

DAG and LRC posed to challenge Cape Town airport expansion

The LRC and our client, the Development Action Group (DAG), are posed to challenge the Cape Town airport expansion project, due to potential violations of constitutional rights of vulnerable communities.

The airport expansion will increase noise levels and reduce air quality, neglecting the interests of communities near the airport, and not taking into consideration the shortage of housing in Cape Town.

On behalf of the DAG, the Legal Resources Centre has made submissions (attached) challenging the draft Environmental Impact Assessment (EIA) for this project.

The current expansion project will include a re-alignment of the primary runway and replacement of the secondary runway, which will mean an increased capacity potential. According to EIA, this will result in an increase in frequency of flights and new flight paths.

In our submissions, we argue that the EIA strongly promotes the expansion project while overlooking constitutional violations.

If the runway is re-aligned and operating at maximum capacity, individual noise events will double; with individual noise events exceeding 70 dBA in communities below flight paths close to the runway*. An estimated 367 535 people will be affected by airport-related noise exceeding guideline levels for residential areas.

The Socio-Economic Impact Assessment (S-EIA) states that, due to the large number of people affected and because noise levels will negatively affect quality of life, the effects of aircraft noise will be a high intensity consequence.

The National Environment Management Act (NEMA) states that, "Environmental justice must be pursued so that adverse

environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.”

The EIA indicates that the majority of residential areas around the airport are vulnerable communities. High-density, low-cost housing settlements and townships and overcrowded informal settlements are common, resulting in housing that is typically of poor quality, and the majority of people living in these areas can be considered socially, economically, and environmentally vulnerable.

The LRC are concerned by statements made in the S-EIA and EIA that further marginalise the communities, in violation of NEMA.

The S-EIA report uses the already vulnerable state of persons as a means to mitigate and excuse the consequences of the runway re-alignment project, stating that those living near the airport will likely not experience extreme consequences of the heightened noise levels because they have already “adapted” to a vulnerable environment.

The EIA also states that, “[l]ow income communities (formal and informal) often have more pressing problems to deal with than aircraft noise. It is possible that despite the annoyance they may tolerate a noisy home/environment.” These comments are irrelevant, unreasonable, and deeply troubling.

Moreover, the S-EIA does not give adequate consideration to the current South African housing crisis, although it states that the airport expansion will affect potential housing programmes, including a planned densification development in two Integration Zones along the main metropolitan railway lines. Within the areas that will be affected by increased noise levels, there are eight proposed government housing projects. Furthermore, the EIA states that the current proposed mitigation measures will not significantly reduce the project’s impact, and that, “the overall number of people affected is expected to remain large.”

With the increase in noise and air pollution, the current airport expansion violates the right to a healthy environment, guaranteed by the Constitution, while simultaneously overlooking the special protections in NEMA for vulnerable communities.

* Overall, the noise levels are projected to exceed the acceptable guidelines of dBA levels, which are set at 55 dBA for urban districts, 60 dBA for urban districts with business and main roads, 65 dBA for central business districts, and 70 dBA for industrial districts.