



Premier of Victoria

Submission No. 71

JOINT COMMITTEE OF
24 NOV 2003
PUBLIC ACCOUNTS & AUDIT

11 NOV 2003

1 Treasury Place
GPO Box 4912VV
Melbourne Victoria 3002
DX210755
Telephone: (03) 9651 5000
Facsimile: (03) 9651 5054
Email: premier@dpc.vic.gov.au
Internet: www.premier.vic.gov.au

RECEIVED
20 NOV 2003
ANSD.....

Our Ref:

Mr Bob Charles MP
Chairman
Joint Committee on Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

Dear Mr Charles

Bob,

JCPAA INQUIRY INTO AVIATION SECURITY IN AUSTRALIA

Thank you for your letter of 16 June 2003 regarding the intention of the Joint Committee on Public Accounts and Audit to conduct an inquiry into aviation security in Australia.

I am pleased to enclose a submission outlining Victoria's views on this issue and on the Commonwealth Government's proposed reform of Australia's aviation security arrangements.

I also understand that the Committee invited Victorian officials to appear at a hearing on aviation security on 21 October 2003. As you will be aware, Victorian officials did not participate in the hearing, but I would be pleased to respond to any queries the Committee may have regarding Victoria or Victoria's submission.

Yours sincerely

Steve Bracks
HON STEVE BRACKS MP
Premier of Victoria

Victorian Government

**Submission to the Commonwealth
Parliament Joint Committee of Public
Accounts and Audit**

Review of Aviation Security in Australia

October 2003

The Victorian Government notes that:

- While a person who was convicted of a minor crime during the period of the anti-Vietnam war rallies (for example) may not be disqualified from holding an ASIC, the criteria do not seem clear.
 - There may well be issues of natural justice and privacy, which may be triggered.
 - There is an appeal right to the Federal AAT against a decision to refuse an ASIC where some of these matters may need to be addressed.
- **Opportunities to enhance security measures presented by current and emerging technologies**

The Department of Transport and Regional Services recommends the extension of passenger screening at regional categorised ports to ensure that the deployment of passenger screening more accurately matches the emerging role of regional airlines (in tandem with Australia's major airlines) in carrying high volumes of jet airline passengers. The current technology and methods screen for metallic objects (eg x-ray equipment) and particular substances (eg sniffer dogs). Technologies are emerging that may allow screening that can locate an object in 3 dimensions – allowing the screener to look at layers of clothing. Such technologies could be somewhat intrusive into personal privacy of passengers. There may be significant cost implications for regional airports.

Conclusion

In conclusion, while Victoria recognises the absolute requirement for aviation security standards in Australia commensurate to both the increased level of threat to Australia and to international standards, the regime to implement these standards must be effective, sustainable and resourced. The imperative for security should not affect the viability of the services provided to Australian businesses and the community, and in particular the vital role aviation plays in supporting rural and regional communities. Victoria is concerned that the regime proposed in the Aviation Security Bill does not meet these criteria, and that the real costs (both direct and indirect) associated with implementing aviation security measures at regional airports have not been identified.

Particular concerns to be highlighted are:

- There is no clear understanding of State and national security risks posed by regional airports.
- The real costs (direct and indirect) associated with the implementation of aviation security measures at regional airports (categorised or non-categorised) have not been identified.
- The ability of those airports to fund or recover the costs of these measures requires further analysis and proper understanding across jurisdictions and the aviation industry.

Further deliberation, in consultation with key stakeholders including State and Local Governments and aviation owners and operators could result in a regime that ameliorates these concerns. The Australian Government should also consider the option of providing national guidelines to ensure a consistency of approach to assessing risk and providing best practice security preventative measures.

1. Introduction

Although Victoria does not currently play a major role in the regulation of aviation security, the Government recognises the importance of aviation security to the future of Australia's aviation industry. Appropriate levels of aviation security both nationally and globally are key aspects of Australia's efforts to prevent terrorism and protect its citizens and will be vital to the sustainability of the aviation industry and other industries supported by aviation. Victoria recognises the importance of Australia's aviation standards being appropriate to the level of threat faced by Australia and of complying with international standards and obligations. It is also important, however that any changes to the aviation security regime support the ongoing viability of the industry and minimise any negative impact on aviation services and regional communities.

Victoria welcomes the opportunity to provide views on the proposed reform of Australia's aviation security arrangements.

2. Background

Victoria has 80 airports, of which local councils own 32, and all are required to operate in compliance with Civil Aviation Regulations, Civil Aviation Authority standards and international conventions to which Australia is a party. Under the proposed Aviation Security Bill, two Victorian airports - Mildura and Melbourne - are categorised as 'security controlled'.

Historically Victoria has taken a non-interventionist approach to regional aviation markets, infrastructure and services, recognising the relatively small area of the State and low number of passenger air services and routes, as well as our well-developed land-based transport systems. Other states, by virtue of their larger area, geographic spread and greater need to support isolated communities are required to play a far greater role.

Current Security Environment

The Victorian Government recognises the priority that must be given to security arrangements, and has taken a proactive and responsive approach to the heightened focus on security in Australia following the New York and Bali terrorist attacks. Since these attacks, Victoria has played a leading role in the reform of Australia's national counter-terrorism arrangements and has dedicated over \$100 million in funding to improve Victoria's capacity to fulfil its role in the national security arrangements.

It is clear that appropriate levels of aviation security both nationally and globally is a key aspect of Australia's efforts to prevent terrorism and protect its citizens and is vital to the sustainability of the aviation industry and other industries supported by aviation. Victoria recognises the importance of Australia's aviation standards being appropriate to the level of threat faced by Australia and of complying with international standards and obligations.

While increased security measures are likely to have the most impact on regional airports, it is also clear that these airports are least likely to have security measures commensurate with the current level of threat, and may therefore be at greater risk of having security weaknesses exploited. There is also considerable impetus to assess security at smaller airports, which are not major passenger hubs, while smaller aircraft could not be used to cause damage on the scale of the 11 September attacks, there remains the risk that they may be used for other styles of attack, such as dispersal or delivery of chemical, biological or other agents. A security assessment of the risks posed by regional airports would assist in developing appropriate security measures and assist owners and operators understand the nature of the threat.

Victoria is working with the Commonwealth to implement new and consistent preventative security measures through the Joint Intermodal Transport Security Working Group Chaired by the Department of Transport and Regional Services (DOTARS). Victoria is also implementing a whole of Government approach to security and emergency management based on existing frameworks. This also involves close co-operation between Police, Emergency Services, Government Departments and private sector operators in developing an acceptable level of preparedness. To ensure the focus is maintained on security and emergency management in the transport and energy industries, the Department of Infrastructure (DOI) has established a Security & Emergency Management Unit within the Energy and Security Division.

Victoria is also in the process of preparing an aviation industry strategy to better understand the changing global influences on the industry and the contribution of aviation to achieving policy outcomes. To assist it in this task, the Victorian Government established a Victorian Aviation Strategy Committee under the chairmanship of the Parliamentary Secretary for State and Regional Development with representatives of airports (including local councils), airlines, peak aviation associations, training institutions, aerospace manufacturers and maintenance providers and the Department of Infrastructure and the Department of Innovation, Industry and Regional Development.

Changes to Aviation Regulation

Like other national governments, the Commonwealth is divesting itself of any direct interest in aviation infrastructure and services and becoming mainly a regulator focussing on clauses in the *Air Navigation Act*, the *Airports Act*, the proposed *Aviation Transport Security Bill* or any Aerodrome Local Ownership Program agreements with local Councils.

The development of international security standards for aviation transport facilities and operations will require co-ordination and management across all three levels of government. Implementation will necessarily incur costs across all levels of Government, the aviation and transportation industries and the broader community. There is a concern, however, that these new requirements represent a shifting of responsibility to meet Australia's international obligations from the Commonwealth to Local Government with significant cost imposts, particularly for regional communities.

Aviation Transport Security Bill 2003

The proposed Aviation Transport Security Bill currently before Federal Parliament proposes a broad framework for implementation of international security standards. Much of the detail will be developed and included in Regulations during the remainder of 2003, and Victoria is currently working with the Commonwealth on the development of the Regulations. The key features of the Bill deal with:

- Requirement for airports and airlines to have approved transport security programs;
- Designation of "security controlled airports" and of security zones for those airports;
- Specific security measures – baggage screening, on-board security, persons in custody, weapons and prohibited items;
- Powers of aviation security inspectors, law enforcement officers, airport security guards and screening officers;
- Aviation security incident reporting processes; and
- Enforcement mechanisms – infringement notices, enforcement orders, injunctions and a demerit points system.

It is proposed that the non-categorised airports will be "encouraged" to meet a voluntary, as yet undefined, "best practice protective security framework". This framework would sit outside the regulatory regime in the proposed Bill and could include nominating responsibilities for security, establishing security consultative committees and implementing effective security measures based on risk assessments and appropriate to the operational environment with on-going monitoring and review requirements.

Victorian Government response

The proposed federal Aviation Security Bill, currently before the Senate, has highlighted a number of issues associated with reform of Australia's aviation security framework.

Stakeholders and Consultation

The first relates to the number of stakeholders involved in or affected by the aviation industry. These include airport infrastructure, airline services (international, domestic and regional) and the users of these services, aerospace research, development and manufacturing, maintenance and service companies, airfreight, charter services, air traffic control, safety and security and emergency services (such as medivac services). These services in turn affect State resources (such as State Police), local government, tourism, regional businesses and communities, and infrastructure and regional development. It is Victoria's view that a necessary component of aviation security reform is adequate consultation with stakeholders and consideration of the business impact of aviation security regulations on these stakeholders.

It is also clear, that to be effective, amendments to the aviation security framework in Australia must be sustainable, resourced and any adverse impact on owners, operators, services and local communities minimised. Implementation of enhanced aviation security measures will have significant implications for State policy outcomes for local government, tourism, transport and critical infrastructure security, infrastructure and

regional development and the operations of Victoria Police. They are briefly discussed below.

Transport and critical infrastructure

Enhanced transport security measures have implications across the entire transportation network. The State Government recognises that this matter is one of the highest priorities for the Australian Transport Council and has significant implications for all transport modes and infrastructure and their operators. The Victorian Department of Infrastructure (DOI) has been monitoring the proposed *Aviation Transport Security Bill* (and, more recently, the *Maritime Transport Security Bill*) and associated regulations as well as any additional Commonwealth requirements for any implications for the State transport infrastructure and industry, across all transport modes.

As part of scoping the potential impacts of aviation security requirements, DOI worked with Victoria Police and State government agencies responsible for the portfolio areas of State and Regional Development, Tourism and Local Government as well as the Department of Premier and Cabinet. In addition, DOI has consulted with representatives of Melbourne and Mildura Airports and obtained the views of the Australian Airports Association, which represents airport operators in metropolitan and regional areas, including local Councils.

Victoria Police

The proposed Commonwealth legislation will impose new requirements and roles for State police agencies, which need to be considered in the context of overall counter terrorism planning. For Victoria Police, there will be implications for police presence and roles at all airports and for broader police operations and security arrangements, including transport of persons in custody.

Victoria Police already works with the aviation industry generally and airports in particular, in various roles. At former Federal Airports Corporation airports, Melbourne, Essendon and Moorabbin, the Commonwealth of Australia owns the land with the airport operation being leased to a private operator. On these airports Commonwealth law interacts with Victorian law. At Melbourne Airport, the Australian Federal Police (AFP) and Australian Protective Service (APS) undertake the law enforcement role. Victoria Police has a small presence on the airport mostly to deal with visiting dignitaries or transfer of persons in custody. The local police region (Broadmeadows) also has a role, however, primary jurisdictional responsibility is with the Commonwealth.

At all airports, including federally leased airports, State police liaise with airport operators on security matters either as part of airport consultative committees or agreed security incident response plans. At regional airports, such as Mildura, in addition to security provided by the airport operator, local police undertake routine patrols as part of their community policing.

Any move to change the roles of the AFP and APS at airports that would result in an increased burden for State Police would raise resource issues for the State Police and would need to be considered in the context of the National Counter-Terrorism Plan.

This is particularly so, given discussions currently underway on port security and increasing the role of State police in other areas of critical infrastructure protection.

Local councils and their communities

The proposed requirements will impose significant infrastructure, regional development and business costs on local councils and their communities. Many Australian regional airports are owned and operated by Local Government. The costs of meeting increased security standards at these airports will need to be borne by their local communities. In regional Victoria, some 32 airports are owned and operated by local councils, including Mildura Airport, which is owned and operated by the Rural City of Mildura and the Council will be required to bear the new security responsibilities and costs. Costs for other councils may result from indirect pressure to meet the as yet undefined "best practice protective security framework". And while it is likely that councils and airport operators will be able to administer the new requirements within their own business plans, the flow-on implications for councils in their day-to-day operations, regional businesses, tourism and development also have not been addressed. As such, it is likely that councils will look to the Commonwealth or State Governments for financial assistance as part of any assessment of options for recovering costs associated with implementing the various measures, including the preparation of risk assessments, security programs or plans to address the "best practice protective security framework" as well as for necessary security equipment and works.

Designating airports as 'security controlled' without assurance that adequate resources exist to meet the requirements is problematic and unlikely to result in the standard of security that the regime seeks to impose. While the Victorian Government is working with municipalities to understand the need for asset management plans generally and associated business and master planning for municipal airports, it is the responsibility of the Commonwealth, as the major regulator of Australia's air services, to resource the upgrades at regional airports.

The flow-on implications for airlines and regional businesses and development have not been addressed. In the worst case, the resource burden could result in airports becoming unviable and regional communities losing service providers, affecting tourism, regional businesses and support infrastructure for these communities.

Impacts across and between different jurisdictions and agencies.

If no Commonwealth assistance is available, Victorian councils, as airport operators, would need to prepare and implement specific local laws to raise and collect charges/levies to contribute recovery of costs associated with any new aviation security measures.

Implications for companies that operate across modes and markets

Freight forwarders and airlines operate across modes in both international and domestic markets. Each may require several transport security plans each tailored to requirements of individual airlines, airports, shipping companies and ports across Australia and internationally, requiring considerable resources to implement and maintain.

Criteria for "categorisation" of regional airports as "security controlled airports"

The criteria for categorisation of airports as "security controlled airports" are not clear or widely understood, but they seem to relate to risk elements associated with jet passenger services. Melbourne and Mildura Airports have been categorised as "security controlled airports". However, it is unclear as to why some larger airports, such as Essendon, Avalon, Mt Hotham or even Albury, have not been categorised. Essendon, Mt Hotham and Albury Airports serve regional Victorian communities. Aircraft with comparable power and speed to jet passenger aircraft operate to these airports from Melbourne and other major cities and centres. Until the outcome of further threat assessments by the Commonwealth Government is known, future requirements for those airports and communities will remain unclear.

Avalon Airport is somewhat unique for an operating airport of its size and offers longer term potential for the development of Victorian airfreight. Avalon Airport, while owned by the Department of Defence is leased to the Linfox Group for 99 years. It is located some 50 km from the Melbourne CBD. The airport currently has a jet maintenance facility, which has a long term contract with QANTAS to undertake a major refit and refurbishment of its Boeing 747 aircraft. Avalon Airport is also used by a number of international airlines for their pilot training programs. Large jet aircraft (Boeing 747 and Airbus) similar to those used on the attack on the World Trade Centre in New York are used for training. It is unclear as to whether the airport or its facilities would be required to have transport security programs. If they were located at Melbourne Airport such programs would be required.

As noted above regional airports are least likely to have security measures commensurate with the current level of threat, and may therefore be at greater risk of having security weaknesses exploited. Indeed, non-security controlled airports may prove more attractive to potential terrorists as security at other airports is increasingly tightened. Clearly, balancing an appropriate level of security at regional airports against the possible impact on their viability and role in supporting regional communities is a difficult proposition, and one that would benefit from a coordinated approach between federal, state and local governments.

The approach to designating airports as "security controlled" could also be further considered to examine how it could be adjusted to provide a degree of flexibility and judgement to take into account the different operations and aspects of airports. Consideration could also be given to issuing 'General Aviation Security Best Practices' guidelines, similar to those issued by the New York State Department of Transportation, to ensure that all aviation stakeholders are aware of the potential vulnerabilities to security and the best means to counter them. Victoria would be prepared to provide State resources to assist in increasing awareness of such guidelines and other liaison with regional aviation stakeholders.

Response to Terms of Reference

- **Regulation of aviation security by the Commonwealth Department of Transport and Regional Services**

The Department of Transport and Regional Services is the appropriate regulator of aviation security in Australia. However, despite assessments that DoTARS should "take stronger action against non-compliance" and "show greater leadership to encourage a strong security culture within industry", the Department will need to maintain its working relationships with the aviation industry and stakeholders. Those relationships will be important in developing a proper policy context for the implementation of any necessary enhancement of aviation security in Australia. Rather than being merely a regulator, the Department should be seen to work with the industry and stakeholders and to provide further advice to the Commonwealth Government which better reflects the implications and impacts across all levels of Government and the aviation industry.

- **Compliance with Commonwealth security requirements by airport operators at major and regional airports**

- **Cost imposts of security upgrades, particularly for regional airports**

The proposed requirements will impose significant infrastructure, regional development and business costs on local councils and their communities. Owners and operators will be required to bear the new security responsibilities and costs, including assisting in the preparation of risk assessments, security programs or plans to address the "best practice protective security framework" as well as for necessary security equipment and works. Costs for councils may also result from indirect pressure to meet the as yet undefined "best practice protective security framework". The flow-on implications for regional businesses and development have not been addressed.

- **Compliance with Commonwealth security requirements by airlines**

The Victorian Government would not need to intervene to require airlines to meet Commonwealth security requirements.

- **The impact of overseas security requirements on Australian aviation security**

In implementing enhanced aviation security measures in accordance with Australia's obligations under Annex 17 of the Chicago Convention, for the reasons stated above, it will be essential that the Commonwealth Government has a full understanding of current and emerging issues in the overall Australian context and a commitment to working with State and local governments.

- **Privacy implications of greater security measures**

The criminal conviction check undertaken by the Australian Federal Police will include a full historical search of Australian police forces' records and extend back beyond what might otherwise be considered a "spent conviction" (more than 10 clear years since the conviction and penalty). The PMV check will be referred to ASIO to assess whether the individual is a "person of interest" with respect to politically motivated violence.