.</p> <p>It is also important that agencies engage with the complainants - so complainants feel heard and can understand, to the extent possible,</p>	<p>We have evidence that this has never occurred: Senate Budget Estimates 2022 / 2023</p> <p>Question on Notice 239: Noise investigations</p> <p>Senator Larissa Waters asked:</p> <p><i>"How many noise improvement investigations has the NCIS team conducted anywhere in Australia for any airport annually since 2018?"</i></p> <p>Airservices' answer: "Nil"</p>

	<p>what is happening in response to their complaints.</p> <p>This can help build community confidence and trust in the actions of government actions.</p>	
20	<p>Clearly the agencies involved here were engaging with each other about the substantive issues around airport operations, aircraft operations and aircraft noise - as demonstrated by the Government's release of the White Paper, the development of which would have involved all of the agencies and been led by the Department.</p>	<p>Correct. They are colluding to support the aviation industry. This is what's called state capture.</p> <p>State capture refers to a form of systemic corruption where private interests—such as powerful industries—exert significant influence over government decision-making. Instead of simply lobbying for favourable treatment, these industries shape the very laws, regulations, and policies that govern them, ensuring outcomes that serve their interests rather than the public good.</p> <p>In Australia, the aviation sector has long exerted influence over government policies. The former Two Airlines Policy, which restricted domestic competition for decades, was one example of the industry benefiting from regulatory protection. More recently, concerns have been raised over the close relationships between airline executives and government officials, including reports of travel perks provided to politicians, which create conflicts of interest.</p> <p>This is particularly relevant now because both the Aviation White Paper and the Senate inquiry report contain recommendations that require government action, regardless of which party is in power. However, the aviation industry will use its influence to resist reforms that don't serve its interests. Recognising this is key to ensuring that necessary changes—such as stronger consumer protections and a fairer regulatory environment—are not undermined by corporate control.</p>
21	<p>At the same time, however, the complainants perceived that none of the agencies were engaging with them or with the issues raised in their complaints, and consequently they formed the view that Airservices Australia was being given free rein to do as it chose.</p>	<p>That sums it up nicely. What is extremely disappointing is the failure of the Commonwealth Ombudsman to protect ordinary Australians from state capture and opting to protect the interests of the aviation industry instead.</p>
22	<p>In our view the agencies involved can all improve the way they engage with complaints</p>	<p>Instead of taking real action, the government has spent nearly five years instructing Airservices Australia to conduct meaningless</p>

	<p>and each other about the issues raised in complaints.</p> <p>The entities responsible should work more closely and more effectively with one another regarding aircraft noise complaints to ensure that such matters are appropriately considered and responded to, that complainants feel heard and that communities are well informed about aircraft noise.</p>	<p>“engagement theatre” — leaving residents to suffer while directing distressed community members to a dedicated mental health and suicide prevention hotline (1300 687 327).</p>
23	<p>Having the Aircraft Noise Ombudsman established as a fully independent entity and able to provide fully independent oversight of aviation noise complaints should also assist these agencies to improve their approaches to complaint handling.</p>	<p>The Albanese Government has not acted on this.</p>