Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime

Submission to the Parliamentary Joint Committee on the Australian Crime Commission

Sydney Airport Corporation Limited

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Contents

Background

Terms of Reference

The Parliamentary Joint Committee on the Australian Crime Commission's (PJCACC's) terms of reference require it to examine the effectiveness of current administrative and law enforcement arrangements to protect Australia's borders from serious and organised criminal activity. In particular the committee will examine:

(a)   the methods used by serious and organised criminal groups to infiltrate Australia's airports and ports, and the extent of infiltration;

(b)   the range of criminal activity currently occurring at Australia's airports and ports, including but not limited to:

- the importation of illicit drugs, firearms, and prohibited items
- tariff avoidance
- people trafficking and people smuggling
- money laundering
- air cargo and maritime cargo theft;

(c)   the effectiveness of the Aviation Security Identification Card (ASIC) and Maritime Security Identification Card (MSIC) schemes; including the process of issuing ASICs and MSICs, the monitoring of cards issued and the storage of, and sharing of, ASIC and MSIC information between appropriate law enforcement agencies;

(d)   the current administrative and law enforcement arrangements and information and intelligence sharing measures to manage the risk of serious and organised criminal activity at Australia's airports and ports; and

(e)   the findings of the Australian Crime Commission's special intelligence operations into *Crime in the Transport Sector* and *Illegal Maritime Importation and Movement Methodologies*.

This submission will focus on issues raised in paragraphs (c) and (d).

Sydney Airport Corporation Limited's roles and responsibilities

Under the *Airports Act 1996*, Sydney Airport Corporation Limited (SACL) is the airport-lessee company for Sydney Airport. SACL's roles and responsibilities at Sydney Airport are to:

- manage Sydney Airport operations as a whole, and ensure the effective delivery and coordination of airport-related services and facilities. SACL operates the International Terminal (T1) and the Multi-user Domestic Terminal (T2) as well as the associated gates, departure and holding lounges, aerobridges, car parks, baggage handling and other passenger facilities. The Qantas Domestic Terminal (T3) at Sydney Airport is operated by Qantas.

- provide and maintain all necessary on-airfield infrastructure such as runways, taxiways, aprons, aircraft parking bays, airside lighting, airfield visual aids and ensure Sydney Airport complies with all necessary aviation safety standards.

- manage certain aviation security arrangements, including passenger and checked baggage screening, security patrols and surveillance, physical security and electronic access control systems, and security quality control and coordination. SACL is also one of the authorised issuing authorities for Aviation Security Identification Cards at Sydney Airport (other issuing authorities include Qantas, CASA, Airservices Australia, Virgin Blue and the Australian Customs and Border Protection Service).

- manage road traffic within the international and domestic terminal precincts in close cooperation with surrounding roads (which are managed by the RTA).

- provide on-airport car parking.

- coordinate initial response to airport incidents and emergencies.

Aviation activity at Sydney Airport

Sydney Airport is Australia's major gateway to the world. Servicing 44 airlines and with 45% of all Australia's international airline passengers arriving in Sydney, it is also our nation's busiest airport. In 2008, Sydney Airport saw 32.9 million passengers pass through its terminals, accommodated just under 299,000 aircraft movements and handled 647,000 tonnes of air freight.

Sydney Airport is busier than any train station in Sydney and handles more passengers than Central, Town Hall or Wynyard stations. Last year, the daily average usage was just over 90,000 passengers – ahead of Central with 84,000, Town Hall with 79,000 and Wynyard with 57,000 passengers. In addition, there are 12,000 people who work at the airport on any given day and approximately 30,000 people who meet, greet or farewell passengers. This means that just over 132,000 people use Sydney Airport daily.

Further, and as outlined in the approved Sydney Airport Master Plan 2009, this level of aviation activity is forecast to grow over the next 20 years. Specifically:

- passengers are forecast to grow by 4.2% per year to 78.9 million in 2029;
- aircraft movements are forecast to grow by 2% per year to 427,400 in 2029; and
- air freight is forecast to increase by 3.8% per year to 1,077,000 tonnes in 2029.[1]

The growth in airline passenger numbers will also result in increasing numbers of meeters, greeters and farewellers passing through Sydney Airport's three terminals. The workforce at Sydney Airport will also increase as passenger numbers grow.

The economic significance of Sydney Airport

The significant and growing level of aviation activity at Sydney Airport underpins the airport's role as an employer and economic driver of state and national importance. Sydney Airport today makes a direct contribution of $8 billion to NSW Gross State Product. With flow–on impacts taken into account, the airport's economic contribution increases to $16.5 billion and is forecast to rise to more than $27 billion by 2015/16. This is equivalent to 6% of the NSW economy and 2% of the Australian economy. Around $7.4 billion is also contributed directly to household incomes every year – that is, more than $142 million is injected into family budgets each and every week.[2]

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[1] *Sydney Airport Master Plan 2009*, Chapter 5.
[2] URS Australia Pty. Ltd., *The Economic Impact of Growth at Sydney Airport*, 2008.

This substantial economic contribution translates into well paid jobs. It is estimated that Sydney Airport provides or generates more than 75,000 jobs directly and about 131,000 jobs indirectly, making a total of around 206,000 jobs. This year alone, it is estimated that these jobs will deliver around $286 million in payroll tax revenue to the NSW Government, or more than $1.2 billion over the next four years and considerably more over the 20 year planning period for the recently approved Master Plan 2009. As a result of this forecast growth in the airport's economic contribution, the total number of jobs provided or generated by Sydney Airport is expected to rise to more than 338,000 by 2015/16.

Previous inquiries and reviews

Sydney Airport notes that a number of the issues raised in the PJCACC's terms of reference have been examined by various Parliamentary Committees and others in recent years. These include:

- Joint Committee of Public Accounts and Audit, *Report 400: Review of Aviation Security in Australia*, (June 2004).

- *An Independent Review of Airport Security and Policing for the Government of Australia* (the Wheeler Review), (September 2005).

- Joint Committee of Public Accounts and Audit, *Report 406: Inquiry into developments in aviation security since its June 2004 Report 400: Review of Aviation Security in Australia – An Interim Report*, (November 2005).

- Joint Committee of Public Accounts and Audit, *Report 409: Inquiry into developments in aviation security since its June 2004 Report 400: Review of Aviation Security in Australia*, (December 2006).

Recommendations made by these Parliamentary and other inquiries, the responses made by governments to them, and the coordinated effort of all involved in the aviation industry have resulted in considerable improvements over recent years. It is Sydney Airport's view that the current security system has been effective in maintaining appropriate levels of security at Australia's major airports and in the aviation industry more generally.

Sydney Airport notes that the Australian Government is also currently developing an Aviation White Paper to guide the aviation industry's development over the next decade and beyond. The Government's aim is to give industry the certainty and incentive to plan and invest for the long term, to maintain and improve our excellent aviation safety record, and to give clear commitments to travellers and airport users, and the communities affected by aviation activity. To date, the Government has released a Green Paper[3] which, in part, addressed aviation security issues including the aviation threat and security risk context, the current policy framework and challenges faced, the protection of aviation infrastructure and aircraft and suggestions for the way forward. The Government has indicated its intention to release the White Paper before the end of 2009. SACL notes, however, that in advance of the White Paper being released, the Government has already moved to improve certain aspects of aviation security. [4]

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[3] National Aviation Policy Green Paper *Flight Path to the Future*, Australian Government (December 2008).
[4] For example, the *Aviation Transport Security Amendment (2009 Measures No.2) Bill 2009*
(introduced to Parliament on 29 October 2009) will improve security in the air cargo supply chain.

Sydney Airport's commitment to aviation security

The regulatory framework for aviation security in Australia is founded on the principles, standards and recommended practices contained in Annex 17 to the *Convention on International Civil Aviation (the Chicago Convention).* Titled "Security - Safeguarding International Civil Aviation against Acts of Unlawful Interference", Annex 17 contains the minimum requirements intended to counter the specific threat of attack on civil aviation aircraft and civil aviation installations (including airports).

In this regard, Annex 17 describes the principles and outcomes required of the aviation security system, leaving the manner in which they are implemented to the individual States (countries as signatories to the Convention) and those responsible for operational practices. In this way, the principles of Annex 17 acknowledge the unique traffic mix, threat levels and the particular arrangements within a State for law enforcement and counter-terrorism.

It is relevant, therefore, to outline the basis under which aviation security regulation in Australia has been developed by the Department of Infrastructure, Transport, Regional Development and Local Government through its Office of Transport Security (OTS). Australia's *Aviation Transport Security Act 2004* (ATSA) and *Aviation Transport Security Regulations 2005* (ATSRs) – which are based on Annex 17 – define unlawful interference with aviation as follows:

(1)   Any of the following done, or attempted to be done, without lawful authority is an unlawful interference with aviation:

    (a)   taking control of an aircraft by force, or threat of force, or any other form of intimidation or by any trick or false pretence;

    (b)   destroying an aircraft that is in service;

    (c)   causing damage to an aircraft that is in service that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;

    (d)   doing anything on board an aircraft that is in service that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;

    (e)   placing, or causing to be placed, on board an aircraft that is in service anything that puts the safety of the aircraft, or any person on board or outside the aircraft, at risk;

    (f)   putting the safety of aircraft at risk by interfering with, damaging or destroying air navigation facilities;

    (g)   putting the safety of an aircraft at risk by communicating false or misleading information;

    (h)   committing an act at an airport, or causing any interference or damage, that puts the safe operation of the airport, or the safety of any person at the airport, at risk.[5]

Noting the PJCACC's terms of reference, it is important to distinguish between the need to protect against unlawful interference with aviation (as defined above in the ATSA and in Annex 17) and the need to protect against other forms of criminal activity (which may

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[5] see ATSA, section 10.

constitute either serious and organised criminal activity or a less serious forms such as opportunistic criminal activity). In the first instance relating to unlawful interference, the required security responses are generally counter-terrorism related and, as such, are part of government's core national security responsibility. In the second instance relating to crime, the required responses are more appropriately part of government's core community policing responsibilities. In terms of its roles and responsibilities, it is important to note that SACL is an airport operator. It is not a police force, an intelligence agency, a counter-terrorism agency nor a combat agency. Those roles are quite properly left for the appropriate agencies established and sanctioned by the Australian or State and Territory governments.

It is understood that the boundary between the two forms of criminal activity referred to above is not always readily apparent. In some instances, of course, they can overlap. This was recognised by Sir John Wheeler who said, in his September 2005 review of airport security and policing, that:

> ""[t]errorism and crime are distinct, but potentially overlap. … [t]he public has an exceptional sensitivity to aviation and airport security and a concern that criminality may lead to vulnerabilities that could be exploited by terrorists."[6]

He further observed that:

> "[b]ecause airports attract such crowds of people, because of the high value of goods available at and filtering through airports, and because they are such conspicuous symbols of our technologies and societies, airports are obvious targets both for those who wish to attack us and for those bent on illegal personal gain."[7]

Following its release, Sydney Airport supported (and continues to support) the Wheeler Review's recommendations. Importantly, since its release, a great deal has been done to improve security at all major Australian airports by the security, border protection and policing agencies of government, airports, airlines and other key aviation industry stakeholders.

Demonstrating its commitment to implementing a robust and compliant airport security program, SACL has coordinated the efforts of participants in aviation security as described in the airport's Transport Security Program (TSP) which is required by legislation and has been approved by the Government. The TSP for Sydney Airport details the agreed roles and responsibilities of SACL (as the airport lessee company), relevant Australian Government agencies (the Australian Customs and Border Protection Service, Australian Federal Police and the Department of Immigration and Citizenship), relevant NSW Government agencies (NSW Police Force), as well as airport tenants, airlines, ground handling companies, suppliers and other airport users. The airport's TSP has a primary function of explaining how the aviation security measures that are required by Government legislation are applied by SACL and the coordinating procedures that have been agreed by the various participants for their implementation.

Sydney Airport actively supports the need to ensure that Australia's aviation security framework is effective, risk-based and responsive to changes in the current threat environment. Sydney Airport is committed to providing security infrastructure and using resources, systems and procedures to achieve this.

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[6] An Independent Review of Airport Security and Policing for the Government of Australia (Wheeler Review), (September 2005), page ix.
[7] Wheeler Review, (September 2005), par 5, page 6

SACL takes its aviation security compliance obligations very seriously. It has a dedicated airport security structure led by a respected aviation security professional who is supported by senior managers responsible for:

- aviation security regulatory policy, standards and quality assurance;
- aviation security identification card system and access control (discussed in more detail below);
- security technology, infrastructure and systems;
- security operations and risk management;
- security service contract performance and the 24 hour 7 day a week security control centre and staff; and
- aviation passenger screening and 100% checked bag screening operations.

In addition to these dedicated SACL employees, many of the security functions are performed by specialist service providers under contract and supervision of SACL's management. The services provided by contractors include airport perimeter surveillance, continuous patrols, passenger screening in T1 and T2 and access control through staffed gates. As noted elsewhere in this submission, T3 is managed by Qantas, not SACL.

Additionally, SACL employs a 24 hour security operations coordinator to oversight security compliance. There are sound consultation processes and coordination arrangements at Sydney Airport with all relevant aviation security stakeholders. SACL undertakes a program of continuous assessment of facilities and security measures, and in addition to regular government compliance monitoring, has an internal self-assessment regime to ensure the standard of security measures applied at the airport is maintained.

SACL commits a significant level of investment and operating expenditure each year to security related functions. Indeed, since 2001, spending on security has increased significantly. Prior to the September 11 terrorist attacks on the United States, annual operating expenditure on security was $16.7 million. This year (2009) SACL will spend $56.6 million, an increase of some 240 per cent in just eight years. This does not include capital expenditure relating to security which, over the same period of time, has also been considerable.

Recently introduced security measures at Sydney Airport

Australian Government mandated security screening procedures to restrict the carriage of liquids, aerosols and gels onto international flights commenced on 31 March 2007. This new security measure required Sydney Airport to provide additional passenger screening infrastructure as well as contracting and training 100 new passenger screening staff at T1.

A further security initiative was the commencement of 100 per cent checked bag screening for all flights from T2. This involved the design and construction of a $37 million system capable of screening 3,600 bags per hour and involved training an additional 45 staff. Sydney Airport was able to commence 100 per cent screening ahead of the Government mandated target date of 1 August 2007. Following an investment of around $53 million, T1 has been operating with 100 per cent checked bag screening since 31 December 2004.

Sydney Airport also continues to work cooperatively with the Australian Federal Police on the continued implementation of the unified policing model for the airport. This was a key recommendation of the Wheeler Review.[8] This government initiative – which SACL continues to support – involves an Airport Police Commander, intelligence and investigative units, a

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[8] Wheeler Review, recommendation 6.

counter-terrorism first response capability along with specialist airport community policing. This issue is discussed in more detail below.

A major airport security service contract was competitively tendered and awarded in December 2006 for the provision of various aviation security functions including passenger and checked bag screening at T1 and T2, airport perimeter vehicle patrols, access control, guarding and security surveillance monitoring. The contract was designed to provide enhancements to pre-existing airport security outcomes through improvements in the management and supervisory structure, staff training and competencies along with a strong performance management regime.

New airside access procedures (for non-passengers/staff) that require the inspection of people, goods including personal bags and vehicles to prevent the carriage of weapons (including explosives) into the designated 'enhanced inspection area'[9] were mandated by the Australian Government and commenced on 9 July 2009. This new security measure formalised a security practise that had been in operation at Sydney Airport since 2006 and required SACL to provide additional security infrastructure as well as contract and appropriately train additional security guards. These measures provide an added layer of preventative security to the principles of the Aviation Security identification Card (ASIC) scheme, which establishes a fit and proper person to gain airside access. This added level of access checking mitigates around the so-called 'trusted insider' who may use that position to undertake an act of unlawful interference with aviation.

As discussed in more detail below, an improvement to the background checking arrangements for ASICs was made in 2007 with the introduction of a centralised Government background checking unit within AusCheck.

Aviation Security Identification Card Scheme

In accordance with paragraph (c) of its terms of reference, the PJCACC will examine the effectiveness of the Aviation Security Identification Card (ASIC) and Maritime Security Identification Card (MSIC) schemes including the process of issuing ASICs and MSICs, the monitoring of cards issued and the storage of, and sharing of, ASIC and MSIC information between appropriate law enforcement agencies. This submission will address only ASIC-related issues.

The ASIC system is a fundamental principle of aviation security that establishes a background checking regime which is strictly managed within Australian aviation. The ASIC, which is intended to identify airport employees and distinguish them from members of the public, is necessary for a person (who is not an airline passenger) to be able to lawfully access various 'controlled' airport areas. In addition, as applicants for ASICs are screened by the various background checking partners referred to below, the issuing of an ASIC implies that the applicant has satisfied the eligibility requirements and is a suitable applicant to hold a level of trust associated with the responsibilities of the card holder. The scheme is underpinned by the need for background checking of employees and airport workers with the provision of legally enforceable restrictions which prevent people who present a threat to aviation from obtaining an ASIC.

As a designated security controlled airport, SACL is authorised by the Australian Government under the ATSA to issue ASICs and does so in accordance with that Act and its Regulations. SACL reported to OTS for 2008-09 that is had on issue for a two year period 10,032 ASICs, of which 5,793 were issued during 2008-09.

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[9] An enhanced inspection area is a type of airside security zone prescribed under regulation 3.01 of the ASTRs.

SACL believes that the current ASIC scheme has been effective in achieving its objects and in maintaining appropriate levels of security at Australia's major airports and in the aviation industry more generally. The suggestions and recommendations for improvement contained in this submission are made having regard to SACL's experience with the ASIC scheme since it was first introduced.

It is important to note that SACL will only issue an ASIC to a person who has been the subject of an approved background check undertaken by the Australian Government's AusCheck[10]. Under the existing law, the background checking partner process includes:

- a criminal records check undertaken by the Australian Federal Police (AFP), which is used to determine if an applicant has an adverse criminal record (as defined below);

- a security assessment undertaken by the Australian Security Intelligence Organisation (ASIO); and if relevant;

- an unlawful non-citizen check conducted by the Department of Immigration and Citizenship (DIAC).

As an ASIC issuing authority, SACL requires applicants to complete an application form and provide evidence of identification and of the person's operational need to access secure areas of the airport, according to existing Regulations. The details of the applicant are then provided to AusCheck for assessment by the various background checking partners. The results of criminal history checks are assessed by AusCheck against prescribed aviation security-relevant offences (see below). In determining whether or not a person is eligible for an ASIC or not, AusCheck needs to determine if a person has no adverse criminal record, a qualified criminal record or an adverse criminal record, each of which are defined in legislation (see below). The additional security assessment by ASIO is based on intelligence holdings and is either "not adverse", "qualified" or "adverse". The check by DIAC determines the citizenship status that is used by the issuing body. SACL is advised by AusCheck that either a person can be issued with an ASIC for a 2 year period, that the person can only be issued with an ASIC for a 1 year period or that the person cannot be issued with an ASIC at all. Based on this advice, SACL will then advise the applicant of the status of their application and complete the necessary next steps.

Legislation defines that a person has an "adverse criminal record" if the person:

- has been convicted of an aviation-security-relevant offence (as defined below) and sentenced to imprisonment; or

- in the case of a person who has been convicted twice or more of aviation-security-relevant offences, but no sentence of imprisonment was imposed — received one

- of those convictions within the 12 months ending on the date when the relevant background check was conducted.

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[10] see *AusCheck Act 2007* and *AusCheck Regulations 2007*.

Similarly a person has a "qualified criminal record" if the person:

- has been convicted twice or more of aviation-security relevant offences; and

- did not receive a sentence of imprisonment for any of the those convictions; and

- did not receive any of those convictions within the 12 months ending on the date when the relevant background check was conducted.

The "relevant aviation-security-relevant offences" have been codified and are as follows:

- an offence involving dishonesty.

- an offence involving violence or a threat of violence.

- an offence involving intentional damage to property or a threat of damage to property.

- an offence constituted by the production, possession, supply, import or export of a substance that is:
  (a) a narcotic substance within the meaning of the *Customs Act 1901*; or
  (b) a drug, within the meaning of:

    (i) regulation 10 of the *Customs (Prohibited Exports) Regulations 1958*; or
    (ii) regulation 5 of the *Customs (Prohibited Imports) Regulations 1956.*

- an offence, of a kind dealt with in Part II of the *Crimes Act 1914*, against the Government of:
  (a) the Commonwealth or a State or Territory; or
  (b) a country or part of a country other than Australia.

- an offence against Part 2 of the *Crimes (Aviation) Act 1991.*

- an offence against Part 5.3 of the *Criminal Code.*

- an offence constituted by the production, possession, supply, import or export of explosives or explosive devices.

Where an applicant for an ASIC has at any time in the past 10 years resided outside Australia for a period of six months or more, SACL also requires that person to obtain and provide with their application a criminal history certificate from that country, without which an ASIC will not be issued. This requirement is in addition to the Government's existing regulatory requirements. As this additional requirement is only mandated by SACL as an issuing authority, SACL recommends that the Government consider changing the law relating to the ASIC scheme to formally establish a requirement for overseas background clearances.

While perhaps complex to implement, SACL believes there may also be merit in considering a change to the existing ASIC scheme to embody the principles of legislated exclusionary offences, with an objective "fit and proper person" assessment being undertaken using available information from intelligence holdings and overseas checks, as appropriate. This would be similar to the existing national security clearance processes.

Of course, just because a person has not been convicted of one of the abovementioned criminal offences does not guarantee that the person will not engage in future conduct that has the potential to pose a risk to aviation security. For example, it may be that a person has engaged in certain criminal conduct, associations or other matters that, while not prosecuted through the courts, would nevertheless lead a security agency to form a reasonable opinion that the person poses a potential risk to aviation security and is therefore *not* a 'fit and proper person' to hold an ASIC. Details of such conduct relevant to a particular person could form part of a criminal intelligence report or database. SACL believes therefore, that as part of the background checking process, AusCheck or some other appropriate agency, should be able to access and have regard to any relevant intelligence information concerning the applicant for the ASIC. Precedents exist for such an approach. For example:

- the holder of a firearms licence in NSW must have satisfied the Commissioner for Police that s/he is a 'fit and proper person'. The Commissioner is permitted to have regard to any criminal intelligence report held in relation to that person[11]; and

- the holder of a security industry licence must have satisfied the Commissioner for Police that s/he is a 'fit and proper person'. The Commissioner is permitted to have regard to any criminal intelligence report held in relation to that person.[12]

- a person authorised to drive a taxi-cab in NSW must be considered by the Director General to be of good repute and in all other respects a fit and proper person to be a driver of a taxi-cab.[13]

The Australian Government's April 2008 Aviation Issues Paper flagged that the ASIC scheme was to be reviewed.[14] As a member of the Aviation Security Advisory Forum, Sydney Airport has welcomed the consultative approach taken by the Australian Government while conducting this review. The subsequent December 2008 Aviation Green Paper states that the comprehensive review of the ASIC Scheme had been recently completed and that the Government would implement its recommendations.[15]

The Australian Government, through the Green Paper, has indicated that:

> *"[t]his review highlighted significant vulnerabilities in the robustness and timeliness of background and proof of identity checks, name-based criminal history checks, and the management of visitors in the secure zones of Australian airports.*[16]

The Green Paper further indicates that the review's recommendations include:

- increasing the frequency of criminal history checks, from a point in time every two years to annual checks;

- separating background checks and physical access control, with all aspects of the background checking process being centralised in government;

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[11] see sections 11(3)(a) and 11(5A) of the *Firearms Act 1996* (NSW).
[12] see sections 15(1)(a) and 15(6) of the *Security Industry Act 1997* (NSW)
[13] see section 33(3)(a) of the *Passenger Transport Act 1990* (NSW).
[14] *Towards a National Aviation Policy Statement*, Australian Government, April 2008, pages 29 and 30.
[15] Aviation Green Paper, page 27
[16] Aviation Green Paper, page 92.

- phasing out use of the ASIC as evidence of a background check, with verification by the Australian Government's background checking agency, AusCheck, and access governed under new regulatory arrangements; and

- providing individuals with the option of applying for a one-, three-, or five-year qualification, instead of the current two-year ASIC validity period.

SACL considers that the implementation of these recommendations will improve the existing ASIC scheme.

Currently, the criminal check occurs only at a point in time, being every two years. This is inconsistent with the check by ASIO which is understood to be 'live and ongoing'. SACL believes that the operation of the criminal history checks should be consistent with the ASIO scheme so that a person who holds an ASIC has their background continuously checked. It is, however, understood that the criminal history databases and processes now operating in Australia would not allow continuous checking to be carried out. Until this can occur, SACL believes that, to improve the existing scheme, and as highlighted in the Green Paper, there should at least be an *annual* point in time check. Such a move should not be excessively costly to either the individual or to the aviation industry as it would be covered by a one-off fee when a person applies for the ASIC.

SACL also believes that there should be a clear policy separation between the background checking and subsequent clearances that are needed for a person to obtain an ASIC and the requirement for that person to be able to access a particular secure part of the airport. The current ASIC scheme (in terms of legislation and practise) appears to combine a background check identification card with aspects that are more related to access control. That is, while the policy intent of the current scheme relates more to the ASIC being viewed as an 'identity card', it is actually achieving elements of access control through colour coding, site identification and the application of electronic controls. In other words, the current ASIC scheme is attempting to achieve two outcomes and therefore has the potential to cause confusion.

The proliferation of approved issuing authorities under the current scheme allows any issuing authority to issue an ASIC to anyone for use at any particular airport (so for example, Merimbula Airport could issue an ASIC for Sydney Airport). That is, by issuing an ASIC, one airport is able to grant access to another airport without an operational need for that access having been first identified or validated.

The current practise of ASICs being issued by multiple issuing authorities and the concept that a person can only hold one ASIC – which, SACL notes, changed previous practise – has resulted in Sydney Airport needing to issue many more 'access cards'. These access cards are the practical means by which SACL ensures that an ASIC holder at Sydney Airport is able to gain electronic access to certain parts of the airport. To maximise aviation security, it is considered desirable that such access cards should be properly legislated for in terms of codifying clear rules for their issue and establishing subsequent compliance controls.

A revised approach that could be considered would be to refocus the system around matters concerning access control (which is essentially what has the potential to pose a risk to aviation). Under such a refocussed scheme, the prerequisite background checking obligations for an airport employee wishing to be provided with an access card for operational need would change. Such a new scheme would first involve obtaining a suitable background clearance prior to obtaining what (for the purposes of this submission) could be called a 'security access control card'. It would be this card which would then allow that employee controlled access to various appropriate parts of the airport. This has specific advantages over the current scheme as set out later in this paper.

It is, however, difficult to determine the best identity and access scheme options going forward, without first deciding on the framework and need for (or otherwise) the separation of the:

- *Aviation Security Identity Card* (ASIC) – non-displayed proof of background clearance requirements and authority to issue access privileges; from the

- *Security Access Control Card* (SACC) – displayed, colour-coded card that provides access privileges to airport secure areas, issued only to ASIC holders.

If the separation of identity and access control arrangements (such as in the manner described above) does not occur, then appropriate changes to the existing single card ASIC scheme will need to be considered.

With respect to Visitor Identification Cards (VICs), which are also sometimes called visitor passes, the Joint Committee on Public Accounts and Audit has previously recommended that the Department of Infrastructure, Transport, Regional Development and Local Government (DITRDLG):

- require VICs to carry photographic identification of the cardholder; and

- tighten the conditions under which the VICs are issued to ensure they are provided for genuinely temporary purposes.[17]

On 21 October 2008, the Government responded to this recommendation giving it qualified support. The DITRDLG agreed that the provisions regulating how VICs are issued should be tightened indicating that this would be considered as part of the abovementioned review of the ASIC scheme.

SACL asks the PJCACC to recognise that there are a host of scenarios where VICs are required and that there needs to be some degree of flexibility maintained where a genuine reason exists for a VIC to be issued. These include:

- while waiting for an ASIC to be issued, after submitting the application to AusCheck;

- urgent deliveries or repairs affecting any one of the 1,200 companies on the airport;

- short term construction work;

- authorised overseas visitors to an airline, airport or other airport tenant;

- senior management of a company operating on the airport for inspection, audit or familiarisation; or

- while waiting for a replacement ASIC to be issued (if the previous ASIC had been lost, stolen or destroyed).

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[17] Joint Committee of Public Accounts and Audit, Report 409: Inquiry into developments in aviation security since its June 2004 Report 400: Review of Aviation Security in Australia, (December 2006), recommendation 9.

Introducing the new background checking scheme set our earlier in this submission would allow persons to undertake background clearance checks prior to that person needing to demonstrate an operational need to access a particular part of an airport may in itself help to improve the existing VIC system. Further, with the improved turn-around times for ASIC background checks and, assuming companies are able to better anticipate an operational need for one or more of their employees to access a secure part of an airport, the background check could be undertaken as part of either contract tender works or pre-employment requirements For instance, as well as needing to hold a drivers licence and a first aid certificate, a person could also be required to hold an Aviation Security Identity Card of the type described above. This would likely result in a significant reduction in the use of visitor passes.

Other suggestions to enhance the current VIC scheme include:

- having a photograph of the visitor on the card in most, but (for reasons explained above) not all circumstances. [This issue is also discussed below];

- limiting the number of VICs that can be issued to an individual in an agreed period (i.e. a certain number per year/month). SACL currently will only issue an individual up to 10 visitor passes in a given calendar month;

- requiring not only supervision of the VIC holder, but sponsorship to obtain the VIC (which would require appropriate sponsorship criteria to be determined);

- requiring the sponsor to also be the person who supervises the VIC holder. There may be some operational complications to this proposal but there needs to be ownership of the supervision;

- while photo identification is required for issuance of a VIC (such as a drivers licence or passport), specifying what is appropriate proof of identification in the regulations;

- applying better control mechanisms to require that a VIC be used only by the person it was issued to. The return of VICs as a control measure is needed if the VIC card type is not of a 'self expiring design'. Any VIC that is not self expiring should be returned to the issuing authority. VICs that have a hand written expiry date are hard to enforce, easily changed and can be shared unless there is a photo of the person; and

- considering a scheme that includes a 'one day' VIC and an 'extended period' VIC, noting that use of the latter type would need to be limited and would be subject to tighter supervision requirements than the former type.

The current regulatory requirements prohibit a VIC from being knowingly issued to a person who has been previously refused an ASIC. This requirement can be difficult to comply with given the number of issuing bodies and the lack of knowledge concerning the outcome of the many ASIC applications made to airports around Australia. SACL recommends that consideration be given to a better way of ensuring information is shared concerning persons who have been previously refused an ASIC (having regard to privacy-related issues).

SACL believes that, while the requirement to have a photo on a VIC would assist in eliminating the risk of unauthorised persons using a visitor card that had not been issued to them, such a change, if agreed, would require most issuing authorities to change or enhance their current systems at a cost. If implemented, airport operators would also need to have the ability to issue a VIC without a photo should an airport photo system fail and operational requirements nevertheless require a VIC to be issued.

SACL notes that a Standing Working Group on Identity chaired by the OTS and comprising members of the aviation industry has been established. SACL recommends that this working group continue to meet to consider viable improvements to the existing VIC scheme, such as those issues identified in this submission.

In relation to the cost of implementing the existing ASIC scheme, SACL notes that while costs vary between issuing authorities, they are generally around $200 for 2 years. The introduction of any of the abovementioned changes should *not* increase the cost to aviation industry participants. The background checking and access scheme needs to be cost efficient and funding should potentially be provided by Government, having regard to the national security and crime management issues involved.

Managing the risk of serious and organised criminal activity at Australia's airports

In accordance with paragraph (d) of its terms of reference, the PJCACC will examine the current administrative and law enforcement arrangements and information and intelligence sharing measures to manage the risk of serious and organised criminal activity at Australia's airports and ports.

Constitutionally, the Australian, State and Territory Governments are responsible for law enforcement and for crime management within their respective jurisdictions. This includes law enforcement and crime management at airports. Airports are typically only made aware of law enforcement activity, intelligence or operations when law enforcement agencies suspect response requirements or operations may impact on airport and terminal business activities and users.

In September 2005, the Wheeler Review recommended the establishment of a unified policing model at each of the 11 counter terrorism first response airports (now referred to as major airports), including Sydney Airport.[18] Following consideration of the Wheeler Review recommendations and the Australian Government's decision to support the thrust of its recommendations, the Council of Australian Governments (COAG) strongly supported the need for a single command structure at Australia's airports[19] and agreed to provide police officers to perform a uniformed police role at major Australian airports. To date, implementation of the unified policing model has included:

- the appointment of Airport Police Commanders;
- the presence of Airport Uniform Police – Community Policing
  - provision of a general policing function
  - patrols of landside areas
  - crime prevention patrolling;
- Counter Terrorism First Response;
- Joint Airport Investigation Teams;
- Joint Airport Intelligence Group; and
- Police Aviation Liaison Officers.

Airport uniform police retain their respective State or Territory police powers, in addition to being sworn in as special members of the Australian Federal Police (AFP). This allows them to operate under the relevant State, Territory or Commonwealth legislation as required.

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[18] Wheeler Review, recommendation VI, page xvii.
[19] Council of Australian Government's Special Meeting on Counter-Terrorism, Communiqué, 27 September 2005.

The AFP at Sydney Airport is therefore the primary law enforcement agency at Sydney Airport. Commanded by the Airport Police Commander (APC), it delivers the unified policing presence to provide the delivery of appropriate services at the airport to ensure public reassurance, prevention of incidents, the proactive and reactive investigation of crimes and offences, keeping the peace as we as deterring and responding to terrorism.

While continuing to strongly support the unified policing model, SACL believes that its implementation could be improved. Sydney Airport's submission to the Australian Government's Aviation Green Paper[20] included the following suggestion, which SACL continues to support:

> *The AFP's role at major airports has proven to be operationally vital in enhancing the deterrence, detection and prevention of acts of unlawful interference [with aviation]. The AFP's presence at Sydney should be coordinated by a single operational body to avoid the confusion that exists with overlapping jurisdictions with State Police Services. The AFP and NSW Police still operate as separate commands and there remains room for improvement to a more holistic approach. Examples of this command separation have been evidenced where the Police jurisdictions have debated, without conclusion, their respective roles and responsibilities in response to events such as emergency and some crime management activities. Airport traffic management is also an area of overlapping responsibility. The continuation of the partnership approach with the aviation industry is critical to aligning policing with aviation operations and business outcomes.[21]*

The Wheeler Review also recommended the creation of an Airport Security Committee (ASC) at each major airport, to be a focused and strategic group, chaired by the CEO of the Airport operator or the CEO's high level representative.[22] Its members, including the Airport Police Commander, are to be security cleared representatives of relevant government agencies and major operators with security interests at the airport. It was recommended that its tasks include identifying security threats and risks and initiating action to address them and to monitor their implementation. While the ASC at Sydney Airport has been in operation since 2006, SACL believes that the level of intelligence sharing on risks posed by criminal activity at the airport could be improved. This could be achieved by the issuing of a national guideline to Airport Police Commanders about intelligence sharing at these committees.

SACL emphasises that there are clear roles for the AFP and the various State police forces concerning on-airport crime management. The community policing role is distinct from the role of an airport operator (which has some responsibility for implementing measures to deter unlawful interference with aviation). There needs to be a clear separation of legislative obligations and the resulting costs for the carrying out of each activity. It would be inappropriate to require the aviation industry (and through it airline passengers) to bear the costs of crime management and proactive community policing on airports. This was clearly recognised in the Wheeler Review, in which it was recommended that the Australian Government provide ring-fenced funding for all policing functions at major airports, which includes the counter-terrorism first response function and the general police presence.[23] SACL believes that this important funding principle, which was accepted by the Australian Government and COAG at the time, should continue to be supported by government.

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[20] National Aviation Policy Green Paper *Flight Path to the Future*, Australian Government (December 2008).
[21] Sydney Airport submission to Aviation Green Paper, page 25. The submission can be found at http://www.infrastructure.gov.au/aviation/nap/submissions.aspx
[22] see Wheeler Review, page xviii
[23] see Wheeler Review, page xviii