

Exposure Draft of the *Airports (Environment Protection) Regulations 2026*

A Submission to the Australian Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

Friday, 16th January 2026

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1. Introduction

The Australian Logistics Council (ALC) welcomes the opportunity to provide a submission on the Exposure Draft of the *Airports (Environment Protection) Regulations 2026* (AEPR 2026).

ALC is the national peak body representing Australia's end-to-end freight and logistics sector, including road, freight rail, ports, intermodal terminals, airports, warehousing, and supply-chain service providers. Many ALC members operate at, or depend upon, federally leased airports for domestic and international freight movements, including time-critical air cargo, express freight, and high-value exports.

ALC and its members support strong, contemporary environmental regulation and recognise the importance of protecting communities and environmental values surrounding major aviation and freight infrastructure. However, environmental regulation must also be risk-based, proportionate, operationally workable, and aligned with national productivity, trade, and infrastructure objectives. In ALC's view, the Exposure Draft does not yet strike that balance.

2. Context for Reform and Consultation

The *Airports (Environment Protection) Regulations 1997* were introduced during the privatisation of Australian airports. While the framework has generally operated effectively, it reflects regulatory assumptions and governance practices of the 1990s and now requires updating to account for contemporary environmental standards, increased land-use complexity, and the operational realities of modern, multi-user airport precincts.

Notwithstanding this need for reform, ALC is concerned that the current regulatory process has been unduly compressed.

Airport operators engaged extensively with the Department of Infrastructure, Transport, Regional Development, Communications, Sport, and the Arts (DITRDCA) through formal submissions in 2023 and 2024, as well as through direct engagement, including the multi-airport session held on 17 May 2024. At that time, operators were advised that a draft of the revised regulations would be released in August 2024. Instead, the Exposure Draft was released on 17 December 2025, with consultation closing on 16 January 2026—immediately ahead of the 1 April 2026 sunset date for the existing regulations. This truncated consultation period has coincided with the end-of-year operational shutdown across much of the aviation, freight, logistics, professional services, and regulatory workforce. As a result, airport operators, tenants, freight operators, investors and regulators have had limited opportunity to undertake the detailed legal, operational, financial, and supply-chain analysis necessary to properly assess the implications of the proposed framework.

In ALC's view, the approach taken to remaking the *Airports (Environment Protection) Regulations* departs from established Commonwealth best practice for sunset instruments. Ordinarily, sunset is used to preserve regulatory continuity by remaking instruments largely unchanged, with substantive policy reform progressed through a separate, purpose-designed review process supported by appropriate consultation, impact assessment and implementation lead time. By contrast, the Exposure Draft combines a sunset-driven remake with material changes to regulatory duties, investigation thresholds, enforcement discretion and approval pathways, introduced within a highly compressed consultation and commencement timeframe. This approach heightens legal and implementation risk, constrains the ability of regulated parties to prepare for compliance, and reduces regulatory certainty for airport-based freight and logistics operations characterised by long-lived assets and time-critical supply-chain functions.

ALC finally notes that the new components of the regulations do not appear to be accompanied by any attempt to quantify the business and compliance costs imposed on regulated entities, as anticipated by the *Australian Government Guide to Policy Impact Analysis* (2023)¹. ALC considers that this departure from best practice materially increases the risk of unintended consequences and undermines confidence that the proposed framework will deliver durable environmental, operational and productivity outcomes.

3. Overview of Key Concerns

ALC's concerns with the Exposure Draft fall into four broad categories:

1. Structural and legal risks arising from the design of the regulatory framework.
2. Disproportionate compliance and liability impact on airport-based supply-chain operations.
3. Governance and capability risks associated with the Airport Environment Officer model.
4. Misalignment with national productivity, infrastructure, and aviation policy objectives.

Each of these is outlined in detail below.

4. Structural and Legal Risks

4.1 Removal of the polluter-pays principle

The Exposure Draft removes any explicit reference to the polluter-pays principle, leaving responsibility for remediation to discretionary determinations by the Airport Environment Officer. This departs from established Commonwealth and State environmental frameworks, where liability is linked to causation and control. The polluter-pays principle underpins environmental regulation through the *Environment Protection and Biodiversity Conservation Act 1999*² and associated national guidelines, ensuring accountability is proportionate and predictable. State frameworks, including NSW's *Protection of the Environment Operations Act 1997*, Victoria's *Environment Protection Act 2017*³, and Queensland's *Environmental Protection Act 1994*⁴, consistently link remediation responsibility to the party responsible for contamination.

Without a clear statutory reference, complex multi-tenant airport operations risk liability being assigned based on occupancy or proximity rather than responsibility. This introduces legal and commercial uncertainty, complicates lease

¹ <https://oia.pmc.gov.au/sites/default/files/2024-01/australian-government-guide-to-policy-impact-analysis.pdf>

² [Protection of the Environment Operations Act 1997 No 156 - NSW Legislation](#)

³ [Environment Protection Act 2017](#)

⁴ <https://www.legislation.qld.gov.au/view/pdf/asmade/act-1994-062>

arrangements, financing, and investment, and may increase operational costs across nationally significant freight and passenger gateways.

4.2 Investigation level schedules and risk of over-criminalisation

The Exposure Draft embeds numerical investigation levels directly into the regulations, drawn from national guidelines intended to guide expert assessment. Applying these levels as statutory thresholds risks capturing routine operational incidents as breaches of the general pollution prevention duty. Minor spills, transient exceedances, or low-risk operational activities could potentially trigger administrative or criminal penalties.

The expansion of provisions beyond soil to air, water, and noise pollution further broadens potential liability. In State regulatory systems, contamination and pollution are regulated through separate legislation, with specialist expertise applied proportionately. The Draft consolidates these frameworks, reducing flexibility and risk-based decision-making.

4.3 Ministerial power to amend thresholds without consultation.

The Exposure Draft gives the Minister authority to amend investigation levels by legislative instrument. This could create moving compliance targets for land, groundwater, air, and noise, undermining planning, investment, and development certainty for airport precincts with long asset life cycles without guaranteed stakeholder consultation.

4.4 Absence of independent merits review

Decisions by the Airport Environment Officer (a position for which no formal qualifications are prescribed in the regulations⁵) are not subject to independent review, despite potentially imposing substantial remediation costs, operational restrictions, or delays. The lack of merits review raises concerns about procedural fairness and accountability and increases commercial and reputational risk.

4.5 Duty to report suspected non-compliance of others.

The Exposure Draft introduces a new obligation for occupiers to report suspected non-compliance by others within 14 days, with potential criminal penalties for failure. This may encourage defensive reporting, increase compliance costs, and disrupt collaborative relationships among tenants and service providers in multi-use airport environments.

4.6 Lease exit and change-of-use requirements

Sections 64 and 67 require contamination assessments and audits for lease exits, renewals, and master-plan changes, regardless of actual environmental risk. These obligations duplicate existing mechanisms such as environmental site registers and lease conditions. Applying mandatory audits in all cases increases costs, delays development, and may discourage investment in airport freight precincts.

5. Productivity and Supply-Chain Impacts

Federally leased airports are critical freight gateways supporting domestic distribution, international trade, time-sensitive exports, and high-value supply chains.

The Exposure Draft would materially increase:

- compliance and reporting burdens
- exposure to criminal liability
- investigation and audit costs
- approval timeframes for development and redevelopment

These impacts risk delaying terminal and precinct upgrades, reducing freight throughput, and increasing costs for exporters, importers, and consumers. In practice, this would undermine national productivity, trade, and supply-chain resilience objectives, particularly when airport efficiency and infrastructure utilisation are policy priorities.

6. Airport Environment Officer Governance Model

The framework continues to rely on a single Airport Environment Officer as the primary regulator for highly complex, multi-use airport environments. Contemporary environmental regulation typically involves multidisciplinary oversight across

⁵ Proposed regulation 95 merely requires the Secretary to be satisfied a person has 'suitable' qualifications and experience.

soil science, groundwater, air quality, noise, ecology, and human health. The current officer-centric model limits technical depth reduces proportionality in decision-making and may produce inconsistent outcomes.

7. Recommended Short-Term Amendments

ALC strongly supports Initiative 40 of the 2024 Aviation White Paper, which commits to a comprehensive review of legislative and regulatory arrangements governing federally leased airports. That review is the appropriate forum to address substantive reform, including contamination and pollution frameworks, Airport Environment Officer governance, investment certainty, land-use planning, and community and environmental outcomes.

Attempting to resolve these complex matters through a rushed rewrite driven by sunseting deadlines risks poor policy outcomes and misalignment with national productivity and trade objectives.

If it is necessary for these regulations to be Gazetted as a matter of urgency to meet the requirements of Part 4 of Chapter 3 of the *Legislation Act 2003*, and, given the compressed consultation period, ALC recommends a staged, risk-managed approach. In the short term, the Exposure Draft should:

- ‘Roll over’ the provisions of the existing 1997 regulations, including only necessary administrative and technical updates; but if more must be done, then the Exposure draft should:
- Explicitly incorporate the polluter-pays principle.
- Remove investigation level schedules from the regulations; and
- Reference national environmental guidelines and their objectives and outcomes, as amended from time to time.

This preserves environmental protection while maintaining operational certainty and avoiding unintended consequences for investment, development, and supply-chain performance.

However, the preference of ALC and its members would be that any new proposals over and beyond those contained in the existing 1997 regulations should be contained in a fresh consultation draft, supported by an impact analysis prepared in a manner consistent with the *Australian Government Guide to Policy Impact Analysis*.

8. Conclusion

ALC supports modern, effective environmental regulation at Australia’s airports. However, the Exposure Draft of the Airports (Environment Protection) Regulations 2026, in its current form, would introduce significant legal, financial, operational, and supply-chain risks without proportionate environmental benefit.

ALC urges the Department to adopt a staged approach, addressing immediate administrative needs now and progressing substantive reform through the Aviation White Paper review. ALC welcomes continued engagement to develop a robust, risk-based regulatory framework that protects the environment while enabling safe, efficient, productive, and resilient supply chains.