



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

RURAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE

Estimates

THURSDAY, 26 MAY 2011

CANBERRA

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SENATE
RURAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE
Thursday, 26 May 2011

Senators in attendance: Senators Abetz, Back, Bishop, Boswell, Colbeck, Heffernan, Hutchins, Joyce, O'Brien, Sterle and Xenophon

INFRASTRUCTURE AND TRANSPORT

In Attendance

Senator the Hon Kim Carr, Minister for Innovation, Industry, Science and Research

Department of Infrastructure and Transport

Executive

Mr Mike Mrdak, Secretary

Mr Andrew Wilson, Deputy Secretary

Corporate Services

Mr David Banham, Chief Operating Officer

Ms Marilyn Prothero, Chief Financial Officer

Infrastructure Australia

Mr Michael Deegan, Infrastructure Coordinator

Nation Building—Infrastructure Investment

Mr Andrew Jagers, Executive Director

Mr Richard Wood, General Manager, Rail and Intermodal

Mr Neil Williams, General Manager, Infrastructure Policy

Mr Roland Pittar, General Manager, North West Roads

Mr Alex Foulds, General Manager, South East Roads

Ms Heather White, Acting General Manager, Major Infrastructure Projects Office

Surface Transport Policy

Ms Karen Gosling, Executive Director

Mr Robert Hogan, General Manager, Vehicle Safety Standards

Ms Philippa Power, General Manager, Maritime Policy Reform

Mr Michael Sutton, General Manager, Land Transport Reform

Mr Joe Motha, General Manager, Road Safety and Programs

Ms Donna Wieland, General Manager, Surface Transport Regulation Taskforce

Ms Pauline Sullivan, Acting General Manager, Shipping Policy Reform Branch

Australian Maritime Safety Authority

Mr Graham Peachey, Chief Executive Officer

Mr Mick Kinley, Deputy Chief Executive Officer

Mr Allan Schwartz, General Manager, Maritime Operations Division

Mr Yew Weng Ho, General Manager, Corporate Services Division

Mr Neil Ada, Acting General Manager, Emergency Response Division

Mr Nick Lemon, Acting General Manager, Maritime Standards Division

Mr Jamie Storr, Manager, Marine Environment Pollution

Mr John Fladun, General Manager, Regulatory Affairs and Reform

Policy and Research (incorporating the Bureau of Infrastructure, Transport and Regional Economics)

Mr David Williamson, Executive Director

Mr Brendan McRandle, General Manager, Policy Development Unit

Dr Gary Dolman, Head of Bureau, BITRE

Mr Stuart Sargent, General Manager, Policy and Research Division

Mr Richard Farmer, General Manager, High Speed Rail

Major Cities Unit

Ms Dorte Ekelund, Executive Director

Australian Rail Track Corporation

Mr John Fullerton, Chief Executive Officer

Office of the Inspector of Transport Security

Mr Mick Palmer, Inspector of Transport Security

Mr Peter Pearsall, Director, Office of the Inspector of Transport Security

Office of Transport Security

Mr Paul Retter, Executive Director

Mr Guy Richardson, Acting General Manager, Analysis and Operational Support

Mr George Brenan, General Manager, Transport Security Operations

Mr Steve Dreezer, General Manager, Maritime, Identity and Surface Security

Ms Karly Pidgeon, Acting General Manager, Supply Chain and Screening

Mr Peter Edsor, Director, Aviation Security

Mr David Tansey, Director, Aviation Security

Aviation and Airports

Mr John Doherty, Executive Director

Mr Scott Stone, General Manager, Aviation Environment

Ms Ann Redmond, Acting General Manager, Airports

Mr Stephen Borthwick, General Manager, Aviation Industry Policy

Mr Jim Wolfe, General Manager, Air Traffic Policy

Mr James Collett, General Manager, Sydney Aviation Capacity

Mr Marcus James, General Manager, Airport Economic Regulation

Airservices Australia

Mr Greg Russell, Chief Executive Officer

Mr Mark Rodwell, Acting General Manager, Air Traffic Control

Mr David Byers, General Manager, Corporate and International Affairs

Civil Aviation Safety Authority

Mr John McCormick, Director of Aviation Safety

Dr Jonathan Aleck, Associate Director of Aviation Safety

Mr Terry Farquharson, Deputy Director of Aviation Safety
Mr Peter Cromarty, Executive Manager, Airspace and Aerodrome Regulation
Mr Gary Harbor, Executive Manager, Corporate Services Division
Mr Peter Boyd, Executive Manager, Standards Development and Future Technology
Mr Greg Hood, Executive Manager, Operations
Mr Mark Sinclair, Executive Manager, Safety Analysis, Education and Promotion
Mr Peter Fereday, Executive Manager, Industry Permissions
Mr Adam Anastasi, Executive Manager, Legal Services
Ms Elizabeth Hampton, Industry Complaints Commissioner
Mr Craig Jordan, Chief Financial Officer

Australian Transport Safety Bureau

Mr Martin Dolan, Chief Commissioner
Mr Ian Sangston, General Manager, Aviation Safety Investigations
Mr Julian Walsh, General Manager, Strategic Capability
Mr Peter Foley, General Manager, Surface Safety Investigations

Committee met at 9.07 am

CHAIR (Senator Sterle): I declare open this public hearing of Senate Rural Affairs and Transport Legislation Committee. The committee will continue its consideration of the 2011-12 budget estimates for the Infrastructure and Transport portfolio. A reminder that the committee is due to report to the Senate on 21 June 2011 and has fixed Tuesday, 26 July 2011 as the date for the return of answers to questions taken on notice. Under standing order 26, the committee must take all evidence in public session. This includes answers to questions on notice.

Officers and senators are familiar with the rules of the Senate governing estimates hearings. If you need assistance, the secretariat has a copy of the rules. I particularly draw the attention of witnesses to an order of the Senate of 13 May 2009 specifying the process by which a claim of public interest immunity should be raised and which I now incorporate in *Hansard*. Officers called upon for the first time to answer a question should state their full name and position for the *Hansard* record and witnesses should speak clearly into the microphone.

As agreed, I propose to call on the estimates in the order shown on the printed program. We will take a break for morning tea at 10.30 am. Other breaks are listed on the program.

I now welcome Senator the Hon. Kim Carr, Minister for Innovation, Industry, Science and Research, representing the Minister for Infrastructure and Transport, Mr Mike Mrdak, Secretary of the Department of Infrastructure and Transport, and officers of the department. I also welcome Mr John Fullerton, in your first public outing in front of Senate estimates, from the Australian Rail Track Corporation.

Australian Rail Track Corporation

[09:09]

Senator JOYCE: I refer to you the reports from April on ABC 7.30 program in relation to track maintenance on the Sydney to Melbourne line, as well as the main east-west track to Perth. Are you aware of the allegations made in these reports from last month?

Mr Fullerton: Yes, I am.

Senator JOYCE: Has the ARTC taken any action to address the concerns raised in these reports?

Mr Fullerton: We have. I joined the company on 24 February this year and those issues to do with the Melbourne to Sydney line were quite material in my first period in the role. It has been something that has been subject to internal review by the organisation to come up with a rectification program, particularly on the Melbourne to Sydney line, to deal with mud holes that came to be due to the heavy rainfall that occurred on that corridor. In relation to the east-west line, there were some allegations made in relation to track condition to do with a particular customer; we are aware of that. We do not believe there are any material issues with the Melbourne to Perth railway line. From time to time customers can have some difficulties in using rail in relation to product loading, but we are unaware of problems associated with that report. I might add that on the Melbourne to Perth line we do have a market share of around 80 per cent that has grown from 60 per cent from about 10 years ago, and I think that is a demonstration of the support we do get from the transport community in using rail, and that market share has continued to grow.

Both those allegations have been investigated. We are confident that we do have some rectification works that are occurring on the Melbourne to Sydney line that will overcome those issues that were primarily caused by heavy rainfall events last year and that we will have those things rectified in the next three or four months.

Senator JOYCE: You must have got a very good briefing on how to deal with Senate estimates, but we will get to some of those questions that you brought up in more detail in a second. Can you please provide an update of the ARTC's maintenance works since October 2010?

Mr Fullerton: In relation to the Melbourne to Sydney railway line?

Senator JOYCE: Yes. I am sure that my good colleague Senator Back will ask you for the east-west one later on.

Mr Fullerton: Part of the work that we have done since then, given that we did experience significant speed restrictions in October of last year as a result of that heavy rainfall, was work that we had always planned to do over a five-year maintenance program, to do with ballast condition, drainage, rail condition and geometry issues that were caused due to that heavy rain. Over the course of the last three or four months, we have reviewed our whole maintenance program. We have brought forward a lot of the work that we had planned to do, and that relates to cleaning ballasts, improving the drainage, improving the drainage works, doing some rail rectification. It also includes the re-railing of the Melbourne to Albury section, of which about 30 per cent has been completed.

Senator JOYCE: I grew up on a railway line, at Danglemar.

CHAIR: On the right side?

Senator JOYCE: It was on the left-hand side when you go up the hill. I was always aware of them picking the tracks, putting the sleepers in and laying the tracks back down again, and the fettlers going along doing their work. It sounds like the bleeding obvious: if you go for side insertion of sleepers, then what is going to happen is they are going to go into the hole which was there before and then the continual compression of the rolling stock going along it means that it will not fit neatly, it will not fit plumbly, between the ballast and the line, and you will get the problems you have. Why did you go for the side-insertion method? Why didn't you investigate it more fully?

Mr Fullerton: Coming into the organisation three months ago, I understood the issues and I spent a lot of time reflecting, with the organisation and with other people, on what decisions were taken three or four years ago to determine how sleepers would be installed. We called upon an independent expert, Darrell Cantrell, in March to come back and provide us some independent—

Senator JOYCE: You said he is independent; can you give me some details about him?

Mr Fullerton: Darrell is an international expert. He was at one stage the chief track engineer for Burlington Northern Santa Fe; a highly credential individual and consults to railways all around the world.

Senator JOYCE: How long has his involvement been with the ARTC?

Mr Fullerton: He has done some work for us in the past to provide advice to us on how we should carry out our maintenance.

Senator JOYCE: He has been in your employment in the past?

Mr Fullerton: He has been. If I could go back to the side insertion; I think that was your question. Side insertion is an accepted method of installing sleepers. In fact, I think about two million sleepers were installed on the old Australian national network with side insertion; that included a lot of the sleepers on the Nullarbor, it included the concrete resleepering that occurred between Maroona and the South Australian border a number of years ago. It was all through side insertion. It is a method that we are using for the concrete resleepering between Parkes and Broken Hill. It is an acceptable method. I do take your point that, when you do use side insertion, you need to ensure that you lift the track, you provide good ballast beneath the track to enable that track structure to be robust.

Senator JOYCE: It is interesting, because there are other reports that say something precisely different to what you are telling me, Mr Fullerton. A report provided by a consultant hired by South Improvement Alliance states that:

The side-insertion method was not recommended as in short time major maintenance works would be required and new ballasts needed.

We have your assertion that your consultant says it is a great idea and we obviously have the other assertions out there that is not. Unfortunately, the experience seems to prove that the prognosis of this consultant—and this claim was made on the 7.30 report—is far better than yours.

Mr Fullerton: I do not agree with that. Looking back to the whole decision making that we made back in 2007 when we installed concrete sleepers, two alternatives were looked at.

In fact, we used the pony machine, which is a different method of inserting sleepers, on the north coast; it allowed us to do that because of the maintenance windows that we had to do that work, but on the southern section of track, between Melbourne and Sydney, it was deemed that the most efficient way was to use side insertion. It was a method that we had used elsewhere; it was a method that allowed us better access to the track and to be more productive.

Senator JOYCE: The results are there for all to see. What do you reckon went wrong? It was just the rain, was it?

Mr Fullerton: In hindsight, we went through quite a consultative process in determining the method of sleeper insertion. We always recognised, and I think it has been reported to this committee before, that there have been troubles with ballast condition on that line for many years, there have been problems with the drainage, it has difficult soil conditions, both on the Victorian side of the border and New South Wales; and the priority for us was to get rid of the timber sleepers that were life-expired, caused significant heat restrictions during the summer, were prone to derailment, to get the concrete sleepers in and then, as part of our five-year remediation plan, to come back, fix the ballast problem, a lot of the drainage problems and some of the rail problems. There is no doubt that, when we had the significant rainfall events of last year that affected the whole network around Australia, we experienced mud-hole problems before we could get in there and complete the plan that we had expected to do.

Senator JOYCE: It was not the only place in Australia it rained—it rained across the whole joint, right from the top to the bottom. It is not as if this was the first time the railway line was there. But on the issues with mudding, with regard to sleepers, had you encountered that before under more conventional methods of laying those sleepers?

Mr Fullerton: All the analysis that we did at the time was that this is the best method to do it. I go back to the point that that corridor was in a very poor condition when we took it over, the population of timber sleepers was such that we had derailment risks and blanket-speed restrictions, and we took a judgment view at the time that the priority was to get the timber sleepers out, get the concrete sleepers in and that we would come back and do all the other work over a five-year maintenance program. There is no doubt that, when it rained to the extent that it did rain—and we are talking about extreme rainfall events that affected track right across Australia—we had problems that we did not envisage; we accept that. What we are doing now is to bring forward a lot of the works that we had planned to roll out over a five-year period, accelerate that and do that remedial maintenance plan that we are rolling out.

Senator JOYCE: It sounds like you have all the right materials—like building a house, you have the right timber, you have the right carpets, you have the right tiles—and you are going to stick it all together with Blu-Tack.

Mr Fullerton: I do not agree with that. On the Parkes and Broken Hill section we have installed concrete sleepers. We are applying techniques to make sure we raise the track. We have the ballast condition addressed. The reports we have had back from drivers using the new pieces of track on the Parkes and Broken Hill section are very positive, given that piece of track was recognised between Parkes and Broken Hill to be the worst piece of track on the network.

Senator JOYCE: One would suggest that probably you would find Broken Hill slightly drier than the coast. That would stand to reason. If we have a problem with mudding, you are not going to get much mudding where it is substantially drier. That could lead to the question as to why we are not going ahead quicker with the whole inland rail proposal. I notice you have \$300 million put aside but that is not actually building anything, is it, that is just design work. When are you actually going to start building something there?

Mr Fullerton: On the inland route?

Senator JOYCE: Yes.

Mr Fullerton: We conducted a study last year that determined that was not yet economic. Our priority at the moment is to build a coastal route that can assist getting greater market share from where it is at the moment, 20 per cent Melbourne to Brisbane, and trying to lift that up.

Senator JOYCE: Do you not think if you built something with greater intermodal port access—and looking at the current arrangements where we have got strikes on and we would want to be moving stuff around—that you would have a greater capacity to do it quicker through an inland route than with the obvious problems, the evident problems, that you are having on your coastal routes. You are telling us the problems you have with the weather there.

Mr Mrdak: If I may. You are absolutely right; the government has committed \$300 million in Nation Building 2 to start the first stage of work on the inland rail. From the government's perspective there is a commitment, as Mr Fullerton says, to upgrading both the coastal line and also the start of the inland rail. It is envisaged that construction will commence on some sections of inland rail as part of the Nation Building 2. As we discussed yesterday, the \$300 million is starting in 2014-15 as part of the—

Senator JOYCE: Mr Fullerton just said on the record and on *Hansard* that it was a less profitable route and they are going to be investing more money down the coastal route, which is completely at odds with what the Hon. Anthony Albanese, MP, said in his media release, 'Inland rail finally out of station.' It is out the station, but Mr Fullerton, you have just put it straight back in there again.

Mr Mrdak: No, I think Mr Fullerton was reflecting on the fact that the ARTC has an investment program on existing network. The inland rail would be a new piece of network to which the government has made a commitment.

Senator JOYCE: It seems that Mr Fullerton is completely at odds with the minister and I think Mr Fullerton is probably closer to the truth of what the actual intentions are of this government than the rhetoric of Mr Anthony Albanese's media release.

CHAIR: I cannot believe, Senator Joyce, we have had a massive injection of capital into transport and infrastructure and the mob you were a member of for 12 years did absolutely diddly-squat and we get hammered for it with accusations of lies?

Senator JOYCE: What the Labor Party is excessively doing—and they have got the Independents on side with them—

CHAIR: You are out of order.

Senator JOYCE: —is to run these rhetorical lines thinking that we will not dig up the bureaucrat in here to tell us the truth. The bureaucrat in here; he has just told us the truth. They have got no intentions of taking this inland route seriously. We have just heard that it is a less profitable route and they are going to be investing on the coastal route.

Senator Carr: You are trying to verbal the witnesses. It has been quite clearly stated that the government's position is quite contrary to the claim you are making. Do you have a question?

Senator JOYCE: I did and I received an answer and the whole of Australia heard the response.

Senator Carr: What they heard is your gross misrepresentation.

Senator JOYCE: I understand you have commissioned an independent report in relation to side insertion. Is that from the gentleman you were speaking about before, your independent? You have undertaken an independent report on side insertion.

Mr Fullerton: We brought in an independent to assess the methods that we used to insert sleepers by side insertion. That report has been released, along with an updated report from the ARTC on how we have been responding to the issues that we have faced on that Melbourne to Sydney railway line.

Senator JOYCE: This is by Mr Cantrell.

Mr Fullerton: That is right.

Senator JOYCE: When the interim report has been finalised, will the findings be made public? Have you made public the interim findings of the report?

Mr Fullerton: That report was released publicly last week, along with an updated ARTC report that talks about the history of the line and the remediation plans that we have got currently in place.

Senator JOYCE: When will the final report be—

Mr Fullerton: The final report was released last week.

Senator JOYCE: What is your course of action? You have received the report; what are you going to do now?

Mr Fullerton: As I said a bit earlier, the response to the problems we have, both on the Victorian part of the track and also southern New South Wales, has been to carry out four pieces of work. One piece of work is to replace the fouled ballast that has been on that track since the lines were built, to improve the drainage of the corridor in terms of water getting away from the track structure, to improve the condition of rail. We are doing that through two methods. We are totally replacing the rail between Melbourne and Albury with new 60 kilogram rail and we are doing some surface grinding and defect repairs on the section of track on the New South Wales component. About two-thirds of that remediation plan has been completed. We expect to finish off the works over the next three or four months.

Already we have seen substantial improvement of the track on the Victorian part of the network and we are beginning to see some improvements on the New South Wales part of the network. That is both substantiated by the testing that we do with the track, the feedback we have had from our customers the operators, and the feedback we have had back from drivers working the corridors. We think we are on the right track. We are fixing the problems that

were exacerbated by the extreme weather events we did experience, and we will finish the work that we planned to do when we first began to install those concrete sleepers.

Senator JOYCE: You have dealt with the concerns of unions and other industry participants with side insertion?

Mr Fullerton: Yes, we have. The side insertion is an acceptable method that we continue to use successfully on other parts of the network. We have consulted with drivers. We have our own senior staff riding trains to get feedback from the drivers.

Senator JOYCE: How is that feedback going from the drivers?

Mr Fullerton: Last week we had somebody riding that train from Sydney all the way to Melbourne and the feedback was positive.

Senator JOYCE: That is incredible. They went all the way from Sydney to Melbourne?

Mr Fullerton: From Sydney through to Melbourne.

Senator JOYCE: You could understand the concerns that they would have having thousands of tonnes of rolling stock running across sleepers that are suspended in midair.

Mr Fullerton: They are not suspended in midair.

Senator JOYCE: They are when there is mudding.

Mr Fullerton: The track is in far better condition than it was when it was full of timber sleepers 10 years ago.

Senator JOYCE: The independent safety regulator: did they contact you? Have you been in contact with them?

Mr Fullerton: Yes, I have had a number of meetings with them. We have taken them through the problems we did have with the mud hole issues over the last six months.

Senator JOYCE: They are happy now?

Mr Fullerton: They are far more comfortable. We have a rectification program that is making improvements to the track and that is evidenced by the monitoring that we do.

Senator JOYCE: They are happier than they were. That is not hard because where it was very dangerous. Have they said, 'Mr Fullerton, everything is squared away. You're right,' or are they saying, 'You've still got a lot of work to do'?

Mr Fullerton: There is some more work to be done. We have completed two-thirds of the work. The track performance is much better than it was. You do not fix these things overnight. We have made substantial improvement to the track in Victoria, which is evidenced by the number of speed restrictions we have. The track is not unsafe. If we find track condition, as we would anywhere else on our network, requires a speed restriction to be applied—no different than you would do on the road—we apply a speed restriction. That is a fundamental method of managing the safety of operations. I have gone to great pains to make sure we are speaking to all the stakeholders, which includes the drivers, the customers using rail, the regulators. We are producing reports. We are totally transparent about what we had to deal with, what our plans are to fix it and to report that back to those people on a regular basis.

Senator JOYCE: How many train partings have there been, let's say the coupling of trains, in the last couple of years?

Mr Fullerton: I do not have the statistics on me.

Senator JOYCE: On that line?

Mr Fullerton: There was an increase. Train partings can occur when you have rough track; we did have some increases in train partings, but that is one of the measures that has improved over the last three or four months as this work has been completed.

Senator JOYCE: We have not had the trains splitting in two as much as they used to.

Mr Fullerton: That is right.

Senator JOYCE: That is marvellous. How many trains have split in two on you in the last few months?

Mr Fullerton: I do not know of any in the last few weeks in terms of train splits.

Senator JOYCE: Last few months or last few weeks?

Mr Fullerton: I do not know about the last few months, but I know we have not had any in the last couple of weeks.

Senator JOYCE: Not yesterday, but the last few weeks have been pretty right?

Mr Fullerton: I would be surprised that we would have as many that we had previously because the track speed restrictions have improved, the defects on the track have improved. I have information here that you are quite welcome to have in terms of how we know where to improve the track quality through this remediation plan that we are rolling out.

Senator JOYCE: Your speed restrictions are still in?

Mr Fullerton: The speed restrictions as a result of mud holes have reduced. There are speed restrictions in place, but that is as a result of the installation of the new 60-kilogram rail between Melbourne and Albury, and also all the rectification works that we are doing, such as ballast cleaning, removing fouled ballast—that does require speed restrictions to handle those works programs.

Senator JOYCE: Can I suggest to you that maybe some of your train partings have reduced not because you fixed the problem but you have reduced the speed of the train, which means that fundamentally the structure, the track, is still imperfect?

Mr Fullerton: The track is still not where we want to get it. It is much better in Victoria and there has been an improving trend. All we can do is to implement the accelerated works program that we are to improve the track. We have already seen significant improvements in the Victorian section, that was the principal problem late last year that was reported to this committee, through works that we have done on the Victorian side. Our whole efforts now are concentrated in New South Wales, with this ballast cleaning and drainage improvement, and we are confident that that will be in a good condition once that work is finished in three months time. We believe we have the answers to fix the problem; the improvements are being made, the monitoring that we are doing indicates that, and we will continue doing what is necessary to get that track back to an acceptable state.

Senator JOYCE: The statement, when you say, 'It is much better than it was,' can mean anything. 'It is much better than it was' means it is not as bad as it was, and as bad as it was is about as bad as it could get.

Mr Fullerton: One of the reasons to provide information to people was to publish an updated ARTC report, that was published publicly last week, that talked about the whole history of that line going back 15 years. If you read that you will understand the condition of that track back in the late nineties when it had a lot of timber sleeper problems and there were blanket speed restrictions applied for three or four months a year during the hot weather. I have been involved in this industry for 30 years. Back in the nineties we were running trains between Melbourne and Sydney and I fully recognised the problems we had back then. The condition today is substantially better than the track was 10 years ago because we have now that whole section of track concrete-sleepered and we are continuing now to fix problems that were issues that had been there for probably 20 or 30 years.

Senator JOYCE: It is a shame you are not a greater supporter of the inland rail because you would be able to build a track and get all of these problems out of the way at the start, wouldn't you?

Mr Fullerton: The ARTC, over the last 10 years, have made a substantial contribution to the condition of the network as a whole. We have taken up the Metropolitan Freight Network in Sydney which allows us to control movements of containers directly from Port Botany out to Enfield and beyond, and we are in the process of completing the southern Sydney freight line. We put a strategy together five or six years ago and we are well down the path of delivering that to give us the basis to get the modal shift from road onto rail.

Senator JOYCE: We have even had reports of passenger trains that have shifted so violently that the emergency airbrakes have gone off. Do you agree with that?

Mr Fullerton: That did happen. It goes back to some problems we had late last year which have been well-communicated. The condition of the track, due to the wet weather and the development of the mud holes, seriously affected the passenger trains.

Senator JOYCE: It would have seriously affected the people if the train had gone off the rails.

Mr Fullerton: No, because we applied speed restrictions to make sure the trains were safe.

Senator JOYCE: It is a very interesting management process: 'We don't have something that works, so we just take the speed down.' Ultimately, people can walk faster than trains, if we are going to take them down too low. Can you give me the details of exactly where that event occurred, where the airbrakes went off on that XPT train?

Mr Fullerton: I cannot recall the date. All I do know is that the problems were—

Senator JOYCE: Whereabouts was it?

Mr Fullerton: It was on the Melbourne to Sydney line.

Senator JOYCE: Whereabouts?

Mr Fullerton: I do not know where.

Mr Mrdak: We will take that on notice and get you the details of that incident.

Senator JOYCE: It worries us a little bit that you do not know when and where this event occurred.

Mr Fullerton: I do not know the whole history of the problems back then. What I am focused on is to fix the problems that primarily have occurred because of the extreme weather we have. I am confident that we have a plan to improve that track condition and we are well on course to achieve that.

Senator JOYCE: You are here to convince me that I have a sense of confidence that you are across your brief. You do not know when this event occurred, where this event occurred—

Senator Carr: Senator Joyce, that is just uncalled for.

Senator JOYCE: What were the surrounding circumstances, for instance—

CHAIR: Senator Joyce, I ask you to withdraw that comment.

Senator JOYCE: I withdraw the comment. What were the surrounding circumstances, for instance? Was there a breach of the speed restrictions, was something affecting the performance of the track, or some other factor involved in this incident? It is going to be hard for you to answer that question if you do not know where it happened, when it happened or how it happened.

Mr Mrdak: It is best if I take that on notice. We will get you the full details of that incident that you are referring to and provide that to you on notice.

Senator JOYCE: What was the most serious event that occurred because of the mudding?

Mr Fullerton: With the most serious event that occurred, we had to apply speed restrictions, it affected the transit times of both passenger trains and freight trains, which affected the customers.

Senator JOYCE: How are you involving yourself in being across this issue so that it does not happen again? Have you gone across the track yourself?

Mr Fullerton: Yes. I rode the XPT on 20 April from Melbourne to Albury and I am riding the train on 6 June this year for two purposes: to talk to the drivers, get some feedback from them on our works program; and to demonstrate to them that we understand the issues and we have works in place to fix it.

Senator JOYCE: I understand that with the CountryLink in late March maintenance crews were deployed along the line to address, and to quote from the 7.30 program, 'alarming safety test results'. Is that accurate?

Mr Fullerton: We run a recording car every three months to check track condition. In March we ran the car again and it identified some defects. It occurred the week after some extreme heavy rain in New South Wales and, as a result of that AK car, as we call it, we needed to apply some speed restrictions to fix those problems. Many of those problems were fixed over the course of the following two weeks.

Senator JOYCE: What other maintenance activities were taken at this time on the north-south line?

Mr Fullerton: Given that the work that we had been doing in Victoria late last year, much of that, had been completed, although we are still doing some work on that corridor, we focused our attention on the New South Wales section of track between Macarthur and Albury and that is where a lot of our work is currently focused to, again, remove foul ballast, fix mud holes, fix drainage problems, improve rail condition. The trend in that section of track is beginning to improve.

Senator JOYCE: Why are you not a supporter of the inland rail?

Senator Carr: Senator, withdraw that.

Senator JOYCE: I have lost confidence in your desire to go forward with the inland rail after what you said earlier on.

Senator Carr: That is your problem.

Senator JOYCE: No, it is not; it is yours, actually.

Senator Carr: What you think is your problem. You have verballed this officer.

Senator JOYCE: What do I think is my problem? I think I do not have a problem.

Senator Carr: What you think is your problem.

Senator JOYCE: What I think is my problem? I do not think I have a problem.

Senator Carr: You have tried to verbal this officer, you have certainly tried to verbal this government, and it is just not on.

Senator JOYCE: Have you been on the train, Senator Carr?

Senator Carr: I am not here to go on the train. I am here to correct the record when you make quite stupid allegations.

Senator JOYCE: You are not here to go on the train.

CHAIR: Senator Joyce, I would encourage you to ask questions of Mr Fullerton in direct relationship to the budget. Do you have any further questions?

Senator JOYCE: Yes, I do. When do you envisage a program of construction to start on the inland rail, in line with what the Honourable Albanese has stated? When do you envisage you will start building something?

Mr Mrdak: Perhaps that is one more so for me at this stage rather than the ARTC. As you have indicated, the Australian government has allocated \$300 million in Nation Building 2. The first of those funds is scheduled to flow from 2014-15. The intention of the government is that that will include pre-construction activities in that next five-year program. That would involve land acquisition, completion of planning and preconstruction, that is, any utilities removal and the like which needs to take place in the corridor. We envisage that taking place between 2014-15 and 2019, the start of work.

Senator JOYCE: You might have to give Mr Fullerton a brief on that.

Mr Mrdak: It is not a matter for the ARTC at this moment, it is a commitment the Australian government has made in the Nation Building Program, the details of which will be sorted over the coming year or so as we develop the program.

Senator JOYCE: When will the first of that \$300 million be spent?

Mr Mrdak: At this stage the profile has money being spent from 2014-15.

Senator JOYCE: So nothing is going to happen. In 2014-15 how much are they going to spend?

Mr Mrdak: I will take that on notice but my recollection from the evidence yesterday is that, I think, we have at this stage \$30 million programmed in 2014-15.

Senator JOYCE: That is correct. That seems to be what is on the media release; I just wanted confirmation. \$30 million in 2014-15 is hardly a major announcement of a major

construction. Mr Albanese is out there every day announcing the inland rail but he is never building it. Even now, this is something that happens after the next election. Even on his own promise there is only \$30 million to what will ultimately be a multibillion dollar project. I am hardly endowed with a sense of confidence that he is serious about this, yet I am listening to the Independents saying it is going to happen as well.

Mr Mrdak: \$30 million is not an insubstantial amount of money on a project, and particularly a project that has been much discussed. To have a government commit money and take steps to develop this line is a major step in the investment picture. I do not think you could dismiss this as a small start, far from it.

Senator JOYCE: I will query that. Mr Fullerton, how much have you spent now fixing the track?

Mr Fullerton: Which part?

Senator JOYCE: The north-south line: the problems you are having with mudding, because you participated in a side insertion which is slowing down the trains; the lack of efficiency; the safety issues we have because the brakes are going off; and the fact of the trains coming apart.

CHAIR: The problems we have because they are so run down after 12 years of inaction from your mob, Senator Joyce.

Senator JOYCE: The problems that are so endemic; how much has that cost? You must know the figures, this is budget estimates; you must have a rough idea how much it would cost to fix it all up.

Senator O'BRIEN: This year, last year, what do you mean? When?

Mr Fullerton: We have brought forward our maintenance budget to address problems that we were going to deal with over a five-year period.

Senator JOYCE: How much is that?

Mr Fullerton: We spent a lot of money obviously on maintenance across our track, but we are spending about \$40 million doing all that rectification works, which is consistent with the budgets that we have in place for the next five years.

Senator JOYCE: That is \$40 million in the coming year?

Mr Fullerton: It is part of our budget that we spend on the maintenance of that north-south track that we are rolling out as part of this remediation works on the corridor, and that is funded from our business.

Senator JOYCE: They are spending more on fixing the sleepers, Mr Mrdak, than you will spend on building the inland rail, and even that is out at 2014-15.

Mr Mrdak: No, Senator, you have drawn a quite incorrect conclusion there. Mr Fullerton has described the maintenance program for the north-south line, which as outlined, is \$40 million over that period, which has been accelerated. The point you made earlier, \$30 million is in year one of the start of Nation Building 2 for the inland rail project. You cannot say that any of those figures are in any way comparable or relevant.

Senator JOYCE: Are you going to continue with side insertion of sleepers, Mr Fullerton?

Mr Fullerton: We are. We are doing that at the moment on the parts of the Broken Hill section.

Senator JOYCE: Broken Hill section being a dry section of the country, would make abundant sense that your problems with mudding are going to not be removed, but be far less, and that is why we want the inland rail built.

Mr Fullerton: I think we have also used side insertion on sleepers between Maroona and the South Australian border, which is in the Victorian section, which has probably similar conditions to north-east Victoria. That was carried out a couple of years ago; we have had no problems on that section of the track using side insertion. Side insertion has been used across the Nullarbor when it was re-sleepered back in the 80s and 90s; it has been used on other parts of the Australian national network as an acceptable method of installing sleepers.

Senator JOYCE: The Nullarbor; I imagine it means no trees, null harbour, no trees, no trees because of no rain. It is completely different climactic conditions. What about in the wetter parts of Queensland? Do they use side insertion there?

Mr Fullerton: I cannot comment on Queensland, I am not familiar, but it is an acceptable practice that is used all around the world. That was the advice we had from that independent review. We look at whether you do side insertion or whether you use machines to do a production run, and that is particularly used for construction of new track. It is a matter of working out what is best in the circumstances—how much time you can get on the track in relation to other trains and cause minimal disruption to our customers' operations. It is really a horses for courses decision. It has worked for us, other than being caught out on that Melbourne to Sydney line because of the rain that we did experience. It is a method that is acceptable that we will continue to use if it is appropriate, and we are.

Senator JOYCE: How long does it take for the XPT passenger train to do its run from Sydney down to Melbourne?

Mr Fullerton: If you talk about the effects on speed at the moment, we have only about a 30 minute delay due to speed restrictions. I have those statistics here if you would like to see them.

Senator JOYCE: What is the top speed for the XPT?

Mr Fullerton: It depends on what part of track; it can run to 130 on some sections; other parts of the track it will run at 100.

Senator JOYCE: When you are talking about speed restrictions, what does it go down to then?

Mr Fullerton: Our speed restrictions are applied in a number of tranches; the lowest speed restriction is probably around about 20.

Senator JOYCE: Twenty kilometres an hour?

Mr Fullerton: Again, depending on the track condition, it could be as a result of construction works that are going on, certainly through areas where we are re-railing. It all depends on the assessment made by our maintenance people on the condition and therefore what is a relevant safe speed for the train.

Senator JOYCE: Where there are people standing beside in reflecto, don't run over me suits, I can understand you would be slowing the train down. Where you have just stuck up

the sign saying, 'Go slow here, fellas, because you might go off the rails'—literally—how many of those areas are there? How many kilometres are there of areas which are now under speed restrictions because of the problems we have had with mudding?

Mr Fullerton: It is much less than it was. In terms of these restrictions now on the Victorian side—

Senator JOYCE: I am much less happier than I was.

Mr Fullerton: On the Victorian side of the border—it depends on whether you use the XPT or the freight trains, because each one has a different effect—we are probably down to about 17 or 18 minutes for the XPT. On the New South Wales side of the border I think it is down to about 30 minutes; 38 minutes is the latest figure that we have. That is a substantial improvement on what it was before.

Senator JOYCE: You are saying that is 38 minutes plus?

Mr Fullerton: You have a train schedule that is based on departure time and arrival time.

Senator JOYCE: Yes.

Mr Fullerton: The track will always at some point have some level of speed restrictions because you need to do that for maintenance purposes. At the moment we have speed restrictions both because of the rectification works that we are doing and some of the construction works that we are doing on the corridor. We are in continuous communication with our customers about speed restrictions on that corridor. They have fed back to us recently that the conditions have improved significantly, and the trend is down.

Senator JOYCE: That is 21st century stuff at 20 kilometres an hour; that is slightly slower than a person on a bike.

Mr Fullerton: Our priority is to make sure we put a speed restriction that is safe in the circumstance.

Senator JOYCE: I know, and if the sleepers are swinging in mid-air, that is exactly what you have got to do. When do you think the whole job will be finished and back up and running? When will we have trains running at a speed that is likely to attract people to use the rail?

Mr Fullerton: People use the rail now. The speed restrictions have reduced. There will always be speed restrictions, whether it is across the Nullarbor, whether it is in track anywhere in the world. You apply speed restrictions to do maintenance work. It is no different if you are operating on the road network, there will always be times when there is maintenance done or road conditions will result in speed restrictions being applied. Rail is no different. Within three months a lot of that rectification works that we are carrying out in Victoria and New South Wales will be completed and, at that point, the track will be back to what we consider to be a normal operation, which will still involve some speed restrictions as you do maintenance work.

Senator JOYCE: Is there only one type of side insertion process or are there multiple types of side insertion processes?

Mr Fullerton: Because you have existing sleepers there, slide insertion simply means on one side you take the old sleeper out and on the other side you slide the new one in. The key thing—and that certainly came out of the work that we have done and the work from our

independent consultant—when you use that method is that you lift the track at the same time to make sure you have free ballast below that track. They are the methods that we deploy.

Senator JOYCE: Are you using the same form on the east-west line as you are on the north-south line?

Mr Fullerton: Yes. We have a very clear technique on how we insert those sleepers, lift the track, put clean ballasts underneath it and then restore the track for operation.

Senator JOYCE: Can you tell me about your resleepering works between Broken Hill and Parkes? You are undertaking them at the moment too, aren't you?

Mr Fullerton: That is right.

Senator JOYCE: Are they using the same form as the resleepering work you are doing on the north-south line?

Mr Fullerton: Exactly the same method.

Senator JOYCE: How is it going?

Mr Fullerton: The feedback we have from drivers on that section of the track has been very positive. It is not hard to be positive, given that that section of track, when they had the timber sleepers interspersed with steel sleepers, was probably the worst piece of track on our network.

Senator BACK: Concrete sleepers?

Mr Fullerton: The old track was a mixture of timber sleepers and steel sleepers. That piece of track for many years required trains to slow down, in particular, the Indian Pacific; that would slow down during mealtime so people could eat their meal. It is a track that we are now fixing, through putting in concrete sleepers on that track, and the feedback we have had has been very positive from operators.

Senator JOYCE: I am going to hand back to the chair but I am going to give you one more chance. You are using exactly the same form of side insertion on the east-west track as you are on the north-south track?

Mr Fullerton: That is right, exactly the same method of taking the old sleeper out and sliding the new sleeper in.

Senator XENOPHON: Mr Fullerton, whilst you are relatively new at the Australian Rail Track Corporation, based in Adelaide—

Mr Fullerton: I am.

Senator XENOPHON: you have a long and eminent career in rail. You were former general manager of Pacific National, Australia's largest private rail operator, chief operating officer of the National Rail Corporation and, from February 2002 until recently, you were chief executive officer of FreightLink. Your CV is quite impressive; you know your stuff about rail.

Mr Fullerton: Yes.

Senator XENOPHON: You have also been chairman of the Cooperative Research Centre for Rail Innovation.

Mr Fullerton: I have.

Senator XENOPHON: You are director of the Rail Industry Safety and Standards Board as well.

Mr Fullerton: Former, I was; no longer.

Senator XENOPHON: You are eminently qualified; there is no question about your eminent qualifications in relation to running the ARTC. I want to get that on the record about your level of expertise. Further to Senator Joyce's line of questioning, what are the statistics in terms of comparative average speeds for the rail lines on the Melbourne to Sydney corridor prior to the insertion of the concrete sleepers and subsequent to their insertion? I am happy for you to take that on notice.

Mr Fullerton: We can. I would like to respond by saying that we are doing other works on that corridor that are affecting transit time. We are building passing lanes, crossing loops that allow train timetables to be improved. When you are doing concrete resleeper work, you are also doing other works to improve transit times. With the old track, with the timber sleepers and the condition of the sleepers, there were blanket speed restrictions applied of 80 kilometres an hour on many sections of that track during the summer. You really have to take a 12-month average on that.

Senator XENOPHON: Let's go to this issue of mud holes, because on a number of occasions you have said that, in terms of cause and effect, heavy rainfall causes mud holes, delays and problems with the track. That is what you are saying.

Mr Fullerton: That is right.

Senator HEFFERNAN: Is he getting away with stuff that is not right?

CHAIR: Senator Heffernan, I am just in the mood today, mate: don't push it! All right? Senator Xenophon has the call. You will get the call when you ask me and there is time.

Senator HEFFERNAN: Settle down.

CHAIR: I am just warning you; I am letting you know very early in the day. Senator Xenophon.

Senator XENOPHON: That is the cause and effect: rainfall, mud holes, problems in the track. Are there any other causal effects such as the ballast or the way that the sleepers are inserted? Do you see that as a causal factor?

Mr Fullerton: Mud holes occur everywhere for that reason; you get rain and you get—

Senator XENOPHON: No, hang on. They 'occur everywhere for that reason'; what do you mean 'everywhere'?

Mr Fullerton: All tracks have mud-hole problems.

Senator XENOPHON: Has a risk assessment been undertaken of the link between the mud holes occurring and the ballast of a track and the way the track has been laid?

Mr Fullerton: Yes, it does.

Senator XENOPHON: There is a link?

Mr Fullerton: There is a link between ballast condition and drainage and the appearance of mud holes.

Senator XENOPHON: You made it sound as though you have a lot of rain, it causes mud holes, but in fact there is something in between, isn't there, and that is the nature of the ballast?

Mr Fullerton: Yes, but you need to go back to the decision making; that is the important part of the—

Senator XENOPHON: That is what I want to go back to. In terms of decision making, you have mentioned a number of times that side insertion is an acceptable practice and you have relied on the advice from an independent review. That independent review is from Mr Cantrell.

Mr Fullerton: That is right.

Senator XENOPHON: How many years has the ARTC been using Mr Cantrell for advice?

Mr Fullerton: I think Mr Cantrell was used for some advice probably about three years ago.

Senator XENOPHON: Not before that?

Mr Fullerton: Not that I recall.

Senator XENOPHON: Could you take that on notice?

Mr Fullerton: Yes.

Senator XENOPHON: Was Mr Cantrell involved in giving the advice for the side insertion method in the first place?

Mr Fullerton: No, that was a decision taken by the ARTC.

Senator XENOPHON: Did Mr Cantrell have any input whatsoever in relation to that decision?

Mr Fullerton: I would have to check that. He was part of a review of the methods that we should deploy, but I do not believe so.

Senator XENOPHON: He was part of a review of the methods that should be deployed; so, as part of that review, he was part of the advice process that led to the decision of the ARTC for a side insertion method?

Mr Fullerton: I need to take that on notice. The primary reason that the ARTC went for side insertion, given that they have used it elsewhere, was the fact that it gave better access to the track and was a more efficient method of installing sleepers.

Senator XENOPHON: That is not the issue now. I am trying to understand the link between Mr Cantrell, who the ARTC has relied on as an expert—

Mr Fullerton: Amongst others.

Senator XENOPHON: Amongst others, but you are relying on him now for an independent review of the side insertion method. Correct? I have his report of 4 May, the independent assessment of the rail line between Melbourne-Sydney, dated 4 May, which is on your website. Correct?

Mr Fullerton: That is right.

Senator XENOPHON: You are saying that Mr Cantrell had a role, the extent of that role I am not sure of, in giving the advice to the ARTC previously.

Mr Fullerton: He did, but his primary experience—he is a renowned expert around the world.

Mr Fullerton: Mr Fullerton, that is not the issue here. I am just putting my old lawyer's hat on here.

CHAIR: Uh-oh!

Senator XENOPHON: Yes, Chair, uh-oh.

CHAIR: Were you a successful lawyer? Sorry, go on, Senator Xenophon.

Senator XENOPHON: That is a low blow, Chair. I want you to withdraw that comment.

CHAIR: I withdraw that comment.

Senator XENOPHON: Thank you for withdrawing that comment. Yes, I was; I think so. I had plenty of clients and a lot of cases. So you have an independent review. But if this person, Mr Cantrell, who has conducted this independent review which the ARTC has relied on so heavily, was also part of the process in any way, shape or form to determine what system of laying of sleepers should be used, don't you see a potential conflict there?

Mr Fullerton: No, because the decision to use side insertion was primarily a decision taken by the ARTC based on efficiency.

Senator XENOPHON: No, but he was advising you, he was advising you independently.

Mr Fullerton: He was providing some advice; his expertise is in drainage, on track maintenance, all that type of thing.

Senator XENOPHON: Sure. I have got a booklet on drainage and he talks about those sorts of issues, but wasn't he part of the process that led to the problem and now he is supposed to be an independent expert giving advice to you on this?

Mr Fullerton: No. The issue about using side insertion was not a technical issue at all, because we had used another method of sleeper insertion on the north coast, using a particular method. Our view was both methods are suitable and both methods have been used by the ARTC across the rest of the network. The side insertion decision was an ARTC decision based on what is the most efficient way of replacing the timber sleepers on that corridor to have minimal impact on train operations.

Senator XENOPHON: I am not asking you about that. I am asking you about Mr Cantrell, who the ARTC is relying on so heavily. He is your independent expert, you have been flying the flag with him as your independent expert, but the fact is he has been a consultant to the ARTC for a decade or so, hasn't he?

Mr Fullerton: I was aware he did work for us back in 2007.

Senator XENOPHON: Can you take on notice how long has he been advising the ARTC? You would be able to provide those details. I question how you can rely on him as a so-called independent expert when he was giving advice in the first place for matters that are now causing problems for you in terms of the condition of the rail track.

Mr Fullerton: The decision about side insertion versus other methods was not a factor in the problems we are having on this line.

Senator XENOPHON: You are saying it is just rain and mud holes; it has nothing to do with side insertion.

Mr Fullerton: We have used side insertion elsewhere and it has been successful. I will go back to the point I made a bit earlier: the priority for us on the Melbourne to Sydney line was to get rid of all those timber sleepers that we believe were the primary risk and replace them with concrete sleepers.

Senator XENOPHON: You talk about risk. What risk assessment did the ARTC undertake to determine whether side insertion was the preferred course and, when side insertion was subsequently chosen as a preferred course by the ARTC, what risk assessment was undertaken to minimise the risk of mud holes by having appropriate ballast and insertion techniques?

Mr Fullerton: The risk assessment would have looked at what methods are being used across the rest of the network successfully. When we made that decision back in 2007 with the insertion of concrete sleepers, it was not a new method that had been used on the network; in fact, it had been a primary method.

Senator XENOPHON: How you lay the ballast is crucial to this.

Mr Fullerton: Absolutely. From a risk point of view it was best for us to get the timber sleepers out that posed the greatest risk to the track and put concrete in. The maintenance plan was that we recognised there were drainage and ballasting issues that we would address as part of our five-year maintenance program.

Senator XENOPHON: Concrete is much heavier than timber.

Mr Fullerton: Yes, it is, and deeper.

Senator XENOPHON: Do you have different ballasts in place compared to what is the ballast in place for timber?

Mr Fullerton: No, it is the same ballast.

Senator XENOPHON: If you have something that is a lot heavier, wouldn't you need a different type of ballast?

Mr Fullerton: No, it is the same.

Senator XENOPHON: Same ballast but a deeper ballast.

Mr Fullerton: The important thing when you lay a track—and this all gets back to drainage—is you have to have clean ballasts beneath the sleepers to allow water to drain from the track.

Senator HEFFERNAN: Could I assist you—

CHAIR: Senator Xenophon, do you need assistance or do you wish to continue your line of questioning? Senator Xenophon has the call.

Senator XENOPHON: Chair, I have just a few more questions.

CHAIR: Carry on, because at 10.30 we finish this section, we go to morning tea and then we start with the next witnesses.

Senator XENOPHON: Going back to Mr Cantrell: my understanding is that he has advised for a decade and he did recommend side insertion sleepers.

Mr Fullerton: He supports both methods. He came in to assess whether the decision that the ARTC took to use side insertions was correct. It is, subject to making sure that you do other elements of work when you lay it.

Senator XENOPHON: He is a great advocate in the United States of side insertion.

Mr Fullerton: He uses both types. In fact, the ARTC uses both methods.

Senator XENOPHON: This is not a question that I know the answer to but it would be remiss of me not to ask this: has the ARTC checked as to whether Mr Cantrell, given his long history involved in rail, has any commercial relationship or any financial connection with those that provide equipment for side insertion and with any of the equipment used by the ARTC on its track maintenance?

Mr Mrdak: I think we best take that on notice, if you do not mind.

Senator XENOPHON: Yes, but I want to know were checks done to see if there are any commercial links? I am not saying there is, but it is a legitimate question to ask whether Mr Cantrell has any commercial or financial arrangements, any consultancy with any entities that are involved in providing equipment for side insertion or organisations or entities that provide that.

Mr Mrdak: We will take that on notice and give you some details.

Senator XENOPHON: Is side insertion of concrete sleepers to replace timber used in any developed country outside the US—for example, in Europe?

Mr Fullerton: The advice I have is that side insertion is an acceptable method of installing concrete sleepers around the world, along with the other methods that are used which we have used on our corridor.

Senator XENOPHON: Can you take on notice whether Europe is using side insertion methods. My understanding is that it is something that is being dismissed by the Europeans in their train tracks.

Mr Fullerton: Yes.

Senator XENOPHON: Mr Cantrell says that you have an urgent problem. That is what his report says. Do you agree with that? How much is it going to cost to fix?

Mr Fullerton: I answered that a bit earlier—

Senator XENOPHON: \$40 million?

Mr Fullerton: In terms of this accelerated program where we are bringing maintenance costs forward, that is the money we have allocated for that work.

Senator XENOPHON: That is not quite right though, is it, because you are bringing forward that \$40 million but that is \$40 million that probably would not have had to be spent if the sleepers did not play up in the first place, if the system of insertion and the ballast was the correct ballast.

Mr Fullerton: No, that is not correct because if you use an alternative method to install sleepers you still have to at the end of the day finish up with the same track structure, which is clean ballast, improved drainage and improved rail condition. It applies for both methods of insertion.

Senator XENOPHON: From my perspective, there are train drivers that say it is only a matter of time before a train derails, that it is a disaster waiting to happen. They have spoken on condition of anonymity. What do you say to the allegation that the ARTC went ahead and laid new sleepers on substandard foundations? What risk assessment was made of this?

Mr Fullerton: We did conduct a risk assessment from the point of view that we felt the best way to deal with this issue is to replace all the timber sleepers, that they themselves were risky, and then come back as part of our maintenance program to improve the drainage, ballast and rail surface condition. That was a decision we took and that is what we are implementing. Then we had that experience of extreme heavy rainfall last year that created mud holes.

Senator XENOPHON: You keep blaming that heavy rainfall, but is it not the case that the ballasts were substandard? The way that those sleepers were inserted was substandard, given the ballast, and that is why it gave way?

Mr Fullerton: If we had not replaced any concrete sleepers and the timber sleepers were still in the track and we had the rain—

Senator XENOPHON: That is what I am saying.

Mr Fullerton: No, the point is if we had the rain last year we would have experienced significant mud hole issues.

Senator XENOPHON: You are deflecting it. They were not actually inserted properly in the first place with the ballast. It was substandard foundations. The ARTC says the 'pony express' was not used because the track was so busy it would have disrupted service. Didn't the ARTC have total possession, in other words, no trains between Wodonga and Seymour during conversion to standard gauge, for months on end during which time the sleepers were laid? How would the ponies used made any difference?

Mr Fullerton: The assessment by our people at the time was that the pony, which we use in the north coast for the reason that we created less disruption to traffic, would have created more disruption than the side insertion method and the side insertion method had been used successfully across other parts of our network with no issues. It was clearly a choice between: both methods are suitable in our judgment and we are using them; which is the one that is the most efficient method of installing the sleepers and has least disruption on operations?

Senator XENOPHON: Are you confident that \$40 million is all that is going to be needed to fix this up?

Mr Fullerton: Given the works program that we have rolled out, we will address the major problems on the corridor. Already we have seen significant improvement on the north-east line, which was the subject of all the attention late last year when we had all that heavy rain. The improved drainage and rail conditions have substantially overcome that problem. We still have programs of work on the Victorian side in terms of ballast shoulder cleaning, which we are doing, which is probably the last component of providing improved drainage to the track. A lot of the problems late last year were to do with transition points between track where it joins with bridges and culverts and we have been able to fix mud holes that have generated at those points. That has been rectified.

The ongoing management of track in relation to drainage: that is what track maintenance is all about. You have to go back and maintain drainage, maintain ballast condition. Our whole

focus now is to bring forward maintenance works to improve the ballast condition, drainage and the rail condition in an accelerated way to get the track back to an acceptable performance standard.

Senator BACK: The \$40 million, Mr Fullerton: does that cover just the north-south line or does it also include the east-west line?

Mr Fullerton: Just the north-south line.

Senator BACK: What allocation has been made for repairs to the east-west line?

Mr Fullerton: The east-west line has not suffered the problems that we have experienced on the north-south line recently, and so we just have a normal maintenance program that inspects the track and addresses defects when they are found. Three months of the year we run recording cars across that track, we monitor the condition, and we respond to those condition reports.

Senator BACK: Are there any areas on the east-west line that are at risk of finding themselves in the same circumstance as you have been discussing earlier this morning on the north-south line?

Mr Fullerton: No.

Senator BACK: Broken Hill-Parkes, for example? Senator Joyce was asking questions about that.

Mr Fullerton: No, with the work that we are doing on the Parkes to Broken Hill, and the feedback we have had to date on the improved condition, we have confidence that that will result in a substantial improvement to that section of track, once that work is completed.

Senator BACK: What is the alternative to side insertion?

Mr Fullerton: The other method they use is a machine that takes all the old sleepers out and then lays—

Senator BACK: What, takes the rail away?

Mr Fullerton: Yes, effectively you remove the track and you remove all the old sleepers and you come along with a machine that lays out the concrete sleepers progressively.

Senator BACK: That would be after re-ballasting and compacting?

Mr Fullerton: To the extent that you need to improve formation—there is a whole range of scope of works that you would consider doing.

Senator BACK: I do have some small experience, strangely enough, in track laying. It is small. Nevertheless, I have some questions. However the sleepers are replaced there would be three issues: the placement of new material, the ballast— there would be compacting of that ballast— and issues associated with drainage.

Mr Fullerton: Yes.

Senator BACK: I can understand that you may be able to get some ballast. Perhaps you could explain to me how that ballast is placed in position prior to the side insertion. How do you guarantee compaction and address drainage in a side insertion process?

Mr Fullerton: The key thing with the side insertion, which is that you remove the old sleeper and put in a new concrete sleeper that is about 100 millimetres deeper. The important

thing is then you lift the track, remove and make sure you have got clean ballast beneath those concrete sleepers.

Senator BACK: Prior to them being reinserted?

Mr Fullerton: After you have reinserted them. You can lift the track; make sure you have got clean ballast beneath the track, which you lay out with ballast trains that come after the insertion process is completed.

Senator BACK: The sleeper is slid in, the rail is then reconnected to the sleeper.

Mr Fullerton: The rail is reconnected, you then lift the track.

Senator BACK: Yes. You cannot then compact, can you?

Mr Fullerton: I do not know what you mean by 'compact', but you then come with fresh ballast and have that fresh ballast immediately below the concrete sleeper to allow water to drain away from the track. The other component of it, which is what we are doing on the Sydney to Melbourne line, is that the ballast that piles up at the side of the track at the end of the sleepers, can be fouled. We have a ballast cleaning machine that comes along and cleans that ballast by sifting it and taking out all of the fines and then replacing it, so when you do get water falling on the track it runs through the ballast and to the side. The other element of drainage is to make sure you assess ditches alongside the track are clean so water can get away from the ballast and the formation. Also at periods along the track you cut what you call cess drains that allow water which falls on the track to drain away from the track into those drains at the side.

That is the combination of things that we need to do. The issue about the Melbourne to Sydney line was to get the concrete sleepers in. We knew about the ballast, we felt we had time to come back, lift the track, remove the ballast, improve the drainage over our five-year maintenance program but, when it rained to the extent that it did, it created those mud hole problems and we were not able to get to it as quickly as we had planned.

Senator BACK: Going to the mud hole issues on the east-west track, including going across the Nullarbor, are these recent problems? If so, how have they come about?

Mr Fullerton: No, mud holes occur on all track everywhere. That is part of the maintenance of track because you get heavy rain, the drainage is not quite as effective, and you will get a mud hole problem occurring. This is part of our maintenance strategy; mud holes often are initiated if you have rail surface condition where you have dip wells, joints on the track, so that when the train is travelling along that track, you get a vertical movement that starts to pump the track. That is why the ARTC has embarked upon a significant program to replace a lot of the old rail and to grind the track smooth. One of our maintenance actions along the Nullarbor is to get very good rail surface so there is no vertical impacts on the track that can then initiate vertical track movement and pumping of the track when it is wet.

All those things are part of our maintenance program. We understand the importance of good drainage, ballast and maintenance. It was part of the plan on the Melbourne to Sydney line when we put those concrete sleepers in for quite specific reasons—we wanted to get rid of the timber—and to come back and do those drainage works within our maintenance program. It rained heavily and we had to then accelerate that works to fix the problems that we did experience over the last 12 months.

Senator BACK: I do have other questions, but I will put them on notice.

Senator COLBECK: I want to go back to Senator Xenophon's question in relation to the ballast. You said it is the same ballast, in response to his question, when you put the concrete sleeper in versus the timber one. You subsequently said that they are 100 millimetres deeper, the concrete ones. Is there any change to the ballast profile? You said it is the same ballast and that you do add other ballast, in a subsequent question, and it is all about holding everything there and providing that drainage. I understand that, but would the ballast profile change with the deeper sleeper?

Mr Fullerton: If you are building new track there is an Australian standard.

Senator COLBECK: Yes.

Mr Fullerton: When we built the track from Alice Springs to Darwin it was built to an Australian standard that had concrete sleepers. The important thing is to get about 200 millimetre of ballast. In terms of the depth of the ballast and the width of the ballast, that is all important in holding track integrity.

Senator COLBECK: That is what I am talking about in respect of ballast profile around the sleeper.

Mr Fullerton: Yes, building it.

Senator COLBECK: I am trying to get a sense of the profile difference between a timber sleeper and a concrete sleeper.

Mr Fullerton: By definition, you would probably need more ballast because sleepers need to be sitting on a similar bed.

Senator COLBECK: I was trying to clarify that. The impression that I got from your answer was that it was all the same. Based on the standard, there is a difference in required depth for a concrete sleeper. I wanted to clarify that that is exactly what was happening as part of the process. You said in response to Senator Back a moment ago that you replaced the sleepers with an intention to come back to lift, clean and—

Mr Fullerton: Lift, clean, improve drainage, improve rail surface condition.

Senator COLBECK: Yes. That was going to occur afterwards. The fact that you went through and did a quick replacement job to get the initial job done with the intention to come back to fully complete the process later was the thing that caught you out in respect of the impact of the flooding.

Mr Fullerton: That is a fair judgment, yes.

Senator HEFFERNAN: I declare an interest. I am from a railway town. I talk to engine drivers, not that there are many left in June. You say that there are many drivers very happy with the upgrade. Have you had a yarn to the train drivers who do not think it is safe for their families to travel on the train anymore? Do you talk to those people?

Mr Fullerton: I am aware of that report. In coming into the organisation in the last three months, this was a number one issue when I arrived.

Senator HEFFERNAN: It is a great way to start.

Mr Fullerton: Yes. I have spent significant time understanding—

Senator HEFFERNAN: You have my sympathy.

Mr Fullerton: Thank you, Senator. I have spoken to drivers—

Senator HEFFERNAN: This is a—

CHAIR: You have not allowed Mr Fullerton to finish giving the answer.

Senator HEFFERNAN: I do not want him to dig the hole too deep.

Senator Carr: I think you should at least allow him to finish the sentence.

CHAIR: Carry on, Mr Fullerton.

Mr Fullerton: In coming into the organisation, I felt that it was important to get out on the track and talk to drivers, which I have done. A driver that I spent time in the cab with from Benalla to Albury was a Junee driver and he did give me some feedback about the problems on that whole corridor, where he believed the worst problems were. Likewise, we have talked to the unions in New South Wales, again to get information fed back from them about conditions. Part of my plan is to have a far more robust dialogue with drivers so we get feedback. We have people riding trains more regularly. We had somebody ride the train last week to get feedback from the driver, and that is when we did begin to get feedback that was more positive: 'We believe a lot of work has been done. It is improving.'

Senator HEFFERNAN: You recognise the problem and you are going to fix it. The \$40 million to straighten the job up: is that going to detract from the capacity of the ARTC—if you think the main line is bad, you want to try some of the branch lines—to do something about branch lines? Does that bugger up your budget, in other words?

Mr Fullerton: It depends on what branch lines you are talking about. Our operation is our lease network in Victoria and New South Wales, which is primarily the main lines. We have to operate on a commercial basis. We have brought forward some of our maintenance expenditure to address the Melbourne to Sydney line; this is part of that rectification work.

Senator HEFFERNAN: Which are the main branch lines?

Mr Fullerton: From Kalgoorlie through to Adelaide, Melbourne, Albury, into Sydney, and from Cootamundra to Parkes to Broken Hill are our tracks, plus the Hunter Valley, and we have taken up the track between the Gap and North Star. That is our lease network.

Senator HEFFERNAN: I understand that but I also understand that some of the branch lines are in no-man's land and no-one is maintaining them. You talk about the concrete sleepers that are 100 millimetres deeper, four inches. How much narrower are they?

Mr Fullerton: I would have to take that on notice. I thought they were—

Senator HEFFERNAN: Let me tell you. What we are doing in putting the sleepers in, is actually putting them 150 millimetres further apart, they are narrower, there is more pressure on them, as we know there are forces up to 3G forces once you get this business. I can take you, if you like, and I am sure that bloke you were on the train with you could take you, if you like, and show you where indeed the fouled ballast was left there. That is one of the problems. This mud hole thing does not occur just in wet years. There are seepages, there is discharge from groundwater. The whole thing of savings by side insertion versus doing the job properly in one go—you have only been there three months; God bless you, I wish you well—was probably penny-pinching, which is going to have a long-term added cost.

I have got many questions to put on notice that the train drivers, inspectors et cetera would like answered. The best thing I can do because of your three-month apprenticeship—and best

of luck—is ask you to take them away and answer them. But I have to say in relation to the speed of the side insertion that I have been out and had a look—I drive past the railway line all the time. They push a lot of the ballast out of the road when they are putting the sleeper in in places and if there is mud and blood and guts et cetera—you know what trains used to drop—in the ballast, that just stays there and it is ready to do the wobble. I think it is going to be a major job to reballast the line because the rocking motion exacerbates the drawing of water from the side aquifers and the line almost becomes a river in attracting the water because of the suction action of the pumping. I will put my questions on notice to assist the committee. I have to say it is a great shame that we have drivers who do not think it is safe to put their families on trains, and I wish you well in fixing the problem.

CHAIR: Senator Back, there are a couple of minutes left before the scheduled break, if you wish to carry on.

Senator BACK: No.

CHAIR: We will go to morning tea break early and come back five minutes earlier.

Proceedings suspended from 10:26 to 10:42
Office of the Inspector of Transport Security

[10.42]

CHAIR: I now welcome the Office of the Inspector of Transport Security, Mr Palmer and Mr Pearsall.

Senator HEFFERNAN: Welcome. Inspector of Transport Security, is there a possibility that we could get you up to Inspector General of Transport Security like the Inspector General of Biosecurity? Is there something we can do to assist you to get a higher ranking?

Mr Palmer: I am not sure; I do not think it is on the agenda at the moment.

Senator HEFFERNAN: In your role—which for a lot of people is mysterious, and it may well have to be mysterious for many reasons—you, as I understand it, when instructed, do investigations. Is that correct?

Mr Palmer: When directed by the minister, yes. I have no own motion capacity, so I do inquiries as directed by the minister.

Senator HEFFERNAN: In between directions by the minister and investigations, do you have sit down time? Are there times when you are doing nothing?

Mr Palmer: Yes.

Senator HEFFERNAN: They still pay you to sit down?

Mr Palmer: I get paid a retainer to be available. By way of full answer to that: I am in contact with the office every day and I have email traffic every day.

Senator HEFFERNAN: If you are able, could you paint a little picture of what you have done, if it is not too sensitive, to give the committee an idea of the role of the Inspector of Transport Security?

Mr Palmer: Over the duration of the office, or just over the last—

Senator HEFFERNAN: Yes, the last year or two, to give us an idea of things, without infringing on—

Mr Palmer: No, that is fine. Most of the reports have become public or semi-public at the end of the day. The office was created in 2004, initially by administrative arrangement; an act came into place in June 2007 to allow the inquiries to be conducted in a proactive rather than just a reactive way. The whole base of the idea being that, as directed by a minister, the office would have the ability to carry out no-blame style quality assurance assessments of issues and areas of concern within transport and offshore security. As a result of that brief we have conducted inquiries into surface transport following the London bombings; an inquiry into an airport security breach at Sydney Airport; an inquiry into large passenger ferries focused on the Great Barrier Reef; an inquiry into maritime piracy, which we only completed last April; and an inquiry, which we have only just recently commenced and which will proceed over the next 12 months or so, into offshore oil and gas infrastructure security.

Senator HEFFERNAN: You have not been asked to inquire into airport security in terms of—without crossing the line here—the standard of security checking for people employed at airports?

Mr Palmer: Yes, we have only been given one direct aviation or airport inquiry; that resulted from a security breach at Mascot Airport. We inquired into the reasons surrounding the security breach, but not beyond that.

Senator HEFFERNAN: For instance, you have not looked at the Sydney Night Patrol contract at Sydney Airport and their labour hire and their subcontracted labour hirers?

Mr Palmer: I have not been asked to do that, no.

Senator HEFFERNAN: You have not looked at visitor identification cards?

Mr Palmer: No.

Senator HEFFERNAN: Are you familiar with visitor identification cards?

Mr Palmer: I know what they are, yes.

Senator HEFFERNAN: Do you think—no, you are not allowed to have an opinion; the minister will jump on me, and I would not like the minister to jump on me.

Senator Carr: Certainly, I could do that.

Senator BACK: You would be worse for it if he did.

Senator HEFFERNAN: Yes, I certainly would be. The visitor identification cards—and we will raise this with the following witnesses—are issued without a photo and you can be accompanied by an ASIC holder, and you can visit any area of the airport. Then, because there is no photo ID on the card, you can pass the VIC to someone else. You can hold the card for a year, and there is no photo ID. I understand there were 40,000 issued last year, so that might just give you something to go home and think about. That is all my questions.

Senator BACK: Mr Palmer, can I take you up on a matter that you advised us you are investigating or have investigated: maritime piracy. I think you said April of last year or this year.

Mr Palmer: In April last year we completed the formal inquiry—and I had better go to my records to get the exact date; about 12 months ago—but part of the direction was then to keep a watching brief over the following 12 months and to give updates to the minister in terms of any trend changes, any changes to the nature of the piracy problem, which we have continued to do. I think the last watching brief report we submitted was in April of this year.

Senator BACK: By any chance is that publicly available or could it be made available? I have, I should have declared, a vested interest. Members of my family have ships and are on ships that are travelling through waters that are the subject of piracy, so I therefore have a keen interest in it. Would that report be available?

Mr Palmer: The maritime piracy report was widely circulated. From memory, it was tabled by the minister at the IMO conference in London. It was accompanied by informative brochures, practice brochures, some of which were reprinted in 10 different languages. They were circulated widely through the industry—

Senator BACK: This was your report?

Mr Palmer: Yes.

Senator BACK: In preparing that report, it has taken you outside Australia's jurisdictional zone, I would imagine.

Mr Palmer: That is correct.

Senator BACK: I do not know that we have had too much within our own, but was that report prepared in collaboration with other countries who are themselves facing these issues?

Mr Palmer: Very wide collaboration.

Senator BACK: It was your report?

Mr Palmer: It was our report. It resulted from a wide range of consultation that involved the gentleman sitting alongside me, the director of our office, Peter Pearsall, spending two months working with the United Nations Office of Drugs and Crime in Kenya, dealing with the land side, the actual handling of the pirates. We worked closely with the UNODC, with IMO, with IMB, the International Maritime Bureau, and we have since checked all our draft findings and recommendations with those international bodies. We worked with the International Transport Workers Federation, I think the title is, and worked closely with a lot of government stakeholders. The inquiry took us to the UK and to other places around the world in terms of getting a better assessment of the way other people are responding to the problem, the nature of the beast et cetera.

Senator BACK: I fully support every action taken. Given the fact that we do not have much of a deep water fleet—if at all—why would Australia have been taking a leading role in this particular issue?

Mr Palmer: I do not think we took a leading role, but I think it was felt politically, and my assessment of this was correct, that we needed to be part of the response to what was a very serious international problem. Although we do not have too many Australian registered ships that ply those waters, a lot of our very important cargo, particularly for the north-west shelf and the mining industry off Western Australia, travels through those waters.

Senator BACK: And the livestock.

Mr Palmer: Livestock, nuclear shipments et cetera. And, of course, some of those ships are crewed or have Australian senior officers as crew, if not seamen who are crew. So it was a combination of being prepared to be part of the global response to a serious international problem and a recognition, as has become clear from some of the IMB information, that although the pinnacle of the piracy problem is off the Horn of Africa at the moment and now again resurfacing off the western coast of Africa in Nigeria, the South China Sea and the

Malacca Strait have always been areas of piracy activity. They were showing some signs of increase. Criminality begets other criminality when it is seen to be successful, I guess.

Senator BACK: We will get to commercial shipping in a moment. Did you make any recommendations in the report in relation to yachts, because we do have a fairly significant number of yachts that sail down through those waters to Australia? Did you address those at all and did you have any recommendations apart from putting the yachts as deck cargo on ships and not doing it at all?

Mr Palmer: We did address the issue of recreational sailing and yachts and gave some advice in terms of care and caution that ought to be exercised in those waters. I do not think we had a recommendation directly on recreational sailing. Mr Pearsall, correct me if I am wrong. I am pretty certain that is correct. That British couple were taken hostage at the same time as we were conducting our inquiry, and they were held as hostages throughout the duration of our inquiry. We referred to that incident in particular, as well as other incidents in general, in terms of issues that you really needed to be careful about.

Senator BACK: I am aware of the involvement of our own Australian Defence Force personnel, having been on an Orion aircraft in April of last year overflying that area. Did you have any recommendations specifically in terms of Australian contribution to minimising the risk of piracy or addressing it after it has occurred?

Mr Palmer: The defence aspect was outside our brief, but we made a recommendation to government, which they accepted, that we should be prepared to contribute to the United Nations Office of Drugs and Crime initiative on land which was aimed really at building the capacity of Kenyan police to handle and properly try and convict or deal with people arrested on armed ships, on warships, suspected of piracy. In terms of the process, we were at the front end of that, in that UNODC was only considering doing that as we were conducting our inquiry, and we became involved in creating it. In fact, one of the reasons Mr Pearsall went across was that he became involved in setting up the arrangements for the handling of captured pirates within Kenya.

Senator BACK: Can you tell me whether either your recommendations or your report has found itself into any budget allocation in the recently released budget for 2011-12; any specific expenditures?

Mr Palmer: Not in the recent budget but, as a result of the issue I just explained to you, there was a contribution of \$500,000 made by the government to the United Nations Office of Drugs and Crime's Counter-Piracy Program. It involved the appropriation of the money, a secondment of Mr Pearsall for two months, Australian Federal Police secondment into the program, which I think may be still continuing. I am not aware of any contribution in this current budget.

Senator BACK: I will ask the question and you can tell me whether you are able to answer it or not. It is specifically on an operational matter. It is a discussion I have had at great length with one of my sons who has responsibility in this particular area, and that is about the capacity to put around the gunwale of a ship, and downward pointing, a reticulation system effectively so that, under the risk or the threat of the pirates attempting to get on a vessel, high-pressure water jets could be directed downwards either around the entire gunwale or around that section of the ship where the pirates are attempting to gain entry. From your

investigation or even from your previous knowledge, do you think that is a totally and utterly impractical solution, given the fact that there is a massive amount of seawater, given the fact that ships have tremendous pumping capacity and that the cost of putting a reticulation system around the gunwale of a vessel would be very small?

Mr Palmer: There have been a variety of initiatives used, including the use of high-powered hoses by certain traders and certain ships. It has been successful on occasions; I think that is fair to say. It is one of the mechanisms that has been used. I am not sure about the full reticulation around the body of a ship, but certainly high-powered fire hoses have been used to repel boarders.

Senator BACK: I am aware of that. In that sense someone has to be there and the hoses have to be run out.

Mr Palmer: That is right.

Senator BACK: If it happens at 2 o'clock in the morning the chances—

Mr Palmer: You are talking about a fully automated system here, obviously.

Senator BACK: If not automated, then certainly one that can be controlled from the bridge quickly, yes.

Mr Pearsall: When they started to put the barbed wire around on the fire hoses it required 24-hour manning, which ships did not have the capacity to do. When they did use the fire hoses in the early period of time, once the pirates started firing at them, the crews are not armed and were certainly not going to stand there and be shot at. It made the manual operation impractical. I know of no automated system. For every system—from dragging nets to barbed wire to electric fences to water hoses—the pirates still manage to get around those systems, either en masse or at night, and have taken more ships than they have been repelled from that have used those devices.

Mr Palmer: The concern also was that it upped the risk for the crew. If they were successful in boarding they were going to be a little angrier than what they were without those deterrents, which led to the use of safe houses and strongholds within the ship, but even that came at a risk in terms of whether they might sink the ship itself. There are a whole range of factors they have been playing with.

Senator BACK: I will be very keen to read that report. Where can I get a copy of it?

Mr Pearsall: It is available on the departmental website.

Senator BACK: I go on to the other of the matters you mentioned in response to Senator Heffernan's question, and that is the offshore oil and gas facilities and security relating to them, presumably mainly off the north and north-west coast. Can you give us any advice on the conclusions you may have drawn or the recommendations you might be making in that regard? It is of great concern to us in Western Australia.

Mr Palmer: Yes. We are only just launching the inquiry. It was formally announced by the minister on, I think, 1 February this year. Letters went out to the key government stakeholders as well as industry stakeholders. We have had tremendous response from industry and responses from some of the government stakeholders. I have met with the board of APPEA, the Australian Petroleum Production Exploration Association, in Perth. I met with the board only a month or so ago. They have given us a full-time liaison officer to work with

us and they are facilitating site visitations for us off the North-West Shelf and also some benchmarking assessments overseas. We have had a team on the ground last week in Bass Strait working closely with ExxonMobil who escorted us around; the national security chief escorted the tour. It is far too early at the moment to reach any conclusions. We are just really getting an appreciation of the environment.

Senator BACK: You will, as part of that review or study, look at the existence of current Defence Force and other related assets?

Mr Palmer: The terms of reference are very broad. My act prevents me making any direct comments in regards to defence matters but it will—

Senator BACK: I am not asking you to make comments. Will you be picking up the adequacy or otherwise of our defence assets?

Mr Palmer: We will be looking at the whole range of government responses, particularly government interactivity, their interaction with industry, the overall capacity of government to respond to incidents is within our brief. It is a cross-portfolio inquiry which is why the minister had to write to people like the Minister for Defence and the Attorney-General and other ministers who are affected, the Minister for Resources and Energy, of course, and tourism. We will be working very closely with those key bodies, including AMSA, the Office of Transport Security, in assessing all of those areas. This would be the most far-reaching and complicated inquiry which we have been directed to conduct to this time.

Senator BACK: It is of enormous concern to us, given the fact that we have got naval assets at Garden Island, but the submarines do not ever seem to be operational anymore. Then you have to go all the way through to Darwin in a sense before you see another permanent Australian Defence Force unit. We have the Pilbara regiment, which is effectively a citizen military force at Karratha, and nothing else. I know there are some customs vessels. It is of enormous concern that we are so exposed in an area that is contributing close to 40 per cent of our export wealth, or will, and I think \$180 billion of investment in that area now and into the next decade. It seems to me that you will get all the cooperation in the world. Can you give us an idea of when it is likely that that report will have been concluded?

Mr Palmer: It is going to take some time for a whole range of reasons, including the weather and climatic conditions, the demands on resources to get people on and off rigs and so on, but the industry is falling over backwards to cooperate, as you say. To complete it and have the report written and tabled, it will not be much before the end of next year. It will take us between 12 and 18 months, I would suspect.

Senator BACK: I think you indicated in an answer to a previous question that your role is only reactive to requirements of the minister; you do not, within your remit, have the capacity to be able to identify an area and either investigate it independently or recommend to the minister that your office should investigate any issue at all.

Mr Palmer: I can identify issues and bring them to the attention of the minister, but I have no own-motion capacity. We do that from time to time and have done that in regard to other matters that we have finished up being directed to inquire into, but we have no own-motion capacity, only inquire as directed by the minister.

Senator BACK: For example, after the security breach at Sydney Airport, that would not have automatically have led, unless the minister directed it, to you to undertake an extension of that inquiry to other airports?

Mr Palmer: No, that is correct.

Senator HEFFERNAN: I am about to do the Office of Transport Security. Just for the inspector, who I will call the inspector-general, you might be interested to know that one of the subcontractors to Sydney Night Patrol, who does Sydney airport and other places, is a gentleman who has been previously linked to the terrorist group al-Zarqawi and has serious problems with workers compensation underestimation et cetera. Some of the subcontractors for the supply of the guards at Sydney airport are, to say the least, dodgy.

CHAIR: Thank you, Mr Palmer and Mr Pearsall.

Office of Transport Security

[11:03]

CHAIR: I now call officers from the Office of Transport Security.

Senator HEFFERNAN: I might as well take up where I left off. Some time ago, I thought fairly discreetly, for me, I raised some issues of supply of labour for Sydney Night Patrol. I have information which has been passed on that alleges the practices of Sydney Night Patrol security and their contractors, licensees:

The practice has been promoted and endorsed by Sydney Night Patrol and are still procuring the following from their contractors, fraud, tax evasion, non-payment of taxes, welfare fraud, general misleading of clients, including government agencies, which involves—

included in this dossier—what I am asking is: where we are up to—

The following person—

who I will not name—

is one of the main contractors of Sydney Night Patrol. This person is currently under investigation by the Australian Tax Office for evasion of taxes, has currently paid back millions of dollars in tax—

And so on. Another character, who I will not name, is the owner of a company, that I will not name, in Rickard Road, Bankstown. The company was previously called something else. He is the main contractor to Sydney airport, it is a large workforce involved in state rail contract. It says:

The account for this particular company, along with a number of other accounts, is at Westpac Bankstown, along with a lot of other accounts held at the Commonwealth Bank. Every Tuesday an unknown person attends and takes large amounts of cash from Westpac, through various companies. This cash is being used to pay guards employed off the books by Crown Security. They are paid between \$10 and \$14 an hour—

This is two years ago. It goes on about another gentleman and goes through some details, and then it goes on to say that 'this is a concern' and there is some detail which involves massive underestimating. I think they have got workers compensation policies. They invoice \$100,000 a week at this time to Sydney Night Patrol, yet their workers compensation values the yearly wage book at no more than \$500,000 for the year. This would equate to no more than 12 to 16 staff on their books. It does not equate to the cash being paid out when earning over \$6 million per year. The particular person involved in this one is a person who shall remain nameless and has been previously linked to the terrorist group al-Zarqawi and they have

management of the Queen Victoria Building, along with other contracts with Sydney Night Patrol. I wonder just where we are up to with all of that.

Mr Wilson: Thank you for the question. We have previously discussed this issue and Mr Retter, Executive Director of the Office of Transport Security, has raised those issues that you raised on previous occasions with the AFP and with our colleagues in ASIO. Because it would appear to be a criminal rather than transport security-related matter, those issues are more appropriately dealt with by the AFP and ASIO. I am not in possession of an updated report as to where the AFP or ASIO are at with any investigation arising from Mr Retter passing those concerns across to them. The best agency to ask in terms of that would be the Attorney-General's Department in terms of obtaining an update for those concerns.

Senator HEFFERNAN: Is the Office of Transport Security interested to know where it is up to? You would think you would want to know what happened. I do not want to go anywhere where we should not go.

Mr Retter: No. If at any stage there was a concern about an individual working in a secure area at the airport for that individual to be subject to matters from the intelligence community, that would be an ongoing activity and I would hear about it after the event, once they have done some action. Similarly, AFP conduct ongoing investigations on a range of issues, as you would be aware, at our ports and airports and, where necessary, people are dealt with. That follows lengthy investigations, often, that go for some period of time. I am not privy to any specific information in relation to the matters you have raised. I would, however, anticipate that, if there were issues, at an appropriate time I would be briefed on them.

Senator HEFFERNAN: I have got one of the payrolls here which backs it up. Thank you. Could I put in a request for some emails that have been sent. If I could detail the emails: on 5 May 2010, there was an email to transport security—I can provide you with a list. The sender was a bloke called Max Thompson, topic was 'prohibited items and EIA requirements'; 2 June, same thing, topic, 'differences to annex 17 Security'; 3 June, to Max Thompson, sender Tina Lee, 'difference to annex 17 security'; 3 June, another to Tina Lee from Max Thompson, 'differences to annex 17 security'. It goes on, there is a long list, and if you could take that on notice, I would be grateful. There would be no trouble getting those emails?

Mr Wilson: We will take it on notice and look for those.

Senator HEFFERNAN: Could you describe to the committee what annex 17 means?

Mr Retter: The annex 17 requirements are part of the convention related to aviation security. Annex 17 lays out the security requirements for airlines and airports. It is a convention, the annex of which is a part, which Australia is a signatory to. We are one of about 194 nation states that have signed up to the convention.

Senator HEFFERNAN: To approaches that are made by people on annex 17, I am advised that the Office of Transport Security responds generally: 'We do not give legal opinion,' 'We cannot answer some questions on the grounds of national security,' and 'We cannot answer some questions on the grounds of it being privacy matter'. I am advised that several incidents and confirmed breaches have occurred. Are you aware of what this is all about?

Mr Retter: I am not aware of the specifics of this. I do recall being made aware that Mr Thompson—if this is in relation to your earlier question—has raised queries and had some discussion with my staff about annex 17. Apart from that, I am not aware of the specifics.

Senator HEFFERNAN: Has Australia filed a difference with the International Civil Aviation Organisation?

Mr Retter: Yes, at least one difference in terms of some specifics related to a particular security measure that we apply in Australia. Whilst I would not wish to go into that on the public record, it relates to our approach to delivering a security outcome.

Senator HEFFERNAN: Should I not progress to what the problem is considering searches of crew? Is that a bit sensitive?

Mr Retter: I think if it goes to the heart of specific security measures, it would not be appropriate to deal with it in—

Senator HEFFERNAN: Okay; I do not want to make a mess of this. Can you explain to the committee what a visitor identification card is?

Mr Retter: Certainly. I might ask Mr Dreezer to answer that particular question, given his responsibilities.

Mr Dreezer: A visitor identification card is a card that is issued to a visitor at an airport and those visitors are escorted by holders of aviation security identification cards.

Senator HEFFERNAN: That means that I can be issued with a VIC card without a photo?

Mr Dreezer: Currently you could, yes.

Senator HEFFERNAN: How would you know it is me?

Mr Dreezer: The process of obtaining a visitor identification card is one where you present yourself to the airport and a sponsor confirms your identity at that time and provides you with a visitor identification card.

Senator HEFFERNAN: What if the sponsor is a person I spoke about earlier as dodgy? What if I present myself as Senator Sterle at the airport with someone who has an ASIC and you give me a VIC? Is there nothing you could do about it?

Mr Wilson: Senator, you would be required to provide photographic identification indicating that you were Senator Sterle.

Senator HEFFERNAN: But there is no photo ID required.

Mr Wilson: There is no photo ID required on the VIC. The visitor identification card does not have a photo on it but, to obtain a visitor identification card, you will be required under the new regulations to—

Senator HEFFERNAN: But not at the present time. At the present time it is open slather—it is a soft entry point into the security system.

Mr Retter: There is a need for continuous improvement. That was recognised by the government in its announcements some time ago about improvements to the VIC scheme, which we are implementing. New regulations have been put in place. Those new measures and tightening of the VIC scheme will be in place by late November.

Senator HEFFERNAN: So at the present time I get my VIC card without a photo, I am accompanied and I can visit any area of the airport and then pass on the VIC card to anyone I feel like?

Mr Retter: I would contend that, if the person escorting you knows the purpose, and they would, for which you are entering the airport, you would be allowed access to that part of the airport for which you have been approved entry for a particular purpose. You are escorted at all times and you must wear the visitor identity card at all times. I suggest that the chances of that occurring are slim.

Senator HEFFERNAN: Except if there is intent. So I can get the VIC card, go home, not hand it back in when I leave the airport and come back in two weeks time and use it again? Is that correct?

Mr Retter: I do not agree that that is a likely scenario.

Senator HEFFERNAN: But you can if you want to?

Mr Retter: No, I do not think that is true. Unless I am mistaken, as you leave the airport you would be required to return the visitor identity card to the control office where that pass was issued. That is my experience. Having picked up VICs at a number of airports myself, I can assure you that is what I have been subjected to, with very little opportunity to walk away with the VIC.

Senator HEFFERNAN: My understanding and information is that 40,000 of these were issued last year from one delivery gate with no background checks.

Mr Retter: The ANAO report from which you are, I believe, referring to does indicate a need for improvement in the visitor identification card scheme. We acknowledge that and indeed the government had acknowledged this prior to the ANAO report. As I said previously, we have an enhanced visitor identification card set of regulations in place now, and we are about to implement them after extensive consultation with industry. I believe we will see further continuous improvement in the visitor identification card as we go forward. Indeed, in terms of implementation and post implementation, it would be my view that 12 months after we have implemented the new arrangements, which will see far stricter arrangements in place for visitor identification card issue, we will do a further evaluation to see if there is further improvement required.

Senator HEFFERNAN: This will happen in November?

Mr Retter: That is correct.

Senator HEFFERNAN: I understand that at Melbourne Airport one cleaner swiped 20 people into a secure area. Do you know about that?

Mr Retter: No, I am unaware of that alleged incident.

Senator HEFFERNAN: Perhaps you had better find out. In relation to VIC passes, the ANAO—and you correctly identified the source—states that, 'It was difficult to gather the number of VIC cards issued per year'. Why is that the case?

Mr Dreezer: That is the case because at the moment there are no centralised databases for visitor identification cards at our airports. With the introduction of the new regulations that Mr Retter mentioned, all airports will be required to have in place centralised databases which will enable them to more carefully monitor the issue of visitor identification cards.

Senator BACK: Can I ask, Chair, and with Senator Heffernan's agreement, what there is currently to prevent them being copied, counterfeited or produced outside the system? Are they numbered, are they barcode scanned or do they have an RFID chip in them? What is the system and what is the system that is proposed to overcome the possibility of counterfeiting or fraud?

Mr Dreezer: The current system is that they are generally numbered at each of the airports and they are issued with a number. As would be the case when you come into a government department, you are issued with a card with a number. That is the general practice.

Senator BACK: Is there some check-off system then? In following Senator Heffernan's question, is there some process where if someone fails to hand their card back in for any reason you then have a sign-off or an audit process to go looking for the person holding the card of that number?

Mr Dreezer: The airports have an audit process and that will be further improved with the centralised database that is going to be put in place.

Senator BACK: What happens if in fact the hypothetical Senator Heffernan has shot through with his card, what is the operating process now?

Mr Dreezer: The airport operator would seek to track that person down and get the card returned.

Senator BACK: But they do not.

Mr Retter: Even in the event that an individual took the card home, as Senator Heffernan has alluded to, when they re-presented themselves at the airport they need to be escorted with somebody with an ASIC. There would need to be collusion and a range of other things going on to effect a scenario that Senator Heffernan referred to. My experience has been that that is a very unlikely event. It is possible; and because of those reasons that is why these new measures are being introduced.

Senator HEFFERNAN: If you do not know how many have been issued, can you estimate how many VICs are issued each year? If you get 40,000 issued at one delivery gate, how many do we issue, all up? There must be hundreds of thousands.

Mr Dreezer: We do not have an indication of that.

Senator HEFFERNAN: It is no-man's land.

Mr Wilson: That is one of the reasons why we are making the change.

Senator HEFFERNAN: I would have thought that, tomorrow morning, given world events, you should—I would not be waiting until November. This is about helping yourself. If you have malicious intent, this is about helping yourself. Do my dear friends from the Sydney night patrol have ASICs?

Mr Retter: Screeners or security staff at our airports in securities are required to have ASICs.

Senator HEFFERNAN: I can assure you that I will not go into the detail, but there are people who may be ASIC holders who are of dubious background and intent. They could certainly have a platoon of people with VICs come on to the airport and they can accompany them and sign them through; correct?

Mr Retter: I find that scenario very unlikely, given—

Senator HEFFERNAN: Except if there was an intent to cause a malicious damage. That is what this is all about; security. It is all right for honest Joe Blow. Senator Chris Back would hand his back in and I am sure Senator Sterle might.

CHAIR: I will have to check my glove box.

Senator HEFFERNAN: You know what I mean: if you have a plan, this is the easy way in.

Mr Wilson: Your question goes to the veracity of the ASIC system itself, because the base security control that we have with regard to access to the secure areas of the airports is the robustness of the ASIC, which is why the system is designed the way it is and which is why we are going through improvements in terms of its arrangements.

Senator HEFFERNAN: I understand.

Mr Wilson: Were somebody to get through the ASIC arrangements who was of dubious character, then that is a possibility. However, the question goes to the veracity and the robustness of the ASIC regime.

Mr Retter: To deal with this matter we also conduct detailed compliance activity at each of the airports in each state. Your comment before about open slather is—

Senator HEFFERNAN: Yes, that was a bit colourful.

Mr Retter: There is a fairly rigorous regime of compliance checking of airport management systems in relation to VICs, return of VICs, the way in which registers are maintained. We do on-the-spot compliance checks of people out there. The number of incidents that we have found where people have not complied is very small and we have taken enforcement action against them when we do.

Senator HEFFERNAN: I understand all of that but, if there is an intent to cause a malicious event, it is possible at the present time for a group of people accompanied by an ASIC holder to have a VIC card not necessarily issued to them to enter secure parts of an airport.

Mr Retter: It is possible.

Senator HEFFERNAN: Is it possible to obtain figures, given that we do not know how many are issued and how many are returned, on how many people obtain multiple VICs per year?

Mr Dreezer: No.

Senator HEFFERNAN: Will figures be available in the future?

Mr Dreezer: Yes.

Senator HEFFERNAN: When would that be? After November?

Mr Wilson: Once the airports put in databases with regard to the provision of visitor identification cards.

Senator HEFFERNAN: What security protocols have to be undertaken before someone will be issued with a VIC? Is any background check required?

Mr Wilson: Now or post-November?

Senator HEFFERNAN: Now.

Mr Dreezer: No background check is required at the moment.

Senator HEFFERNAN: Is there a determination on how many VICs an individual is able to obtain in one year?

Mr Dreezer: A person can get a VIC issued for either one day or up to 30 days. They may be issued several 30-day VICs per year, so it is unlimited. Under the new regime a person will be able to be issued only with a visitor identification card for 28 days within a 12-month period.

Senator HEFFERNAN: If I am working at the airport doing something and I am issued with a VIC, which I need it for three months, can I get a VIC for three months?

Mr Dreezer: At the moment, if you were a contractor working on an airport, you could be issued with a VIC for three months.

Senator HEFFERNAN: Wouldn't it make sense to give me an ASIC and have a bit of a background check to make sure I am not someone that should not be there?

Mr Dreezer: That is something that we are promoting and that is why we are changing the regulations.

Senator HEFFERNAN: Is it possible for someone to enter a secure zone at an airport or port every fortnight using the same VIC?

Mr Dreezer: At the moment, yes.

Senator HEFFERNAN: What access is available to holders of a VIC? What is the protocol? Where can I go with a VIC if I have got an ASIC accompaniment? Absolutely anywhere?

Mr Dreezer: No.

Mr Retter: It depends upon the purpose for your visit. For example, if you are a contractor working as part of a company that is digging up a runway or improving facilities in a particular location, your entitlement will be to that particular area of the airport, and that is the purpose for which we will have you escorted to that particular area where you work and then off the secure area of the airport. There will be some people who have an ability to go to one or two areas because of the nature of what they do. People like myself, if I am picking up a VIC and wish to see a complete area of the airport, may well be escorted around the whole area of the airport in that circumstance. It will depend upon the nature of your business on the airport.

Senator HEFFERNAN: It will also depend on the good intent of the ASIC holder because the ASIC holder—

Mr Retter: Yes, and the arrangements in place by the airport as to who is the acceptable person to escort visitors. That is controlled by management at the airport.

Senator HEFFERNAN: You do not know how many are issued, you do not know how often they are reused. You do not know how many multiples are issued. As long as there is an ASIC holder who accompanies me it is sort of open slather. I understand that changes have been proposed in this area. What do these changes entail? This is the good news end of the story but it should happen tomorrow morning, not in November.

Mr Dreezer: I will take you through those changes. The regulations that have been passed and will be introduced on 21 November this year will result in visitor identification cards being centralised at airports. It will mean that only airport operators, national aircraft operators with least passenger terminals and the Australian Customs and Border Protection Service will be able to issue visitor identification cards. The scheme will be significantly strengthened with visitor management arrangements in place whereby a person can obtain a visitor identification card only for 28 days within a 12-month period. That person would continue to have to be escorted by an ASIC holder in secure areas of the airport. Those are the significant changes. The changes will also result in a requirement by the visitor to produce photographic ID before they are provided with a visitor identification card. There will also be a number of offences that will be placed in the regulations. It will be an offence for a visitor identification card applicant to intentionally obtain a visitor identification card for more than 28 days within a 12-month period; for an individual to knowingly apply for a visitor identification card when they have been denied an ASIC card; and for misrepresenting the reason for entering a secure area in the airport as well.

Senator HEFFERNAN: The long and the short of it: to get a VIC card in the future, will I have a background check?

Mr Dreezer: No, you will not have a background check but you will be escorted by an ASIC holder. Effectively, it would be impracticable to background-check everybody who wished to visit an airport.

Senator HEFFERNAN: In a secure area.

Mr Dreezer: In a secure area; because we are looking at significant numbers of individuals.

Senator HEFFERNAN: If I am, with malicious intent, accompanied by someone under the new scheme who also has malicious intent but happens to have an ASIC, what prevents me from getting a VIC? I am a subcontractor to someone that is doing something on the airport but my real intent is something else.

Mr Retter: Can I go to this issue of malicious intent. One of the great challenges in any preventive security regime is that there is no 100 per cent guarantee, because of the issue of insider threat. An insider threat—that is, anybody who has previously been background-checked and who has either a bad hair day and decides to turn up and do something silly or is, in some way, shape or form, subverted to do some action—is well-known globally as one of the key concerns that we have. I understand the focus of your questions in the improvements that we are making; we are on a journey to improve and tighten up the regime.

Senator HEFFERNAN: I congratulate you.

Mr Retter: There is always still a residual risk of people, ranging from pilots, management staff, all sorts of people that we would normally see as trusting, because of issues that are beyond control; they are individual issues that sometimes we may pick up and sometimes we may not.

Senator HEFFERNAN: We have all done well. Thank you very much for your assistance in that area. I would like to move to a different area: screening at airports. I see some airlines are going to charge you extra if you do not book yourself in. The holder of the ticket could be anyone, not necessarily the person whose name is on the ticket. When you board the plane,

unlike some other places in the world, you do not have to show ID. I could be Bill Heffernan when, in fact, when I am boarding the plane, my ticket could say Andrew Wilson. Do you consider that a security risk?

Mr Retter: No.

Senator HEFFERNAN: We will see. Anomalies in the screening procedures at international airports exist. The review into screening published in April 2009 appears to take no account of ground crew as a threat to aviation. That is a reasonable assumption; you have got to have some cut-off point. A comparison of three options was made—namely, Canada, US and New Zealand security models—and after that they decided to reinvent the wheel. Concerns with screening of pilots: if pilots ask security workers to show them their ID or ASIC cards, and they are told, 'We do not have to show you,' is that true?

Mr Retter: Sorry, I do not—

Senator HEFFERNAN: An instance of a pilot going through—

Mr Retter: Is your concern that the pilot is being screened? Is that the question?

Senator HEFFERNAN: No. My concern is that a person who has an ASIC pass does not have to show it if they are asked to show it, especially to the senior pilot boarding the plane. Should it be displayed at all times?

Mr Retter: I understand the nature of your question goes to an incident at a regional airport. I am not aware of the particular incident or the precise facts around it. If I could, I would like to take your question on notice.

Senator HEFFERNAN: That would be fair enough. Pilots are checked correctly, yet cleaners seem to be able to access areas with very little security checking, and I instance the one swipe to get 20 people through. In Japan recently they found 10,000 unauthorised items in planes. With screening of passengers at airports, AFP only screen for weapons, not drugs. AFP has some concerns similar to those of the international pilots association.

Mr Retter: Your questions are going to the heart of ground staff and access to secure areas. We have, at our major airports, airside inspection arrangements for all staff going airside, which include face-to-identity checks and checks of items being carried through those checkpoints. Our intention is to enhance and continuously improve, tighten up, that regime; over the next three to four years, to progressively, as infrastructure allows and as the technology is available, improve the way in which we screen all staff going airside, into secure areas. This is something that we have embarked upon; we are developing regulations in conjunction with industry. The intention is to do this progressively, because (1) the potential cost of doing this is significant; (2) there are facilitation issues—if we did this, we would have queues a mile long at various gates. We are doing this in, I would like to think, a sensible way to continuously improve the system.

Senator HEFFERNAN: My congratulations. All human endeavour has failure. I used to be, I do not know whether I still am, on the parliamentary security house committee and I demonstrated—and got into a bit of trouble demonstrating it—how you could step over the fence halfway up the hill there, walk into the dining room and shoot someone if you wanted to. They now have an automatic lock on the doors. You could jump over the side fences—all security has some failings—and, of course, there was the parcel entry. Do you agree that all luggage, especially on international flights or main flights, should be screened?

Mr Retter: All hold baggage should be subject to screening on RPT and open-charter flights. In Australia, all international flights have checked baggage screening applied to them, and I am not aware of any incidents where that has not occurred.

Senator HEFFERNAN: I am about to make you aware.

Mr Retter: Thank you.

Senator HEFFERNAN: There should be 100 per cent screening of luggage. This is not happening. Oversized bags and trans-shipped bags are not checked; they are just taken off the conveyor belt and put on the plane. Would you like to have a look at that on notice?

Mr Retter: I can speak to that. My understanding is that oversized baggage is screened. It may be screened not using the equipment that is used for screening normal-sized bags, but it is subject to explosive trace detection screening.

Senator HEFFERNAN: I understand that that might not be the case but, anyhow, that is something for you to sort out. Entry to terminal halls: passengers, friends and family can enter the terminal, go through security screening areas and do not have to show a boarding pass. This does not happen at international airports; their friends et cetera are not allowed to the gate of the plane to say goodbye and all that. Is that a security weakness?

Mr Retter: Everybody who enters the secure areas of a terminal in a domestic airport is subjected to the same level of screening—that is, the items they carry through and the individual are screened, whether they are a passenger, a welcomer or a waving-goodbye person. From an aviation security point of view, we have cleared those people in that secure area to the standard required by law.

Senator HEFFERNAN: But, from a criminal flight point of view, isn't that a weakness? Anyone could hop on the plane.

Mr Retter: I cannot comment on the criminality aspect; that is a matter for the AFP and the Attorney-General.

Senator HEFFERNAN: I will take that up with the AFP. Most countries have a government or government-private partnership in security contracts—Canada, New Zealand, US; in Australia it is a private contract, and it is interesting. If the threat that exists around the world continues, should we be tightening up security arrangements and contracts at airports—in other words, the government taking a partial ownership or partnership?

Mr Retter: The government has very clear—

Senator HEFFERNAN: That may be an opinion.

Mr Retter: That is a policy issue and the government has very clear policy on the arrangements.

Senator HEFFERNAN: At Brisbane Airport masking tape confiscated from a pilot, even though it is not on the prescribed list; however, masking tape is now allowed. That is correct? It was confiscated. I could figure a reason why: you could tie someone up with masking tape.

Mr Retter: I am not aware of masking tape being removed from a pilot.

Senator HEFFERNAN: I might let you take that on notice. Is the Office of Transport Security aware of cockpit door opening incidents?

Mr Retter: I am not aware of any particular incidents. I am aware of some concerns that we are investigating, but no incidents per se.

Senator HEFFERNAN: Thumbprint entry, which is now in the US: any pilot in uniform over there does not go through security, it is all done by thumbprint ID; you are familiar with that?

Mr Retter: I am aware that some airports in the world use biometrics to verify who might be accessing certain areas of the airport.

Senator HEFFERNAN: Liquids, aerosols, gels screening: concerns with passengers' honesty at declaring at the point of screening. To protect passengers from the threat of liquid explosives, there are rules for taking those things on flights. These rules also apply to passengers arriving on international flights who are transiting. Do you think you have that covered off nicely?

Mr Retter: We have existing rules which were introduced in March 2007 and have remained the same since then. We are working as part of the strengthening aviation security initiative to move to a technology based solution.

Senator HEFFERNAN: I have a lot of questions. Mr Chairman, how much time have we got?

CHAIR: Not long, because Senator Nash wants to—

Senator HEFFERNAN: If it is pertinent I should allow someone else, because I have got a lot of pertinent questions to come.

Senator NASH: I do not have any in this area.

Senator XENOPHON: Can I interpose, because I have to go—

CHAIR: Yes, and then we will come back to Senator Heffernan—as long as they are all pertinent.

Senator XENOPHON: Pertinent with a capital P, Chair. Further to Senator Heffernan's line of questioning, I want to go back to where this would fit in. I have had a bit to do with Allan Kessing, the Customs officer who was convicted, many say wrongly, of breaches of section 70 of the Crimes Act. He was the author of reports on airport security in 2002, I think, raising concerns about defects in airport security. That was subsequently leaked; Mr Kessing was subsequently convicted. You are familiar with the case, I take it?

Mr Retter: I am aware of this case.

Senator XENOPHON: The Howard government, following that, commissioned an independent review of airport security and policing for the government of Australia; are you familiar with the Sir John Wheeler report—

Mr Retter: Yes, I am.

Senator XENOPHON: of September 2005, which seems to vindicate all and more of what Mr Kessing was saying in his reports. What I want to follow through is to what extent is the Wheeler report a template for the work that you do in terms of ensuring that all the defects identified in Mr Kessing's report and in the Wheeler report have been dealt with? It is now getting on towards six years since the Wheeler report came out.

Mr Retter: I might answer this in a short manner, and then give you a more fulsome response separately. The Wheeler report contained, from memory, 17 recommendations, which we have substantially dealt with and, indeed, I think completed in all measures. Let me qualify that by saying that as part of the subsequent reviews that have been done by the government, including the white paper in 2009, we have in a sense picked up on the themes that Sir John Wheeler came up with and moved beyond those. The threat has changed, the environment has changed and industry has changed significantly since then. This is a continual moving feast in terms of action, reaction, preventive security to anticipate a threat and the like.

Senator XENOPHON: I am grateful for your answer, but there were press reports I think last year in relation to maritime security in terms of organised crime links with maritime security, on front pages in the Fairfax papers and in other papers. You are familiar with those allegations contained in those media reports?

Mr Retter: I am familiar with the allegations.

Senator XENOPHON: There is organised crime in our ports. That seems to be inconsistent with the Wheeler recommendations being fully implemented.

Mr Retter: I think Sir John Wheeler made the point—before I answer directly—that the issue for people involved in aviation and maritime security is to understand that the vulnerabilities that may well be of interest to organised and serious crime may also be vulnerabilities that could be exploited by terrorists, without getting into too much detail in this forum. The issue for the Office of Transport Security, as the preventive security regulator for aviation and maritime security, is to focus on our ability to prevent terrorist activity by looking at the risks, the most likely events that would go to the heart of interference with either our aviation or maritime infrastructure, and put in place preventive security measures and layers that deal with those risks and take into account the vulnerabilities that exist at each of our airports. To that extent we are always interested in the vulnerabilities that could be exploited by terrorists, but issues of criminality, organised crime, are matters for law enforcement agencies and the Crime Commission and so on.

Senator XENOPHON: There is a relationship between transport security—

Mr Retter: There is a nexus there that I am interested in: where are the vulnerabilities and how do we address them? The other point I would make is that organised crime has a tendency to want current systems to be maintained; terrorists have an unhappy intention generally to blow those up. There is a completely different purpose in terms of why the vulnerabilities are important to organised crime versus what is important to a terrorist in terms of the end game. My interest is in understanding the vulnerabilities that exist and making judgments about whether they are appropriate in a counterterrorism sense.

Senator XENOPHON: Sure. It is all part of the umbrella of transport security.

Mr Retter: There is an important difference, that both the aviation and the maritime acts that I work under are very much focused on preventing acts of unlawful interference as it pertains particularly to terrorism.

Mr Mrdak: The strong thrust of the Wheeler report and the recommendations that you have was around the policing model. As Mr Retter has indicated, the recommendations will be implemented. Recommendations around the airport policing model, which is now in place,

the Commonwealth-state model and the role of the Crime Commission are all now in place as a result of the Wheeler recommendations, which deal with some of those issues of criminality as well. Our regime is very much focused on the transport security elements which have been implemented.

Senator XENOPHON: Time is short and I do not want to interrupt, but Senator Heffernan in his line of questioning has asked a number of very pertinent questions in relation to transport security and about what appear to be flaws in the system. One of the recommendations of the Wheeler review, recommendation 12, was:

It is recommended that the Attorney-General's Department work with state and territory governments to require that private security officers in the aviation industry, including those responsible for screening at airports, be background checked, licensed and trained to more adequate minimum national standards.

Are you saying that has been done?

Mr Retter: We have made a number of improvements since the Wheeler report, but I would have to say that it is an ongoing, continuous improvement exercise. No sooner do we put in place, for example, the 15 competencies that screeners have in place, then we move to new technology or new procedures that need to be implemented as a result of the changing nature of the threat.

Senator XENOPHON: Correct me if I am wrong on this: the Wheeler Report made 17 recommendations which vindicated Mr Kessing's concerns several years earlier—which were ignored by Customs and which did not seem to filter through the system. Your office is nothing to do with that because it was suppressed within Customs, as I understand it. Looking at some of these recommendations, such as recommendation 11, about integrated closed circuit television systems be expanded and improved at Australian airports, we had an incident at the beginning of last year or was it two years ago with the bikie gangs, the death at—

Mr Wilson: 2009.

Senator XENOPHON: My understanding is that three-and-a-half, four years after this report came out, that still was not done, there were defects in the closed circuit TVs.

Mr Retter: I disagree that they were defects. The issue—

Senator XENOPHON: Hang on, Mr Retter. Recommendation 11 says, 'It is recommended that integrated closed circuit television systems be expanded and improved at Australian airports.' During that shocking episode which scared the hell out of a whole range of innocent bystanders, there were apparently difficulties in the coverage of closed circuit TV.

Mr Retter: As that matter is still before the courts, I do not think we should be discussing it.

Senator XENOPHON: I know a little bit about sub judice as a lawyer. I am asking you about closed circuit TVs, without going to the incident: is there a fully integrated closed circuit television system at all Australian airports?

Mr Retter: The short answer is no, there is not. There are private ownership of security systems, CCTV systems owned by airlines, airports and government agencies. There are legal impediments to how far we can integrate those systems. Where we can, efforts are being made to integrate those systems. Improvements are being made to the technology, recording and integration of response to surveillance, but this is an ongoing, continuous improvement.

Senator XENOPHON: I accept what you are saying. Further to Senator Heffernan's line of questioning, it is not quite right to say that the Wheeler recommendations have all been implemented because I have picked at random two or three recommendations and it seems that, on your own acknowledgment, these are still the subject of continual improvement. To say that Wheeler has been implemented is not right.

Mr Wilson: It will continue to be improved upon. We will continue to change and there will be—

Senator XENOPHON: Mr Wilson, do not tell me that the Wheeler Report has been implemented in full because it has not been.

Mr Wilson: I do not believe Mr Retter said 'implemented in full'.

Senator XENOPHON: It is the implication that Wheeler has been dealt with substantially and it seems that there is still room for improvement.

Mr Retter: There is always room for improvement and the day that everything is done will be the day that we have not got it right. I am the first to say that we have ongoing issues that we need to address and continuously improve.

Senator XENOPHON: Which means that there is still work to be done in relation to the recommendations made in the Wheeler Report, by the Right Hon. Sir John Wheeler DL, September 2005.

Mr Mrdak: The point that Mr Retter and Mr Wilson are making is that all of the matters that were raised by Sir John—and we worked closely with Sir John around the implementation arrangements post his report being finalised—have been addressed and will continue to be addressed to improve. Mr Retter has outlined why it is not a static situation. Regarding the specific example around recommendation 11 that you have indicated, yes, major steps have been taken to get the integration he was after. What Mr Retter is indicating is that work continues.

Senator XENOPHON: Could you take on notice an indication of what has been done in relation to those recommendations and where you think there is room for improvement. Mr Mrdak, I appreciate all your answers in relation to this; I still wonder why Allan Kessing was convicted under section 70 for writing a report that was in the public interest. He was convicted of leaking it, which he denies to this day. He was vindicated in the Wheeler Report and more. Is Sir John Wheeler still around the place?

Mr Mrdak: I presume so; I think he is still alive.

Senator XENOPHON: That is the first bit.

Senator HEFFERNAN: Better take my own pulse to check; yes, I am still going.

Mr Mrdak: The last time I spoke with Sir John was around 2008.

Senator XENOPHON: If Sir John Wheeler is still active in public service in the UK, is there any consideration being given for Sir John Wheeler to do a follow-up report six years after the initial recommendations?

Mr Mrdak: I do not know how active Sir John is these days in such matters but I will take that on notice.

Senator XENOPHON: Yes, it would be interesting to see what he says of implementation.

Senator BACK: I go back to a question asked earlier from Senator Heffernan with regard to this false identification. You were saying that it is not a matter you feel is of concern, Mr Retter, in terms of domestic air travel?

Mr Retter: From an aviation security point of view, yes, that is correct.

Senator BACK: I ask it in relation to a comment from the Australian Federal Police Association, I think, which alluded to the fact that it could, with the automated ticketing system we have now, lead to an acceleration of, if you like, travel over which we have no knowledge or control in terms of criminals. Do you see into the future a need that we might have to look at requiring ID for domestic air travel in regard to controlling movement of criminals?

Mr Wilson: That is an issue which should be taken up with the AFP.

Senator BACK: I will, but I am asking you for a minute.

Mr Wilson: As Mr Retter has indicated, from a transport security point of view, it is not an issue that raises a high level of risk given the security arrangements we have in place. From a criminal activity point of view, there may be a different rationale and so, from that point of view, the AFP is far better placed in terms of providing advice in regards to criminal transport and behaviour.

Senator BACK: I have picked up on the term you used, Mr Retter, so I will use it also; this is in relation to explosive trace detection. I must be a very high level suspect because it is particularly rare that I do not get asked to be surveyed; I make a point of asking each person each time. Can you take on notice for me what is the incidence of positives that are found at domestic airports around Australia? I know, because I keep asking them with regard to the fly in-fly out workers; a lot of them must have some association with explosives on the mine sites because they get picked up as positives. Quite rightly, they have not told me any others. I am interested to know, given the cost now, the inconvenience to everybody in relation to this, and the low number of people, except me, who get surveyed, what are the levels of, let us call them, real positives or positive positives that cannot be otherwise explained?

Mr Retter: I have a figure of where I assume there was a double positive where a passenger was subject to an explosive trace detection swipe, positive; had another one, positive. There were 370 incidents where, whatever was on the clothing of that person or in their possession caused the machine to register a positive for chemicals of an appropriate type.

Senator BACK: In a 12-month period?

Mr Retter: 370.

Senator BACK: Roughly one a day, around Australia.

Mr Retter: Yes.

Senator BACK: They were people who then subsequently either intended to get on a plane or did.

Mr Retter: That matter was subsequently resolved through the processes we employ, which generally involve the calling of law enforcement at our major airports for detailed examination of bags and so forth.

Senator BACK: Of the 370 positives, were there any subsequently that were denied their capacity to travel?

Mr Retter: Not that I am aware of, no.

Senator BACK: I go on to another pertinent, but unrelated, question: cockpit door security came up. I recall we had occasion in Senate committees to discuss this and then subsequently did. What is the status? Where does the liability rest at the moment with the failure of a cockpit door to be closed? Does it still rest with the airline operator or does it now rest with the captain in command of an aircraft?

Mr Retter: As a result of disallowance of regulations on two occasions, the matter rests, as it did prior to those amendments being put forward, with the airline.

Senator BACK: In the two years since those, you are quite correct, two disallowances took place, have you become aware of any evidence of a greater concern for aircraft safety as a result of those disallowances in the Senate?

Mr Retter: I have become aware of a number of incidences where, in my view, there was a contravention of procedure. From that perspective, I remain concerned that there is a need to tighten up the regulations—that is a regulator's view—but the current regulations are the current regulations.

Senator BACK: Are those circumstances which would have not occurred had the liability been personally resting with the captain of the aircraft?

Mr Retter: That is a very difficult question to answer, except to say that if I were the captain of an aircraft and knew I had legal responsibilities to ensure a door was closed at an appropriate time and that people who should not be in the cockpit should not be there, then I would ensure that was the case.

Senator BACK: The captain, nevertheless, without the burden of personal responsibility, would still have the same degree of concern for safety of his flight crew, as well as cabin crew or anybody else, would he/she not?

Mr Retter: I would hope so, yes.

Senator BACK: Yes, so would I.

Mr Retter: If I may, I mentioned 370 before; I correct the record, it is 378.

Senator BACK: Nevertheless, all 378 still flew.

Mr Retter: Yes.

Senator BACK: Thank you.

Senator HEFFERNAN: Could I go to the notification to the pilot in command of the presence of aviation security officers on the flight? Could you take us what annex 17 says about that?

Mr Retter: The issues of ASOs on flights is a matter for the Attorney-General and the AFP. It is not a matter that I deal with, other than I am aware that on certain flights, both domestic and international, there will be ASOs.

Senator HEFFERNAN: Are you aware of the regime of notification to the pilot in command of the presence of the—

Mr Retter: I would have to take that on notice. I do not deal with that as a matter of routine course because of the responsibilities allocated in Australia to—

Senator HEFFERNAN: If I can just alert you to the fact that, as I understand it, under annex 17, the pilot in command is told the name and the seat that the person or persons are in. It has become practice, according to information that I am provided, that that is not necessarily happening; they might be given the name and not the seat. There are two or three of these people; I do not want to go into too much detail but the pilot in command is allegedly supposed to know where they are, what seat they are in, and that is not happening.

Mr Retter: That is a matter for the Attorney-General's Department.

Senator HEFFERNAN: Thank you very much. With ASIC passes, that is one there, the regulation on an ASIC pass, and it is blanked-out, is it has to be worn above the waist et cetera, where it can be seen. What is the penalty for people that wear it upside down? Is there some way of correcting that?

Mr Retter: I am not aware if there is a penalty if they are wearing it upside down. We might have to check and take that on notice.

Senator HEFFERNAN: You would agree that you could not identify that person from the photo if it was upset down. You would be pretty clever if you could, anyhow. You may well be able to.

Mr Retter: I would probably ask him to turn it the right side up.

Senator HEFFERNAN: That is another issue that has been raised. We talked about un-X-rayed out-of-size luggage. You had better take that on notice. I am instructed, and further instructed during this hearing, that there is luggage that does not fit through whatever it fits through, that just gets taken round and put back on the belt.

Mr Retter: We will, as we always do, inquire into any allegations of inappropriate security arrangements.

Senator HEFFERNAN: Could I take you to the process of boarding the plane by crew, and if I just use Sydney Airport and Qantas—and this does not make any allegations against Qantas. We are very proud of the Qantas brand and safe flying; anyone who doubts that, get on American Airlines. You almost feel as if you have got home when you get back on Qantas. The practice is the crew goes in, assembles for the flight, they get a tag put on their bag and it gets put on the bus and away they go to the airport. Some practices are that the crew gets out at tarmac level, go up through security, go through security and get on the plane. Do you understand that does happen?

Mr Retter: I am aware that there are some measures at some airports where that might occur.

Senator HEFFERNAN: When they get out of the bus at the airport, there is usually a person there, a freight handler, who says, 'Is that your bag, Captain?' and they whack it on the plane. It is possible under that scheme for baggage to be put on the plane without being screened. Are you aware of that?

Mr Retter: At our major airports, I do not believe that is the case. However, if I could get details referred to me, we will investigate and inquire into that matter.

Senator HEFFERNAN: I have an incident in Melbourne. Without identifying the players, it was a Thursday before the Easter weekend, a flight out of Melbourne, in which, for various reasons, overweight—there was a problem with fuel and there was a request—this seems an extraordinary proposition—that two people volunteer to leave the plane so that it would be light enough to fly, and, when no-one volunteered, the AFP removed the last two people to board the plane. Are you familiar with that?

Mr Retter: I am aware that there was an incident with an airline in Melbourne where the AFP did remove two passengers, yes.

Senator HEFFERNAN: Simply on the grounds of last on, first off?

Mr Retter: I was not aware of the precise circumstances, other than that two people had been removed. Again, that might well be a matter for the relevant airline and the AFP.

Senator HEFFERNAN: I guess all human endeavour has some failure. Have you heard of that? How often does something like that turn up?

Mr Retter: It would not normally be an area of concern to me, other than to ensure that any passengers and their baggage were taken off, such that the security status of the flight was maintained. Apart from that, operational reasons, fuel, safety considerations—

Senator HEFFERNAN: I will take that up somewhere else. Thank you very much. I have other questions but I think I will put them on notice.

CHAIR: I thank officers from the Office of Transport Security. I now call Aviation and Airports, where Senator Nash will have the call. Sorry. One more question.

Senator HEFFERNAN: I apologise. I asked about an MSIC and what was the failure rate of applications for the MSIC, as opposed to ASIC, and we were given details of the various 30-something failures, drug activity, murder threats, all sorts of things. Could you do the same for the ASIC?

Mr Retter: Yes. You want the percentage breakup?

Senator HEFFERNAN: The failure rate and breakup of the failure rate.

Mr Retter: Yes.

CHAIR: Thank you, Mr Retter and the officers.

Department of Infrastructure and Transport

[12.10 pm]

CHAIR: I welcome officers from Aviation and Airports. Questions, Senator Nash. I know I would be frightened if Senator Nash was leading off with the questions—

Senator NASH: I am just terrifying!

CHAIR: But we will look after you; you will be all right!

Senator NASH: It is okay; I am in a good mood today. It is all good.

CHAIR: You are always in a good mood, Senator Nash, except when you are with other colleagues who drag you down to their level sometimes.

Senator NASH: Thank you, Chair. Can I start with the response to one of the questions on notice. I was not here yesterday; I am assuming we dealt with the tardiness of the responses to questions on notice then?

Mr Mrdak: We did not.

Senator NASH: We did not?

CHAIR: Did you see how I went silent?

Senator NASH: Can I start with that, then. Minister, you may well be aware that there was a significant overrun of the date answers were due back from Infrastructure and Transport?

Mr Mrdak: We lodged the responses on 13 May.

Senator NASH: Can you just refresh my memory as to what the due date for those was, Mr Mrdak?

Mr Mrdak: The due date—the committee asked for the answers by 12 April.

Senator NASH: The due date was 12 April and the date lodged was 13 May. When was the very last answer to a question on notice received by the committee—that was 13 May?

Mr Mrdak: 13 May. All of the answers were lodged on 13 May.

Senator NASH: All of them. Were there any that were lodged before 12 April?

Mr Mrdak: No, all of the answers were provided on 13 May.

Senator NASH: How many answers in total?

Mr Mrdak: Eighty-seven.

Senator NASH: So 87 answers were a whole month late? Do you want to give us an indication of when those answers went to the minister's office?

Mr Mrdak: They were delivered to the minister's office on 6 April.

Senator NASH: Minister, can you shed some light for the committee on why there was such a late lodgement?

CHAIR: Excuse me; sorry, Senator Nash. Senator Heffernan, there are some rules. Senator Nash is asking questions of the officers, I am sure you can find plenty of time to drop a note to Mr Wilson.

Senator NASH: Thank you very much. I asked you a question, Minister. Sorry, could you—

Senator Carr: Can you repeat the question, please?

Senator NASH: Could you shed some light for the committee on why, the minister having received the answers on 6 April, they were not supplied to the committee until 13 May?

Senator Carr: No, I cannot.

Senator NASH: Could you perhaps undertake to ask the minister why that indeed that was the case?

Senator Carr: Yes.

Senator NASH: It is a little curious, Senator Back, that after we raised the fact that we had 87 answers outstanding on 12 May in the Senate, I believe, indicating the very poor response from the department—lo and behold—the minister manages to drop them in to the committee the very next day. It might well be a coincidence!

CHAIR: Senator Nash, I put you on a pedestal, and it took you three minutes to shatter my view of your professionalism.

Senator NASH: You should never put me on a pedestal, Chair, I am never going to stay there very long, I am afraid.

CHAIR: Questions, Senator Nash.

Senator NASH: It is. I wonder if, Minister, you can shed any light on how, with the speed of light, after it was raised in public through the Senate chamber, the answers to those questions became available to the committee, the answers? Coincidence perhaps?

Senator Carr: My recollection of those events is that I did indicate that I would raise the matter, which I have.

Senator NASH: Marvellous, thank you. Perhaps if you had become involved before 12 April, Minister, we might have got them on time.

Senator Carr: I cannot add anything further than that.

Senator NASH: No, I know you cannot speak for another minister; that is fine. But perhaps the committee could place on record that next time, if it happens again, we will not be quite so kind.

Senator BACK: Perhaps we could ask, Senator Nash, whether the questions had left the department and were on the minister's desk or still with the department. Would that be a question that perhaps you could clarify on notice, Minister?

Senator Carr: Yes.

Senator BACK: Thank you very much.

Senator NASH: I think the secretary might have indicated the questions had left the department on 6 April. In their normal, thorough way the department have done their job very well and indeed prepared the responses. We had better clear this up for the record. I did think you said they left the department on 6 April to go to the minister?

Mr Mrdak: All of the draft answers were with the minister's office on—

Senator NASH: To be very clear, we in no way want to cast any kinds of aspersions on the department; they had obviously done their part of the job very well indeed.

Mr Mrdak: They are draft answers for the minister's consideration at that point. The minister obviously has every prerogative to consider the adequacy of those answers.

Senator NASH: True. We as a committee, though, would hope that the minister could work within the time lines that are provided and should have been able to return those to the committee by 12 April.

CHAIR: Senator Nash, if I may, it is like *Groundhog Day*, the movie, because I recall—

Senator NASH: I was just concluding that issue, Chair.

CHAIR: Senator O'Brien asking the same questions when the previous minister, what was his name—Anderson? Thank you.

Senator NASH: Can I take you to one of those answers, which is to question on notice No. 74, which asked about some of the main policy changes brought about by the white paper. The answer that you have given is:

A summary of the Government's policy initiatives can be found on pages 14-27 of the White Paper.

I know they are listed there. I wanted to know how many have been implemented and what is the status of each of them, not just a flick to the list. Can you provide any more detail around those?

Mr Mrdak: Perhaps if I get Mr Doherty to give you an overview of work on implementing all of the initiatives is underway—a number of initiatives have been completed—and, if we can provide anything further beyond today, we will seek to do so.

Senator NASH: It would have been useful to have that provided in the answer to the question. But, please, Mr Doherty, go ahead.

Mr Doherty: Part of the challenge is that there were a wide range of initiatives identified in the white paper, some of which required immediate concrete actions, others which were more ongoing in nature. There have been significant changes, such as amendments to the Airports Act, to strengthen the planning and development regime. There has been regulatory action in areas like the banning of noisy aircraft. If you are able to identify which broad areas you are interested in, we can look at providing more information on that progress.

Senator NASH: No, perhaps you could take it on notice and do it again, in a thorough way. One of the areas that I was particularly keen to get some feedback on was the proposed planning coordination forums. I know there was a fair bit of concern around that. I think in one of the answers it does say that they have been established and are operational, but that is all it says. What I would like to know is: how they are operating, how many have taken place, where they are taking place, who has been involved, what the results have been from those forums and whether they are working effectively.

Mr Doherty: Yes, we can provide that information today, if it is useful, or at least initial information on that.

Senator NASH: Yes, that is why I am asking the question. You asked me to identify some of the areas, and that is the key one I want to look at.

Mr Doherty: Yes. So the planning coordination forums were expected of the major airports. We are in a situation now where all of the airports required have established a forum and have had at least initial meetings. The idea of the forums is that they bring together senior officials of the states with executives from the airports, representatives of local councils, where that is relevant, and the Commonwealth to look at the broader planning directions and where the airport planning interacts with planning for the areas surrounding the airports. The key focus of the coordination forums will be in the lead-up to each master plan process; they are an important input into that master-planning process. We are at a stage of the cycle where, in the last two years, most of the master plans have been renewed, so it is probably not the peak time of activity for the PCFs; but they have made, in my observation, workable starts to establishing themselves and they have been getting good representation. From the department's point of view, we are committed to high-level representation at each of the

PCFs, so we have an arrangement between the senior executive staff of the department involved in the airport's functions as to which we attend. We think that is important, both to encourage strong participation from the others and to inject the perspective that we can and take part in the discussion. The overall position is that, while the full impact of those PCFs is yet to be seen in the lead-up to the master-plan process, they are off to a good start.

Senator NASH: It has to be an improvement to be able to have that communication.

Mr Doherty: We certainly thought so.

Senator NASH: In terms of that issue you just raised—I suppose the juxtaposition between the on-airport and areas surrounding—what types of things are coming up in the forums around that issue?

Mr Doherty: We had always expected that ground transport issues would be significant, so traffic impacts and some of those sorts of things. Obviously we would expect noise impact to be an important one, and also the nature of the developments. The airports will have concern about residential infill and increased residential areas in zones which are affected by noise, because that then creates the issue of additional complaints and concerns within the community about noise. The off-airport authorities have concerns about, in particular, retail development, but some other commercial developments on airport as well. Getting the alignment of the nature of business that happens on airport and how that works with the planning for the surrounding areas is an important issue.

Looking more broadly, an important issue for airport operations is control of bird strike and animal hazards, so it is some of the planning for surrounding areas and things like that. There is the issue of ensuring we do not have hazardous materials on airport in areas which are close to off-airport residential developments and some of those sorts of things, so there is the relative location of sensitive developments. It is a whole range of things that can be brought up in those forums.

Senator NASH: I ask, with some trepidation, if you could take it on notice and give us a detailed list of dates, times and places where those forums had taken place. I know you might be limited by confidentiality in some way, but I would like as much detail as you can give about who has been at those forums, what are the issues that have been discussed across the whole spectrum and all of the things you have run through there between on-airport and areas surrounding issues. Not all of those things will have come up at every forum, so I am keen to see what priority is coming up through the forums, across all those areas. If you could give us a bit of a detailed brief so we can get a sense of what is happening right across the board through the forums and what is coming out of it, through a process that really has not been there before in that much detail, that would be very useful.

Mr Doherty: I am happy to take that on notice.

Senator NASH: Thank you. If I could reiterate more broadly, could you have a look at all of the question again—not just the forums but across the whole range of issues that are in those white papers, as you have said—and give us some more detail surrounding all of those areas, where they are at—

Mr Doherty: A progress report on the initiatives?

Senator NASH: Yes, where they are at at the moment and which ones have been implemented. I appreciate some were very short term and some were longer term, but a status

report, if you like, on where all those initiatives are at would be very useful. Can I move now to the carbon tax. Has there been any cost assessment conducted as to the impact of a carbon tax on the aviation industry by the department at all, or any work done on that at all?

Mr Mrdak: Not by our department. That would be a matter for the Department of Climate Change and Energy Efficiency.

Senator BOSWELL: They referred it to you, so you shove it back and forth. They flicked it over to you.

Senator NASH: Did they?

Senator BOSWELL: Yes, they did, because I asked that question.

Mr Mrdak: In relation to the Australian proposal for carbon tax, or are you relating to international proposals?

Senator NASH: I was talking about the Australian proposals.

Mr Mrdak: We have not done any modelling in our department in relation to that, no.

Senator NASH: I might enlist Senator Boswell's help here. They did not—

Senator BOSWELL: I have a question that I have sent to you people—

CHAIR: If I can help, maybe you might want to have a conversation with Senator Boswell. We will wait. I think Senator Back might have some questions.

Senator NASH: No, I am quite happy to come back to my questions and let Senator Boswell ask his now, because I think it is quite—

CHAIR: You are not going to caucus—

Senator NASH: No. It is quite useful. If Senator Boswell has information that the department of environment is not the responsible agency, we do not want to miss the opportunity, having been handballed across to there.

CHAIR: No, I fully understand.

Senator NASH: Senator Boswell, please feel free to take the call.

Senator BOSWELL: My question is: has the department prepared a cost analysis of the impact that the European Union Emissions Trading Scheme will have on Australia's aviation industry?

Mr Mrdak: We have not, as such. Mr Doherty may want to add some more. Because some of the operating details of the European proposal are unclear as yet, we have not undertaken any detailed cost analysis at this point.

Senator BOSWELL: I suggest that it would be very important that you do. We are being challenged by the EU, which says they are going to put a carbon tax on our flights. I would have thought that was something that would be a most important issue to the aviation industry and to the department.

Mr Mrdak: It certainly is an important issue and the Australian government has made it clear, in very senior representations to the European Commission and to European governments, that Australia does not support the unilateral application of the European ETS to Australian airlines and any unilateral action in that form. We have long argued that there

needs to be a multilateral approach to dealing with international aviation and it should not be done in this way, particularly in a way that disadvantages Australian carriers.

Senator BOSWELL: That is very commendable that you have said you do not like it, but I would have thought that you would have had to do a study on what the impacts were on Australia and that that would be required urgently before you can mount any argument. It is very well to go in and say, 'I don't like that.' Then they say, 'Thank you very much; now we know that you don't like it,' but how do you prepare an argument if you do not know how much it is going to cost?

Mr Doherty: We have not ignored the issue by any means. We have been in touch with the Australian airlines that are affected by this as they have worked through their preparations. The concern about trying to put a precise figure on either the cost implications for fare or the broader economic impact is that elements of the details of the European scheme are still being resolved. For example, a large element of the scheme is a pre-allocation of permits, up to 85 per cent in the initial years. The details of how that applies to the Australian carriers are still being worked through. So there are issues that the carriers are working through in their preparations.

Senator BOSWELL: Obviously you will have to do a report on it; you will have to do some assessments on it, on behalf of the aviation industry and on behalf of the Australian public. This is a very important issue; you cannot just tell the people that you do not like it.

Mr Mrdak: Certainly. I think the point that Mr Doherty is making is that, until some of those matters are clarified, we are not in a position to do detailed economic—

Senator BOSWELL: When will those matters be clarified?

Mr Mrdak: We would hope shortly. The intention of the European Commission is that this will apply from 2012.

Mr Doherty: To apply from the beginning of 2012. We understand that there are issues being resolved through till about September, on the current thinking.

Senator BOSWELL: What do you mean by the 'issues'?

Mr Doherty: This is between the European states which administer the scheme and the airlines. We think the airlines expect to be in a clearer position to understand the impacts of the scheme around September.

Senator BOSWELL: Have you got any idea of what is going to be the increased cost to the consumer?

Mr Doherty: There is no doubt that it will have an impact, and the airlines do see that as significant. In terms of a ballpark figure, you are not talking particularly large figures but it does come on top of other challenges that the airlines are facing in areas like, currently, very high fuel prices and strong competition in the market.

Mr Mrdak: Also, in some jurisdictions in Europe, the ETS is not the only measure; there are also other taxation measures being applied to the aviation industry, which has, in our view, a disproportionate impact on long-haul carriers such as ours.

Senator BOSWELL: At the moment I am only interested in the carbon tax on our airlines and what it is expected to cost in increased cost to consumers. I sent you these questions yesterday and said that I was going to ask these questions, so I would—

Mr Mrdak: Thank you, and the answers we are providing reflect those questions.

Senator BOSWELL: You said it is not going to be much. How much is not much? Is it \$10 a ticket, \$20 a ticket, \$200 a ticket?

Mr Mrdak: We do not have that level of detail.

Senator BOSWELL: You must have an idea. What is not much? You have assessed that it is not much, so you must have assessed—

Mr Mrdak: We have not done a detailed assessment.

Senator BACK: Are you able to share with us what the impact, if any, would be on tickets domestically as opposed to tickets outbound? Is it the case that there would not be an impact on outbound ticketing?

Mr Doherty: The European trading scheme would not apply to domestic flights in Australia or, indeed, for the first leg of flights between Australia and Europe. The scheme applies to the last leg into Europe; so it would either be something like Singapore-London, Bangkok-London, Hong Kong-London, or possibly from the Middle Eastern hubs into Europe.

Senator BOSWELL: What about a direct flight?

Mr Doherty: We have no direct flights—no aircraft currently capable of operating directly Australia to Europe—at the moment.

Senator BOSWELL: Australia to London? They cannot go—

Mr Doherty: No. Everywhere operates via a hub at the moment.

Senator BACK: For inbound, is it the same situation? So it would be: London to Singapore, applied, but Singapore into Australia, not applied?

Mr Doherty: That is right, yes. It would apply on both in and out of Europe but only for the legs in and out of Europe.

Senator BACK: Putting aside the European situation but continuing on an Australian carbon tax, though not having any knowledge as to what level it is going to come in at: would that tax then apply domestically but not on outbound flights?

Mr Doherty: That is the broad question which is being worked through at government level and it is not being conducted by this department. That is being carried in another portfolio.

Senator BACK: The department has not been asked to look at it?

Mr Doherty: We are certainly prepared to contribute.

Senator BOSWELL: Why don't you ask the minister?

Senator BACK: I will, then; thank you very much, Senator Boswell. Minister, could you enlighten us as to whether or not this is something that cabinet is addressing itself to: the impact on domestic, purely, versus outbound—

Senator Carr: In terms of?

Senator BACK: Ticketing—the carbon tax?

Senator Carr: In terms of the ticketing arrangements or a price for European carbon price?

Senator BACK: No. I asked the officers to put the European circumstance to one side and just address themselves to the question of Australia applying a carbon tax, at whatever level, whether or not it would apply to domestic ticketing and/or to outbound ticketing.

Senator Carr: I am not in a position to convey to you what the cabinet's deliberations involve. I can say that the minister for climate change has said on numerous occasions that our intention is to develop a broadly-based scheme—and that will be revealed in its detail very shortly—as a result of the conclusion of discussions with relevant business groups and community groups, with a view to having legislation put before the parliament in the final quarter of this year, for passage this year.

Senator BACK: Thank you, and thank you Senator Boswell.

CHAIR: I would just add, though, that addressing the impact of the EU's measures on ticket prices is surely a commercial decision for the airlines.

Senator NASH: I think Senator Back was referring to the domestic carbon price in that instance.

CHAIR: I am just a bit shocked. Sorry, Senator Boswell, but you put out a press release on 19 February counteracting what you are saying now—you reckon that the rest of the world is not doing anything on climate change—and now you come in and ask about how the rest of the world's actions on climate change will affect us.

Senator BOSWELL: I have always said the EU have a—

CHAIR: I am just highlighting to you your 15 February press release.

Senator BOSWELL: I have always accepted the 34 countries in the EU—

Senator NASH: Staff are on the ball, Chair.

CHAIR: I just thought we should all share that.

Senator BOSWELL: do have a carbon price. They are the only ones that do—if I can clarify that. I have this question to the department but I believe the minister would probably be better answering it. Has the department considered joining China and the USA in pursuing action through either the World Trade Organisation or the European Court of Justice in relation to the EU's proposed introduction of an emissions trading scheme to aviation on 1 January 2010?

Senator Carr: What I can help you with is that, in all international forums and diplomatic exchanges, Australian government representatives have stated their opposition to unilateral imposition of measures to address international aviation emissions that are applied extraterritorially and which may introduce competitive distortions. The Australian government has taken a position that an agreed multilateral framework, working within the ICAO, is the most effective way to address emissions from international aviation. The United States air transport association and three US airlines are challenging the aviation inclusion in the European Union's ETS through the European Court of Justice. Media reports indicate that the China Air Transport Association and three major Chinese airlines also plan to mount a similar legal challenge. The Australian government has no current intention to take action and we are not aware that any Australian airline is planning to join the actions by either the United States airlines or the Chinese airlines. As I am advised, the department will continue to

monitor these actions and work with the Department of Climate Change and Energy Efficiency in providing advice and updates to the government.

Senator BOSWELL: Thank you for that very fulsome answer.

Senator Carr: I thank the department for making sure I had the notes!

Senator BOSWELL: That is probably because I wrote and told them I was going to ask the question; anyhow, the system is working. In the event of you protesting and saying unilateral action will not work, and the Americans and the Chinese challenging, and the EU going ahead, would the government consider any retaliatory action to the EU?

Senator Carr: That is not the way the Australian government has worked traditionally. Our approach is to develop a scheme in Australia and to ensure that we are not left behind in the international development on these issues.

Senator BOSWELL: China is not going to join you and the Americans are not either, so—

Senator Carr: If you want to go to the question of the policy on climate change action, then that is a more substantive political debate, but I think it is untrue to say that China and the United States are not taking action on climate change—they are, in a plethora of measures—and it is simply incorrect to suggest that, internationally, there has not been very substantial progress in terms of developing various forms of emissions trading schemes and/or other measures to deal with the questions of emissions.

Senator NASH: That depends on your view.

Senator Carr: What is being said is that we do not believe it is appropriate to apply unilateral sanctions to other economies, such as the Europeans are now doing with their approach to aviation.

Senator BOSWELL: You may not be aware, but let me inform you, that by 2020 China will increase its emissions by 495 per cent and India by 350 per cent. Yes, they are throwing in a few windmills here and there to put in—

Senator Carr: A bit more than that.

Senator BOSWELL: a bit of window dressing, but, in real terms that you cannot dispute, their emissions will rise by 495 per cent in China and 350 per cent in India; so, whether they are doing something or nothing, the result will be a huge increase in emissions, while we struggle with our lousy 1½ per cent—trying to reduce that and wrecking jobs, in industries that you are responsible for. And you will wear it, and I will make sure you do wear it, if it comes to pass, as my worst fears say it will, that industries bleed like crazy with this carbon tax on them. It is your responsibility; you are the minister for industry—

CHAIR: Senator Boswell, that is an opinion; it is your opinion and you are entitled to have it, but it has nothing—

Senator Carr: Senator Boswell, Australia, per capita, has one of the highest emission rates in the world.

Senator BOSWELL: We have 1½ per cent.

Senator Carr: But in terms of our emission rates per capita, we are at very high levels.

Senator BOSWELL: Do you think we are going to make a difference—

Senator NASH: Per square acre, they are very low.

CHAIR: Order! I understand that certain senators have positions on this view; you are entitled to your dinosaur visions, or whatever it may be—that is an opinion of mine—

Senator BOSWELL: Chair, you have your point of view—

CHAIR: But we are here to talk about Senate estimates. Order! Senator Boswell, I will provide you with your own press release so you can refresh your memory. But we have questions to the department and the officials directly to the budget. Senator Boswell, do you have further questions?

Senator BOSWELL: I see this as a huge issue; it is going to increase the cost of travel. I urge the department to take some action to find out. You must have an interim report, you must be following it, and you must have some views on it. To come in here and say, 'It is going to put the price up moderately, or not much' is not very satisfactory. I will be putting a number of questions on notice to follow my questions here, and I would expect an answer that is as fulsome as Senator Carr gave me on the response on the court challenges. That is what I am looking for—some responses that are meaningful, and not just a fobbing off.

Mr Mrdak: I can assure you the department is closely following it and, as Mr Doherty has indicated, when the details of the European proposal are clear, we will undertake further detailed analysis on the implications for Australian carriers. Reiterating the point the minister has made, the Australian government's position is clear and settled and has been communicated very strongly to European authorities.

Senator BOSWELL: That is good, but we also need you to monitor what is happening and report in detail: what is it going to cost for an airline ticket, what will it mean to the Australian aviation industry, who sets the prices? All those questions—

Mr Mrdak: We will do that final economic analysis as Mr Doherty has indicated.

Senator BOSWELL: When will those details be available?

Mr Mrdak: As Mr Doherty has indicated, the European Commission is indicating to our carriers that some of that information will not be available until September.

Senator BOSWELL: Yes. In the end, if they go ahead against our protest and we lamely sit back and take it—I think we buy \$26 million more off them than they buy off us. We just cop it, do we, and just say, 'That's bad luck'?

Mr Mrdak: I do not think that is a fair position to put in relation to the government's position. The minister has outlined at the table here that the government will develop its position further in response to knowing some more of the detail.

Senator BOSWELL: Thank you very much, Minister, and thank you very much, gentlemen.

Senator NASH: Can I clarify that, domestically, our carbon tax is proposed purely for Australia—I am referring to what the minister was saying before. As we do not yet know what form that is going to take, has the department done the work on the impact or will it wait until we are informed about how that scheme is going to look, when we will have an idea of the impact on industry?

Mr Mrdak: The department is working with agencies developing options and proposals for the government's consideration. We cannot comment any further. These are matters now, as the minister has outlined, of cabinet consideration.

Senator NASH: Yes, that is fine. I am trying to clarify that the reason we do not have any idea of what the financial impact is going to be—save for one example on ticket price—from the introduction of a carbon tax is that we do not actually know what that carbon tax is going to look like yet.

Mr Mrdak: Work is going on within government at the moment in relation to those issues. I do not think we can comment anymore than what the minister has said.

Senator NASH: Good answer, Mr Mrdak.

Senator BOSWELL: Have you done a study on what the cost of a ticket, say, between Melbourne and Sydney would cost with a carbon tax of \$30 a tonne?

Mr Mrdak: I can only reiterate that the government is working through these issues, or we could not at this stage comment. They are matters which are before the cabinet.

Senator NASH: They are trying to figure it out, I think, Senator Boswell. Let's move on to the en route charges. In the PBS there is a funding cut from \$6 million to \$1 million in 2012-13 in relation to the en route charge which assists regional airports. Is that correct? Can you confirm that it is \$6 million to \$1 million?

Mr Mrdak: Yes, it was announced some years ago that this program would terminate, apart from the continuation of assistance for aeromedical services.

Senator NASH: Can you give me a list of the regional airlines that are receiving the subsidy and the regional airports they fly to?

Mr Doherty: We can provide the airlines that receive a subsidy; I think we can do that now.

Mr Mrdak: There are 19 airlines.

Mr Wilson: If you like, I will read you a list of the airlines that—

Senator NASH: I would love you to.

Mr Wilson: I do not have with me the routes that receive the subsidies.

Senator NASH: Why not?

Mr Wilson: I do not have it in my papers.

Senator NASH: Why would you not think to bring the routes as well the airlines? This is a significant budget item.

Mr Wilson: I have the list of airlines which I can read into the record for you.

Mr Mrdak: Otherwise we can take the whole lot on notice.

Senator NASH: No, I want the airlines first and then we will keep going.

Mr Wilson: Aeropelican Air Services Pty Ltd, Airlines of Tasmania, Airnorth Regional Airlines, Brindabella Airlines, CareFlight Queensland, Chartair, Golden Eagle Airlines, Jet City Pty Ltd, King Island Airlines, Regional Express Airlines, Regional Pacific Airlines Pty Ltd, RFDS Central Operations, RFDS Queensland Section, RFDS Southeast Section, RFDS

Western Section, Sharp Aviation, Skippers Aviation, SkyWest Airlines Pty Ltd, Slingair Pty Ltd, Tasair and West Wing Aviation.

Senator NASH: Out of all of those, which ones do aeromedical? Obviously, the four RFDS.

Mr Wilson: RFDS, CareFlight.

Senator NASH: CareFlight. And that is it?

Mr Mrdak: They would be the dedicated aeromedical operators.

Senator NASH: Do any of the others run any kind of aeromedical service at all?

Mr Wilson: Not as far as I am aware.

Senator NASH: Of those existing airlines, how many regional communities do they service collectively?

Mr Wilson: I will have to take that on notice; I do not have that number with me.

Senator NASH: We have a \$5 million budget cut and we cannot determine which regional communities are going to be affected by that.

Mr Wilson: I do not have those details with me.

Senator NASH: What communication have you received from regional airports that may have indicated to you that services will be cut because the subsidy is going to be removed, outside of the aeromedical services?

Mr Wilson: From regional airports? I do not believe that the department has received any correspondence from regional airports with regard to the removal of the subsidy.

Senator NASH: If there has been no correspondence, are you aware of any regional airports that have indicated that they may have to cut their services because of the reduction in funding to the en route subsidy?

Mr Mrdak: I am just clarifying, I do not think we have received any correspondence that we are aware of—but we will check—from regional airports. A number of regional airlines have raised their concerns with us in relation to this matter, but not regional airports, that we are aware of.

Senator NASH: Given that it has been in the media—and I know of at least one regional airport that has indeed raised those concerns publicly—is that not something that your media monitors would pick up?

Mr Mrdak: You asked about correspondence.

Senator NASH: Yes, I know, and then I asked—sorry; you may not have heard.

Mr Mrdak: I am sorry, I was distracted.

Senator NASH: After I asked the question about correspondence, I said: leaving correspondence aside, are you aware of any regional airports that have indicated their concerns that they are going to have to cut services?

Mr Wilson: In terms of media coverage, I do recall at least one press article a number of months ago. I cannot recall off the top of my head which airport it was, but I do recall that there was an article.

Senator NASH: I know that, recently, Grafton airport in New South Wales indicated that they may well have to cut the services because of the subsidy being cut. What dialogue, consultation, have you had with regional airports about how this might impact on the regional services outside the aeromedical?

Mr Mrdak: We have not had any recent dialogue with them. This was a measure taken in 2008.

Senator NASH: In the last three years have you had no further conversations at all with any of the regional airports on the likely impact of this measure?

Mr Mrdak: I will just check; I do not think we are aware of that. I will ask Mr Borthwick to give us some further details.

Mr Borthwick: As Mr Mrdak indicated, the decision was taken in 2008 and there was also a consultation process through the aviation white paper where the decision was confirmed and we obviously had a dialogue with the airports through that public consultation process.

Senator NASH: What was the nature of that dialogue with the airports at that time?

Mr Borthwick: They were invited to make a range of submissions in relation to the issues papers and the green paper in the lead-up to the development of the white paper.

Senator NASH: How many regional airports have we across Australia?

Mr Borthwick: I could not tell you off the top of my head. I know there are over 250 aerodromes around Australia of varying standards.

Senator NASH: Operating commercial regional airports.

Mr Borthwick: That is what I would need to check.

Senator NASH: Do we have any information here about regional airports?

Mr Mrdak: You are asking about the total number? There are well over 400 aerodromes or airstrips across the country, from memory, of which I think 240 or so would be ones that are licensed or which are of a sufficient standard to be licensed.

Senator NASH: Thank you for that, that is very helpful. How many commercially operating—not towers, not landing strips—regional airports have we got across the country?

Mr Borthwick: I do not have that information with me. We can provide it to you.

Senator NASH: On notice, which we might get with any luck a week before the next estimates. Perhaps somebody might like to have a quick scratch around and see if somebody somewhere might be able to provide that figure while we—

CHAIR: Mr Borthwick has said he would take it on notice.

Senator NASH: He has indeed, but quite often the departmental officers are very helpful and undertake to, if they can, provide the information while we are still going which is obviously quite useful if we can do that.

Senator BACK: As an extension to that, if I can, would it also be possible in providing that advice to provide as advice on those that offer aeromedical services or do they all offer aeromedical services?

Mr Borthwick: The airports?

Senator BACK: The ones that you are going to provide the list of.

Mr Borthwick: We will look at that.

Senator BACK: Is it all of them?

Mr Borthwick: I am not sure off the top of my head. I will take it on notice.

Mr Mrdak: Aeromedical is often a needs basis. They will operate to whatever location can accommodate the type of aircraft being operated and the situation involved. I do not think we would have a listing of airports. They would all be accessible to aeromedical facilities and services, depending on the nature of the situation.

Mr Wilson: Because aeromedical services are provided by airlines as opposed to the airports.

Senator BACK: Yes, but the airport must have adequate capacity in terms of lighting and surface et cetera to be able to—

Mr Mrdak: RFDS operates to a variety of strips and some air ambulance services operate to a variety of locations. It depends on the pavement. They are not always sealed locations with lighting and facilities, Senator, as you know.

Senator BACK: Did you not say that this subsidy will no longer be available to regional airports that do not offer aeromedical services?

Mr Mrdak: The subsidy will remain available to aeromedical operators. The subsidy is paid to the operator of the airline or flight service. The subsidy is by way of a recompense for the payment of their en route charges to Air Services Australia. It is not a matter that involves the airport operator.

Senator NASH: However, the local airport has to explain to the local community if indeed down the track why an airline has had to perhaps cut some of their services to that community. The terminal airport itself is going to be in the firing line as well. It is important we consider the impact on them as well.

When the consideration of this was initially taking place, what consideration was given to airlines who supply a service to regional communities through transporting medical practitioners, specialists, the legal profession?

Mr Mrdak: Sorry, I do apologise. You are asking what consideration was given to those operations?

Senator NASH: Other than aeromedical. What is the definition of 'aeromedical'? I might be doubling up.

Mr Mrdak: Generally it has been provided to RFDS Air Ambulance and those types of operations or CareFlight, or where there is a dedicated aeromedical service.

Senator NASH: What I am trying to get an understanding of is, when this was all being developed, what consideration was given to the public good that regional airlines do in transporting professionals to the regions where those professional services are not on offer in those communities? Things like medical specialists, legal practitioners, what consideration was given to that public good service that is provided through regional airlines?

Mr Mrdak: These were matters that were considered in terms of ensuring that the services were maintained wherever possible. The analysis was undertaken at the time the government reached a decision on this matter.

Senator NASH: What was the general upshot, that removing the en route subsidy would not affect the airlines to such a degree that they would have to stop services?

Mr Mrdak: I think the analysis was that the en route subsidy for a number of locations is a relatively small component of the overall cost of travel to that location and the government has reached a decision to terminate this subsidy. That was reaffirmed through the process Mr Borthwick outlined in the white paper process.

Senator NASH: When you say 'reasonably small', what sort of figure?

Mr Mrdak: I would have to take that on notice.

Mr Borthwick: The analysis that we have done is that, when taken across the size of the regional network, it equates to around about \$2 a passenger.

Senator NASH: What discussions did you have with the regional airlines on that basis? I would imagine their often very thin budgets running to regional communities, with the discussions I have had with regional airlines. Would they be able to wear that kind of cost?

Mr Borthwick: The regional airlines have indicated to us that they would like the en route charges scheme retained. That is clear. There are a range of factors that come into play when regional airlines make decisions about which routes to service. One of the big impacts at the moment is the cost of fuel. It is the cost of fuel which, in terms of operating costs, can represent anywhere up to 50 per cent of the operating costs, whereas the analysis that we have seen is that the en route charges rebate equates to around about between one and three per cent of operating costs.

Senator NASH: I completely take your point about the cost of fuel. Indeed, it is a huge consideration for regional airlines. Is it not stupid to make it even worse by removing the en route subsidy?

CHAIR: You are asking for an opinion.

Senator NASH: Sorry, I am indeed. May it not cause further financial difficulty for the regional airlines to not only have to cope with the cost of fuel, but to then cope with the removal of the en route subsidy as well?

Mr Wilson: We would be providing an opinion on a government budgetary decision.

Senator NASH: The exacerbating factor of removing the en route subsidy on top of issues for airlines like the increasing cost of fuel: what sort of conversations have you had with airlines regarding that issue?

Mr Wilson: As Mr Borthwick has indicated, the airlines that receive the subsidy have indicated that they would have preferred a decision that retained the en route subsidy. We have had those conversations since the government made the decision in 2008.

CHAIR: Senator Nash, I bring to your attention, if I may, an article in the *Daily Examiner*, 17 May 2011, from your esteemed leader, Mr Truss, who was at Grafton and said: The subsidy only amounts to a few dollars a ticket. Airlines will not keep going just because there is a subsidy.

And before that:

If people don't use it, it won't survive even with government subsidies.

Just to assist.

Senator NASH: Thanks very much for that, Chair, which does feed into my exact point of it might not, of its own self, do that but a combination of difficulties for regional airlines, including the cost of fuel that Mr Borthwick has raised quite pertinently, creates huge issues for these airlines. Am I right in thinking it is lunchtime, Chair? Do you want me to break?

CHAIR: It is lunchtime. I did not want to cut you off while you were dressing me down.

Senator NASH: That is fine, I am happy to come back after lunch.

CHAIR: In that case, thank you very much. It is that time. We will recommence in continuation with Senator Nash. Thank you.

Proceedings suspended from 13:00 to 14:00

CHAIR: Welcome back, everyone. In continuation, Senator Nash.

Senator NASH: Before lunch we were discussing the issue of those other services provided by regional airlines, like the legal profession and medico services, and from memory I think you said that that had been considered but the decision had been taken to remove the en route subsidy. What did you actually consider in that context in the frame that if these regional services fall over we actually do not have a provision to get those professional services to the regions? Was there discussion around that? I am just trying to get a sense from the department's perspective how you factor in the public good of delivery of these services that is essentially done through a private entity, but it is actually a public good because these regional communities would not have these services otherwise.

Mr Mrdak: I think the point we were arriving at was that the consideration was given. They looked at the relative component of cost that the en route subsidy comprises of an airline's operating costs, as Mr Borthwick outlined, and I appreciate your point about the impact on carriers, but given the relatively small average impact across the network, the government took the decision that this was a measure that would not be continued.

Senator NASH: If we take the government view that it was a relatively small impact, as Mr Borthwick has said, though, the airlines said they would prefer it to obviously stay. They must have wanted it to stay for a reason. If it was a small impact that was not going to have any effect, surely the airlines would not have cared less, and they would have said, 'Well, that does not really matter; we can make do without it. We will not create a stink about this.' But the very fact that the airlines have said they need the subsidy to stay, would that not surely indicate of itself that it is not a small issue?

Mr Mrdak: It is fair to say I am yet to see any industry that is prepared to see any subsidy being removed from it. Having said that, we appreciate the airlines' position.

Senator NASH: But that is a bit trite, Mr Mrdak, is it not? These airlines may well have genuine concerns to actually put that in the bag of, 'Well, of course they are never going to give up any subsidy.' Their concerns I am sure were well founded, that it would have the impact on them, particularly considering the very tight margins under which they are operating.

Mr Mrdak: I am not trying to be trite or dismissive in any way; I would not want that to be the impression. What I am saying is that clearly we did look at those issues and the analysis was undertaken as part of the wide parameter process, and the government has reaffirmed its position on this en route subsidy.

Senator NASH: The value of the saving is of \$5 million. What is the overall departmental budget?

Mr Mrdak: For this coming year, I think it is of the order of about \$214 million.

Senator NASH: For a saving of what is a fairly insignificant figure of \$5 million against that budget, is it really worth the risk of these airlines not being able to continue? I ask that question from the regional community perspective, because in so many instances this is the only connection that these regional communities have with the urban centres. Is the saving worth the risk to the regional communities of these airlines pulling out or falling over or a reduction of services?

Mr Mrdak: These matters have been weighed up by the government in terms of its decision in 2008 to terminate this program.

Senator NASH: It is probably really a question for the minister. It is a bit unfair of me to ask you that one.

Mr Mrdak: This measure has been taken obviously in successive budgets. Governments have to make some fiscal decisions. This is an administered program. The government has taken a decision to terminate this program.

Senator NASH: Did the department have discussions with the minister around this issue?

Mr Mrdak: We obviously provided advice. It was a matter raised in 2008 and obviously as part of the development of the aviation white paper.

Senator NASH: Does the department have any alternatives for the provision of what you would call a public good provision of professional services if airlines do pull out of regional communities? Has a contingency plan been discussed?

Mr Mrdak: Regional airlines start routes and leave routes frequently. This is part of a normal commercial behaviour of the airlines. The Commonwealth Government puts in place certain measures. We have other programs in relation to remote communities through aerodrome support programs continuing. The government has decided to target this program at a critical service need, which is aeromedical services, but we do not have any other engagement or subsidy programs for aviation beyond the ones I have just outlined.

Senator NASH: Perhaps you should. Sorry, that is a matter for government, I understand. Do you have a list of regional communities that through airlines are provided these types of professional services outside the aeromedical services?

Mr Mrdak: We are certainly getting a listing for you as soon as we can of all of the routes being served under this program.

Senator NASH: No, sorry, that is not what I was asking.

Mr Wilson: Senator, do you mean do we have a list of regional communities which are dependent on fly-in, fly-out professional services?

Senator NASH: Yes. If only I could have put it as well as that, Mr Wilson.

Mr Wilson: I can ask the question but I do not have the answer.

Senator NASH: Do you have it? I understand that you would not have it with you today, but is it something the department has?

Mr Mrdak: No, but we certainly would have a list of communities receiving air services, but as to the nature of those services, I do not know that we would be delineate who is travelling to those locations.

Senator NASH: Is there any sort of cross-portfolio communication whereby we do have services that go to those communities whereby you would have that information?

Mr Wilson: I know that the department does not have a list of who travels on the individual air services in regard to their profession or whether or not they are flying in and flying out.

Mr Mrdak: But you are asking the question in relation to government provided medical services and the like. I do not know if we would have that.

Senator NASH: Not necessarily.

Mr Mrdak: A number of these communities are not necessarily remote communities.

Senator NASH: No, I understand that. No, it is often the Waggas and the Oranges and places like that as well as the smaller communities. I understand all of that. What I am trying to get a sense of—and if it is not in your department, that is fine, I will look elsewhere—is the fact that aviation is the carrier and it provides a public good for regional communities, and I am interested to know if you or any other department actually holds the information from the community.

Mr Wilson: I am not certain that I would agree with you that commercially provided services are a public good. Be that as it may—

Senator NASH: Hang on, I will stop you there for a moment. I think absolutely they are, because if the only way you can get that service in a regional community is by a commercial carrier, then it is providing a public good, short of the government running its own airline and dropping these people in because they actually are responsible for these people in regional communities.

Mr Wilson: That then becomes a public good, and I accept that.

Senator NASH: That is my point.

Mr Wilson: In terms of the list of professionals that fly into and out of individual regional centres, I am not certain that there would be such a database held by any agency within the government across the board. You may find that certain agencies such as the health portfolio might have information in regards to the health services provided into remote communities and the relationship that they have as to whether or not the practitioners reside there or are flown there. State governments certainly would have that sort of information.

Senator NASH: I understand that. If we still had regional, we could do it here. Unfortunately we do not anymore, but it is probably more a question to regional—

CHAIR: I could certainly remind the other committee members about your leader's comments in Grafton again, Senator Nash.

Senator NASH: We have moved on, Chair.

CHAIR: You really are at odds with your leader.

Senator NASH: We have moved on to a different issue, Chair, so keep up. If you want to throw in the barbs, keep up to where we are at. I will take that up with regional, thank you very much, Mr Wilson. Turning to page 57 of the aviation white paper, you talk about vulnerable routes. It states: 'The government has therefore decided to amend the current model for assisting remote air services targeting vulnerable routes rather than whole airline networks.' What is a vulnerable route?

Mr Borthwick: In the context of the white paper, a vulnerable route was one that was marginal in nature, and we are talking particularly about services to very small communities and very remote communities.

Senator NASH: When you say 'target', what does that mean?

Mr Borthwick: The intention behind the white paper was to look at whether or not there was a better way of targeting the en route subsidy to focus on those routes that are inherently less profitable.

Senator NASH: Okay. It says, 'Changes to this scheme would be introduced from 1 July 2010 to target vulnerable routes.' Did that happen?

Mr Borthwick: No, it has not.

Senator NASH: What actually were those changes to the scheme that were going to be introduced on 1 July last year?

Mr Borthwick: The proposed changes were ultimately a matter for government on which we would have provided advice. That advice is still under consideration by the government. The en route scheme is being administered in accordance with the existing guidelines.

Senator NASH: See if I have this correct. There were some changes to the scheme that were going to be made that would specifically look at the vulnerable routes which were the more remote type routes; am I right so far?

Mr Borthwick: Yes, that is correct.

Senator NASH: Some changes were going to be made. Even though we cannot see the changes, what was the reason for them?

Mr Borthwick: The reasoning behind the suggested changes, as outlined in the white paper, was to target the assistance at routes that were inherently less profitable than other routes.

Senator NASH: Does that mean that that is actually not happening, that there is no longer going to be that consideration to the vulnerable routes? I ask that, given that we now have the budget papers and we now have the funding cut, does that mean that this is not going to happen, that there will not be this targeting of vulnerable routes anymore?

Mr Borthwick: As I mentioned, the government is still considering advice on the matter. Currently all of the routes that were previously eligible to receive assistance under the en route scheme continue to receive that assistance.

Senator NASH: Bear with me, because this is not an area with which I am overly familiar. That to me would suggest that if we have had the funding cut, and there is the \$1 million remaining in the budget for 2012-13, 2013-14 and 2014-15, and as we have discussed

that is for the aeromedical service provision, what funding will be available for any assistance that needs to go to target the vulnerable routes?

Mr Borthwick: The proposals that were outlined in the white paper were still within the context of the government's decision to cease the En Route Subsidy Scheme at the end of this financial year. It was about maximising the use of the remaining allocation over the forward estimates.

Senator NASH: What is the remaining allocation?

Mr Borthwick: It is the \$6 million next year.

Senator NASH: But that has already been—

Mr Mrdak: As Mr Borthwick has outlined, the intention of the white paper was to see whether there was a way to better target the assistance on particular routes. Those changes are still under consideration, but those changes would have only applied for the remaining period of the En Route Subsidy Scheme. As Mr Borthwick has outlined, at this point all of those that were eligible at the time of the white paper have continued to be eligible. There has been some extension, I understand, to people where there have been withdrawals from routes. That has been extended. That was a change that was made. Previously where an operator withdrew from a route, a replacement operator was not eligible for the subsidy. That has been amended to allow those routes to take up new operators, but all within the context that the program would cease at the end of the forthcoming financial year.

Senator NASH: So it is going to cease at the end of this financial year, the middle of next year. These proposed changes to target the vulnerable routes were supposed to happen on 1 July 2010, last year, and there was supposed to be a review late this year of their effectiveness. Am I right to assume that this will never happen? We will never have any kind of meaningful targeting of the vulnerable—

Senator Carr: Senator—

Senator NASH: I just need to finish this question, sorry, Minister.

Senator Carr: It is not a question, Senator, it is a statement of your opinion.

Senator NASH: No, it is not. I am asking a question. Am I right to assume that we are not likely to see any changes to the scheme that will target the vulnerable routes, given that the end date for any of that to occur is the end of this financial year?

CHAIR: Senator Nash, you can word it any number of ways; you are asking for an opinion.

Mr Mrdak: As Mr Borthwick has indicated, the matter is still under consideration by government.

Senator NASH: Just so I am absolutely right, any changes that may be made to this scheme, which does what it says in the white paper, that you are going to target those vulnerable routes in the middle of last year, any of those changes will only run until the end of this financial year anyway? So, if you make some changes in December, they will only happen for six months?

Mr Mrdak: That is correct.

Senator NASH: I know that you said it was still under discussion, but given that the white paper says that they were going to be introduced from 1 July 2010, last year, can you inform the committee as to reasons why, nearly 12 months later, we still have no decision, or is that a matter for government?

Mr Mrdak: It is a matter for government, and advice has been provided which canvasses a range of issues about how you might better target the program. That consideration has not been completed by government.

Senator NASH: It is a big failing, really, is it not, the fact that 12 months later we do not have any of this targeted change to assist what many would think would be a very obvious need to assist vulnerable routes being the remote areas?

Mr Mrdak: It is important to recognise, as Mr Borthwick has outlined, that in the absence of those changes, two things: first, an extension to operators entering routes where previously that had not be available, and secondly, a continuation of the subsidy in that period on all routes that were eligible previously. That may not have been the case had those changes been introduced to this point.

Senator NASH: Okay. I have other questions, but not on that.

CHAIR: How much is the en route subsidy per passenger?

Mr Wilson: It calculates at around the \$2 a seat mark.

CHAIR: What proportion of the fare is that?

Mr Wilson: That would vary depending on the route and the fare rates. We may have an average percentage, but I do not have it at hand.

Mr Borthwick: If you take a particular route, for instance Sydney-Grafton, it really depends on the fare. You can have a fully flexible fare and you can have a discounted internet fare, and it can vary from \$170 up to, say, \$440. If it is \$2 a passenger, it is about 1 per cent.

CHAIR: I am just relating it to Mr Truss's comments.

Senator HEFFERNAN: To put it into context, a 350 millilitre bottle of water would cost you about the same.

Senator O'BRIEN: How does that put it into context? That is just another way of you reciting that.

Senator NASH: I have a few questions concerning the second Sydney airport. Where are we at with the inquiry into the possible need for a second Sydney airport? Twenty years ago I used to live in Camden.

Mr Mrdak: The study is continuing. This is a joint piece of work that we are leading with the New South Wales government. The intention is the analysis is continuing, led by the steering committee, which I chair with the heads of New South Wales planning and infrastructure in New South Wales. The intention is that the study will be completed at this stage around the end of the third quarter of this year.

Senator NASH: When did that particular study start?

Mr Mrdak: It started round about the first quarter last year. Money was provided in last year's budget for the study.

Senator NASH: Historically, going back a fair way, when did consideration of a second airport first begin?

Mr Mrdak: My understanding from my history in it, which is a fair part of the period of consideration, I think the first consideration was given to this in the 1940s.

Senator NASH: Do we have any kind of short list of potential locations? Obviously the media from time to time toss up options, but is there a short list that the department is working on?

Mr Mrdak: This is a bit different from previous studies in the sense that this is not a search for a second airport site solely. This is actually quite a comprehensive aviation strategy for the Sydney basin. What governments have asked us to do is to look at a 50-year strategic plan for aviation in the Sydney basin. The study will encompass future demand scenarios, looking at not only regular public transport and Sydney Kingsford Smith, but also looking at the general aviation and military aerodromes in the region. So, we are looking at the demand profiles, looking at the existing capacity in the region, and then determining the best means of meeting that over a 30- to 50-year horizon. The study also encompasses looking at land transport issues related to aviation, particularly addressing access to the Sydney Kingsford Smith Airport but also other airports in the region. Part of the study also is consideration that, should there be a need for additional airport capacity, what are potential locations for that capacity, both of existing airports in the region or that serve the region, and also potential greenfield sites for new locations.

Senator NASH: Do you have any of those potential locations at all yet?

Mr Mrdak: We are currently going through a very detailed process of looking at a whole range of sites to determine what—

Senator NASH: That is a 'you're not going to tell me', is it not?

Mr Mrdak: That is correct. Probably the only way I could put this is that the work is not yet completed. It is a very complex issue, as you know.

Senator NASH: In light of the lack of any further information, we can assume that several sites as part of this broad inquiry will obviously be canvassed?

Mr Mrdak: Many sites are being canvassed, both of an existing aviation infrastructure and also potential greenfield locations.

Senator NASH: What sort of consultation have you been doing as part of the inquiry? Obviously you have just given us the very broad outline of what is involved. Can you give us a sense of the types of consultation across the different areas that this will touch on?

Mr Mrdak: I chair a reference steering group, along with the New South Wales officials. Much of the work has been directed towards the steering group at this stage. It has involved consultations with airport operators in the basin and also with the aviation industry, the airlines and other aviation interests, from whom submissions have been sought. There has not been any consultation outside the industry at this point.

Senator NASH: When do you think the inquiry will be finished? Did you say towards the third quarter of this year?

Mr Mrdak: I am looking towards the end of the third quarter of this calendar year.

Senator NASH: Will the inquiry be made public? Will the information coming out of this process be public, or will it go to government and be a government decision?

Mr Mrdak: This will be a report to the New South Wales and Australian governments. It is a matter then for those governments to deal with the report as they see fit.

Senator NASH: In the context of all of this work that has been happening, will you rule out any changes to the regional time slots at Kingsford Smith, that all of those regional slots will remain?

Mr Mrdak: The government has been very clear that it is very committed to retaining the regional ring fencing in terms of slot allocation and the regional aviation pricing arrangements through ACCC approval processes that have been in place. The minister has been very firm on that.

Senator NASH: Into Kingsford Smith, not Sydney?

Mr Mrdak: Into Kingsford Smith airport where those arrangements apply.

Senator NASH: Very good. I think that is it from me.

Senator BACK: While we are on that same question, can you respond to the long-term lease of the maintenance hangar at Sydney airport for regional aviation? That has been an area of concern which I have raised previously. Do you know if that has been resolved?

Mr Mrdak: I am not aware that that is a continuing issue.

Senator BACK: The issue was, as I recall at the last estimates or a recent estimates, that there was concern by the regional aviation company that the security of their lease on the maintenance hangar was at risk, and obviously having that facility at Sydney airport was extremely important to them. If you cannot answer it, could you take on notice for me: has that matter been resolved and has their tenure been confirmed?

Mr Doherty: We will have to take that on notice. I recall a discussion broadly about pricing for regional. I do not remember that specific discussion, but we will check it out.

Senator BACK: And your answer to the question by Senator Nash with respect to slots, that is all safe and in place for the regional aviation companies?

Mr Mrdak: Yes. As I outlined to Senator Nash, the government has been very clear in its support for continuation of the current arrangements for regional airlines.

Senator BACK: I turn now to some questions with regard to the new terminal at Perth airport. The master plan has now been approved for a single site domestic-international airport in Perth; is that the case to your knowledge?

Mr Doherty: The collocation is certainly foreshadowed in the master plan, yes.

Senator BACK: And has been approved?

Mr Doherty: The master plan has been approved.

Senator BACK: They are saying 18 months to build it, and \$120 million for a new domestic and \$250 million towards expanding the existing international terminal; are those figures accurate?

Mr Doherty: Sorry, I cannot confirm the figures, but there is substantial investment involved, yes.

Senator BACK: I believe the plan referred to an increase in passenger movements through Perth airport in 2009-10 of 7.6 per cent, up to 10 million passenger movements into Perth. Is the department's assessment of this master plan such that you believe that the new terminal will actually meet demand through into the later part of this decade if somewhere approaching that 7.6 per cent per annum figure continues?

Mr Wilson: We do not really substitute our own assessment of the future capacity. I think we were satisfied in assessing the master plan that they had provided a substantial increase on the capacity to meet the forward demand. Whether the growth at Perth continues at the very high rate it has continued is a bit hard to assess into the future.

Senator BACK: Is it something the department has had a look at?

Mr Wilson: In terms of whether or not the capacity of the terminal will meet the future demand, as Mr Doherty indicated, we do not do an overall capacity assessment in terms of passenger throughput to second guess the design that the individual airports would put in place.

Senator BACK: Would the department examine that plan and give guidance to the minister in terms of signing off on it before it was approved?

Mr Wilson: In that sense, yes.

Mr Doherty: The detail of the forward investment program is worked through very carefully by the airlines with the airport. At the end of the day, the airlines will be involved in passing on costs through their passengers. The proposal that comes forward would be tailored towards trying to meet the reasonably foreseeable capacity into the future without providing an excess of capacity which is not warranted in terms of the payment. So there is a judgment involved there that really involves the commercial judgment of the airport in consultation with the airlines.

Senator BACK: In terms of the position the airport got itself into, who really failed to take account of and see and plan for the increase in passenger movements which has caused the levels of inconvenience that are now suffered at Perth airport? Whose role was that—the airport operator, the department, the airlines?

Mr Mrdak: I think in public statements by the airport operator and the airlines, they have both acknowledged that the growth in traffic was much more rapid than they had envisaged with the expansion of the mining industry in WA. Certainly I am aware that the board of the airport operator and the airlines themselves have indicated that.

Senator BACK: Given the knowledge of the forward investments in WA over the next eight to 10 years, if not longer, that would not be an excuse they could use in 10 years time if we all find ourselves back in the position of rushing through the adverse weather to get from the aircraft to the terminal?

Mr Mrdak: I think the recent investments which Mr Doherty has talked about indicate their intention to meet the demand forecast.

Senator BACK: Were you concerned at all by the airport's CEO's statements about the fact that Perth does not need an airport to equal, for example, Singapore's airport, which is acknowledged as one of the best in the world? He basically suggested that Perth wants basic

facilities, if I recall the quotation correctly. Is that something that you as a department took any cognizance of?

Mr Wilson: As Mr Doherty indicated, the level of investment that the individual airports put into the growth of the airport reflects commercial conversations between the airports and the airlines in terms of what can be passed through to the passengers. It reflects the commercial judgment of the airports themselves in terms of their understanding of their passenger mix and the stakeholders that they deal with. It reflects the ongoing capacity for the airport to raise capital, to actually invest into the airport, so the capacity to make a return on that capital. I do not recall the CEO's comments to which you refer. In undertaking the assessment of the master planning process, we look at the robustness of the plan in terms of meeting the traffic demand that is forecast. In that sense, there are a number of balancing levers that come to play in terms of whether or not they get it right in terms of the investment.

Mr Doherty: I would just add to that that there is a process of monitoring quality of service through the ACCC. The approach to that will be part of the consideration in the Productivity Commission at the moment. We would certainly be concerned if an airport, one of the leased federal airports, was not making the investment necessary to maintain a satisfactory quality of service.

Senator BACK: That is a dialogue you then had with Perth airport operators over the last three or four years?

Mr Doherty: If the result of the ACCC monitoring were to indicate that there was a problem with the quality of service. But whether they go to attempt to emulate a Changi or one of the higher standards is something that we probably we would not be actively engaged in. It is very much more a matter for their commercial aspirations and the arrangements they can make.

Senator BACK: In terms of your not being engaged in it, I understand that they have been in negotiations to increase their fees; is that the department with whom they would have been in negotiations?

Mr Doherty: No. The arrangements for their fees would be struck through negotiation with the airlines.

Senator BACK: That is not something the department would have any involvement with at all?

Mr Doherty: No.

Mr Mrdak: We become involved at times if there are particular issues, or where either party wishes some guidance in relation to the policy settings. But these matters are determined through commercial negotiation largely, between the airlines and the airport.

Mr Doherty: Again subject to that light touch monitoring approach through the ACCC.

Senator BACK: So the ACCC would ultimately have sort of watching brief. The department would have no influence over or knowledge of what proportion of those refurbishment costs would actually end up being added on to airline operators' costs?

Mr Mrdak: We do become aware. Often parties will advise us in relation to their negotiating positions or their views on the prices being sought or put. We do get involved, particularly if they are looking for some clarification in relation to issues. As Mr Doherty has

indicated, the government has a price monitoring regime through the ACCC which transparently publishes the outcomes of airport prices each year, which is an important part of the negotiating process, to ensure that the airlines have transparency about what is being charged at a particular location, and also for the customers.

As Mr Doherty has indicated, the Productivity Commission currently has a review underway which we undertake periodically to make sure that the regulatory settings are appropriate to balance what we are looking for, which is both investment and also ensuring that the monopoly position, if that is the case, is not being exercised to the detriment of the travelling public.

Senator BACK: Do we know when that Productivity Commission report is due to be handed to the minister?

Mr Doherty: It is due to the two ministers towards the end of this year.

Senator BACK: The end of 2011. Thank you. The government has set aside this figure of \$179 million to the WA Gateway project. Is this part of your remit? Do you know where that funding is? Is it guaranteed? Will it only be forthcoming if the mining tax is passed, or is it secured anyhow?

Mr Mrdak: The Gateway project is one of those commitments that the government has made as part of the Regional Infrastructure Fund. The total contribution of the Australian government is up to \$480 million. As we discussed yesterday, there is currently \$400 million in the forward estimates, and the balance is dependent on the mining tax.

Senator BACK: Can you remind me again how that fits into a regional perspective? I think I did ask you that question yesterday.

Mr Mrdak: Yes, you did. Essentially, as we discussed yesterday, it is the government's strong view that the growth in traffic and the need to improve the transport linkages to Perth airport are dealing with the very issues you have just raised in relation to the rapid growth of the regional resource sector in WA and the nature of the operations. The government has made a commitment to Gateway project, and the government has reaffirmed that that commitment will be met.

Senator BACK: Perth airport will probably be under a fair amount of focus in the fairly near future. I turn now to the Commonwealth Heads of Government Meeting in October. Is the department participating in some cross-department discussions with regard to the lead-up to CHOGM in October?

Mr Mrdak: Yes, we are.

Senator BACK: At what level? Is somebody at the table here involved?

Senator Carr: It is none of the officers at the table. It is a representative from the Office of Transport Security.

Mr Mrdak: Also our Nation Building Division is engaged, because there are components of the CHOGM agenda which will cover issues such as infrastructure and governance of local government and the like, which are being covered off by various parts of the department at a working level. The CHOGM arrangements are being coordinated through the Department of the Prime Minister and Cabinet.

Senator BACK: Given the embarrassment of Perth airport for a lot of people at the moment, are any special measures being put into place in terms of the expedited movement of officials, heads of state and others who are coming into Perth? Is there any process in place to ensure that the first impressions, if you like, that they get of Perth will in fact be positive, over and above many that those of us flying domestically endure at the moment?

Mr Wilson: The arrangements being put in place by the Department of the Prime Minister and Cabinet, in consultation with the Western Australian government and Western Australia airport, I cannot comment on in specifics, but arrangements are being put in place to ensure an efficient handling of all foreign dignitaries and guests.

CHAIR: As a Western Australian, I know there are certainly some challenges at the Perth airport, but I have to disagree. I certainly do not think it is an embarrassment. I think they have done a remarkable job in the last few years, and it was the previous Howard government that did privatise our airport. I just want to refute what you have said. I am proud of the effort that the Western Australian Airports Corporation have put into the airport in the last couple of years.

Senator BACK: Perhaps I must try to fly on the same flights as you more often, Chairman. You might enjoy a better standard. I recall wondering over the years when I flew in and out of the Mumbai airport all the time why we always landed in the middle of the night. I came to the realisation that it was because you did not then see as many of the problems around the Mumbai airport, either at the airport or on the way into the city.

CHAIR: I hope you are not suggesting that our great state and our airport are anything like that.

Senator BACK: No, but I was just wondering whether or not most of these overseas flights are going to come in by night to try to avoid some of these issues. With respect to long lines and security screening et cetera, would that be within your department, or would it be the Department of the Prime Minister and Cabinet who would be dealing with changes, if any, to protocols to try to limit those long queues for screening, Customs and Immigration checks et cetera?

Mr Mrdak: As Mr Wilson has indicated, our officers from the Office of Transport Security are working with the airport and the Department of the Prime Minister and Cabinet to sort out those facilitation issues. If there are special requirements or the need to manage queues or screening requirements, that is all being managed through the prime minister's department.

Senator BACK: With respect to these building controllers that I had not really been aware of before, and that is probably my ignorance, who are engaged by the Commonwealth to ensure buildings at airports comply with the Building Code of Australia and other applicable standards, how many building controllers do we currently have in place?

Mr Doherty: I will get Ms Redmond to provide the details. Fundamentally, they are not individual officers but rather contracted expert firms which will provide the building control services. In many cases, they do identify particular people to do that.

Senator BACK: So it is an outsourced role?

Mr Doherty: It is an outsourced role, and we have them for each of the major airports.

Ms Redmond: We do not have the exact numbers with us here today, but there are around 20 building controllers.

Senator BACK: Perhaps you could advise me of the budget in the current year and in the new financial year for these building controllers? Would that be possible?

Mr Wilson: The revised estimates into the future are \$5.4 million, 2011-12; 2012-13, \$5.7 million; 2013-14, estimated \$5.3 million; and 2014-15, \$5.3 million.

Senator BACK: That would actually pay for a very substantial contribution by these people. To whom do they report? Is it to you, Mr Doherty or Ms Redmond?

Mr Doherty: They report to the department.

Ms Redmond: They are required to put in a quarterly report.

Senator BACK: In terms of work they have undertaken, expenditure that has been incurred, and you would report that annually presumably to the secretary against the budget?

Mr Wilson: Actually on a quarterly basis, but yes.

Senator BACK: And reflected in your annual report?

Mr Wilson: Yes.

Senator BACK: They would be familiar with the master development plan because presumably the plan would guide the work that they would do in terms of the requests that are made by you?

Mr Doherty: Fundamentally they would not approve a development which was not consistent with the master plan.

Senator BACK: There have been recent media reports regarding a lessee at Perth airport, BGC, who have claimed to have ordered building materials to build an additional structure on land that they lease at the airport, and my understanding is that the airport operator is of the view that that land is required for perhaps future runway development. Are you familiar with this particular concern or dispute?

Mr Doherty: We are certainly aware that there is a dispute. Yes, as you have described it, at this stage it is a dispute between the airport lessee and the sublessee.

Senator BACK: If this lessee has claimed to have ordered building materials, would the building controller not have to have assessed the building application well before the lessee started ordering materials to construct whatever it is they are wanting to construct?

Mr Doherty: If the sublessee was undertaking building and construction work on the site, it would require building approval through the building controller, and before going to that, it should also have the consent of the airport lessee.

Senator BACK: Do you know if all of that process has taken place?

Mr Doherty: What I am not clear about in this case is whether the building materials being brought on to the site have actually been involved in any construction activity on the site. My understanding is the sublessee intends on the site to construct a business of making prefabricated buildings, so maybe the materials that have been brought on are stock for the ultimate business that they wish to run there rather than something which is engaged in a current building activity.

Senator BACK: In a sublease arrangement, in the first instance, would there not be very tightly controlled clauses that would determine what a sublessee might be able to do on airport owned land or not be able to do, and the process by which a sublessee would actually make and have approved application to undertake any such activity on their subleased area?

Mr Doherty: The detail of what goes into a sublease is obviously a matter for negotiation between the parties to the sublease. From our perspective, as the regulators under the act, we would expect that in any sublease there was sufficient provision for the airport lessee to make sure that the regulatory requirements were met on the site.

Senator BACK: Taking one step back from that, I think it would be reasonable also to say that, as the regulator, you represent the landlord, do you not?

Mr Doherty: That is absolutely correct.

Senator BACK: The landlord being the taxpayer. Would there not be in place in a circumstance like that a scenario in which already for a long-term period land would have been earmarked, let us say, for a future runway and therefore never be available to the lessee or to any potential sublessee to ever get their hands on it in the event that it would be wanted at some time in the future or could be required for another runway, a terminal or anything else?

Mr Doherty: I do not know the details of what has been in the master plan or is in the sublease. I would be hesitant to speculate about those issues.

CHAIR: This was a real touchy subject in this committee and in estimates during the Howard years, and we know damned well how that came about. It is very unjust to be representing BGC.

Senator BACK: I understand that alternative sites have been proposed for this development that the sublessee wants to undertake. Do we know if those have reached the application phase, or are they just discussions between the lessee and the sublessee, and where, if anywhere, is the building contractor reporting through to you in this overall process?

Mr Doherty: My understanding is that those have been discussions between the sublessee and the airport lessee company. I do not believe anything has come to us as an application.

Senator BACK: In general terms, surely the lessee would not be free to sign off, even if they wanted to, on an activity that a sublessee might want to undertake without the regulator, the landlord, having some overarching capacity to disallow?

Mr Doherty: We would only expect to be able to be involved if it contravened some regulatory requirement or was contrary to the master plan.

Senator BACK: If it was contrary to the master plan?

Mr Doherty: Yes.

Senator BACK: Do you know in this case with the master plan where this whole situation sits?

Mr Doherty: Sorry, I cannot express a view on whether it is contrary to the master plan. I do not know what provision was made for the runway extension in this case in the master plan.

Senator BACK: But the master plan is a public document, is it not?

Mr Doherty: Yes.

Mr Wilson: If you would like, we will take it on notice and go to this specific issue, and we will provide you with a written answer.

Senator BACK: I would be appreciative if you would. If you could advise the committee through the secretariat, that would be fantastic. I see the Airservices Australia people are here, so I will start this line of questions, and no doubt they will get a second go.

CHAIR: Are we finished with airports and aviation?

Senator BACK: No. Mr Mrdak, the government rejected the recommendations of this committee into Airservices Australia that it revise the current process through which ANEFs are developed to establish an independent body charged with coordination of process and review of accuracy. You would recall that. In its response, the government said that it did not support the recommendation but:

The government has recognised that there is scope to improve the technical processes and independence associated with assessment and scrutiny of ANEFs, Airservices Australia, and the Department of Infrastructure and Transport will be considering options to improve these processes.

I wish to focus on the second of those two, being your department. The government's response went on to say that it is 'committed to work in partnership with state and territory governments, improve land management, land use planning around airports, and ultimately establish national land use planning regime near airports under flight paths'. The government does not reject the main points, which are that the ANEF system needs improvement rather than revision and that the technical process and its independence can be improved. What action has your department taken to give effect to the government's response to the committee?

Mr Doherty: We have been working through a Commonwealth-state group, the National Aviation Safeguarding Advisory Group. That is a group of officials from both the Commonwealth and the states which is looking for that range of issues about how to improve that interaction between the airports and the surrounding areas. A certain amount of that work goes to physical obstructions, but a significant part of the work relates to the noise issues and the current framework for guidance of developments around airports, and the ANEF system. We are currently involved in a process of discussing whether there are ways to improve the ANEF system which, as you are aware, sets out contour lines on a map based on the mix of traffic. Those are similar to the arrangements adopted around the world to do similar things, but discussions are going on as to whether they do not always give the best approach to guidance. In particular, if you take an example of movements at night, while the ANEF gives a weighting for night movements, it may be that there could be significant disruption to community from night-time movements which was not enough to register as a serious issue on the ANEF scale. We have been looking at other ways to noise metrics, and trying to get some agreement at the Commonwealth and state levels about ways you might use additional metrics either to guide your planning process or certainly to improve the information available to that. I am expecting, as part of that discussion, we will move on to some of the processes and mechanics about the establishment of the ANEFs. Airservices has been engaged in that work, and we are very keen that they continue to be engaged.

Senator BACK: Airservices role is to examine and either sign off or not those aspects of the ANEF relating to technical matters, is it not, agreeing or disagreeing with the ANEF's

projection as to noise at different levels et cetera on the contour? That is as I understand it and as I recall from the inquiry.

Mr Mrdak: That is correct.

Mr Doherty: Airservices conduct a process in accordance with guidance provided by the minister to assess the technical accuracy of an ANEF.

Senator BACK: A report in 2000 from the department noted that expanding ways to describe and assess aircraft noise. It stated that there had been significant criticism of the system since 1995 and there had been considerable confusion in the community and even amongst some of the experts as to the role and purpose of the system. Do you believe that the actions you are taking now will actually address some of those confusions that you reported and we identified in the inquiry that we had in this area in 2010?

Mr Doherty: I certainly hope so. I hope it both improves the clarity of the system as well as improving the outcomes.

Senator BACK: I think the only two airport operators we actually quizzed on this were Sydney and here in Canberra, and if I recall correctly both of those airport operators actually indicated their agreement, if you like, not necessarily enthusiasm, but agreement in a process in which there actually would be an independent umpire. The point they were making was that their role was to try to project as far out into the future, and that is reasonable, whereas other were saying, if you like, the more strident their projections, or the more pessimistic their projections, developers and others would say the greater will be the restriction on availability of land adjacent to airports. I thought I understood that those operators actually agreed with the concept of an independent umpire, whether that is the department or whatever. Has that notion been picked up in the process that you are undergoing?

Mr Doherty: That has not been worked through in detail at this stage. We are certainly conscious of that as an issue. The concern that arises in part is that if you try to make a forecast for a particular period of time, you may be then permitting development which subsequently creates a problem and which cannot be undone. Our preference is that the forecasts look a long way out so that you are able to maximise your protection of the infrastructure, because the chances to replace the infrastructure in the future are very small. While there is clearly an attraction in the independent view, you have to mix that to make sure that you are not putting either a short-term focus on to what is a long-term problem.

Senator BACK: As we know, the government has appointed this National Airports Safety Advisory Group. Is it now in place?

Mr Doherty: It is.

Senator BACK: Once it has developed a national approach, who will have responsibility to ensure its regulation?

Mr Doherty: What we are hoping is that the approach would be endorsed through the ministerial council system. It will then become a matter where we think the individual jurisdictions will take away their parts of it to implement. We would take away parts relating to the processes around ANEFs, for example. We would hope that the states are taking away their parts relating to land use planning guidance and the controls that they exercise so there is a framework that we are all working to.

Senator BACK: Has funding been put in place now for that group to operate?

Mr Doherty: The group is operating from within the existing resources of the agencies which are participating.

Senator BACK: Who is on it?

Mr Doherty: I chair the group. We have representatives from CASA and Airservices in the forum.

Senator BACK: So there are noise and safety experts there?

Mr Doherty: Then we have representatives from each of the states and territories. I should also mention the Department of Defence is engaged.

Senator BACK: Are you able now or on notice to give us some indication of the program that you at least have underway or intend to have underway in the near future? Is that something you could take on notice and supply to the committee?

Mr Doherty: I can indicate, as I did very briefly at the outset, the range of issues that we are working on. In relation to the physical constraints, we have some issues relating to wind shear, to physical obstructions, potential physical obstructions, to guidelines for wind turbines, and to wildlife strikes. The bigger issues relate to the planning framework as it relates to aircraft noise and how that is reflected in state systems.

Senator BACK: So there is no representation from planning organisations, state or federal, on the group?

Mr Doherty: That is an interesting question. Some of the states do tend to come with both planning and transport agencies represented, and we are certainly expecting that the state agencies would be working with their planning counterparts. Just to clarify my answer about the participating members, it has been pointed out to me that ALGA, the local government association, is also represented on the group.

Senator BACK: My last questions are regarding the Aircraft Noise Ombudsman. That is resourced within Airservices Australia. The position has been in place now since late 2009; is that right?

Mr Mrdak: September 2010, I am told.

Senator BACK: Does the budget rest within Airservices Australia?

Mr Mrdak: No, it is wholly a matter for Airservices Australia.

Senator BACK: I will defer my questions to Airservices Australia.

Senator HEFFERNAN: Where are we up to with the starter of—

Mr Doherty: The matter is still awaiting a decision of the New South Wales planning minister.

Senator HEFFERNAN: We have an hour.

CHAIR: If senators have meaningful questions that is okay, but I am not going to entertain that filibuster carry-on. Sorry, Senator Heffernan.

Senator HEFFERNAN: Senator Back raised this earlier, and correctly so. He mentioned planning a long way ahead and whether that means that in the future you put more people on the fast rail, as they have done around other parts of the world, and how many airports are

connected with fast rail, and you have a 24-hour hub in Canberra. In the planning decision for the Canberra airport and building residential subdivisions under the known flight path where there is a view that it could go to a 24-hour if needs be; is there no way for common sense to prevail in that argument? If ever there was a need for long-term planning and the tens of thousands of hectares available around Canberra to build houses, why the hell would anyone agree to build it under a flight path? If you have a 50-year plan for the airport and the growth of the population, there might be houses from here to Murrumbateman in 50 years time.

CHAIR: You will not have any argument from us. We have had a lot of discussion on this. In all fairness to the officers, is it a rehashed question?

Senator HEFFERNAN: No, I just wondered where it was up to.

Mr Mrdak: With the New South Wales government.

CHAIR: On that then, I will thank the officers from Aviation and Airports and now call Airservices Australia.

Airservices Australia

[15:02]

ACTING CHAIRMAN (Senator Hutchins): Welcome, Airservices Australia. Do you have any opening statement, Mr Russell?

Mr Russell: No, thank you.

ACTING CHAIR: Senator Heffernan.

Senator HEFFERNAN: Is it out of your territory to worry about air security and things like that? Do you take an interest in airline security?

Mr Russell: To the extent that I have a background in that part of the industry, of course I am interested, but not directly within the brief of Airservices.

Senator HEFFERNAN: I have questions but, because they are long-term prices, proposals and so on, I think I will put them on notice.

ACTING CHAIR: If you could do that, that would be welcome. I think Senator Back is ready.

Senator BACK: Yes, I am. Thank you, gentlemen. How are you?

Mr Russell: Well, thank you.

Senator BACK: I am still waiting for my invitation to have a look at that fire station at Perth airport, but I am sure it is forthcoming.

ACTING CHAIR: It is in the mail.

Senator BACK: It has been in the mail for some time. Mr Russell, I was just starting to ask questions about the Aircraft Noise Ombudsman. The position has been occupied now since this time 2010?

Mr Russell: Yes, the position was taken up by Mr Ron Brent during September of 2010. You may know that he was formerly the deputy Commonwealth Ombudsman, so he brings some considerable experience to the role, which frankly we have found very beneficial.

Senator BACK: The budget for Mr Brent's position comes within your agency. Can you tell us what that budget is and what, if any, staffing he has to support the position?

Mr Russell: In broad terms, we allocated half a million dollars for the first year of operation. To some extent we were not sure exactly what would turn out to be the requirement, but it covers salary, travel and the establishment and staffing of a separate office. I think there are two and a half or three staff who support Mr Brent.

Senator BACK: In addition to his position?

Mr Russell: Yes.

Senator BACK: His position is full time?

Mr Russell: Yes, it is.

Senator BACK: It reports to?

Mr Russell: The board of Airservices.

Senator BACK: Reports directly to the board?

Mr Russell: Yes, he does.

Senator BACK: You sit on the board?

Mr Russell: I am a director of Airservices, yes.

Senator BACK: But you are a member of the board?

Mr Russell: Yes, I am.

Senator BACK: When did he actually start? How many months has he been going? I guess that is the question.

Mr Russell: September.

Senator BACK: Seven months?

Mr Russell: Yes.

Senator BACK: Can you advise us how many complaints the office has received in that time and how many have actually been processed, dealt with and so on? Do you have a feel yet for that?

Mr Russell: I do not have that number with me, but I can say that he reports publicly every quarter. They are on a website and are publicly available. I can find the information in some detail and provide that to you if you so wish.

Senator BACK: Thank you. In your or your officers' discussions with him, have you found any new information that you believe your agency was not aware of as a result of previous processes for handling inquiries and complaints regarding noise around airports?

Mr Russell: Let me answer that question by referring back to the work of the Senate references committee that looked at this whole question of aircraft noise last year. I think that it is fair to say—and I have said it, I think, in your presence—that this was a wake-up call for Airservices in terms of how we have handled these things in the past. Since that time, apart from the establishment of the ANO, we have put considerable work into internal resources for the better management of these types of complaints. We are now represented on the community aviation consultative groups that were set up as a result of the white paper into aviation. They are to be set up, and/or are set up, in the 19 federally leased airports, and there are two additional community meetings that are held in non-federal airports; Cairns and the Sunshine Coast being the two. All of those have been established with the exception of four

of them, so we are on each of those and there are, as you would know, community representatives, and they are chaired by the local airports.

I think an area that might interest you particularly is the report that the ANO released in February this year, where he reviewed the complaint-handling system that Airservices had had in place up to that time and he made a series of 18 recommendations, which we have accepted. About half those recommendations relate to the noise inquiry unit that we operate, some others relate to accountabilities within Airservices by the management of Airservices, and others relate to resources and procedures. I think it is fair to say that it has been a helpful, independent process. It is work in progress, but it is improving, I think, the way the whole area of our operations is being addressed.

Senator BACK: The catalyst for looking into that almost at the beginning of his operation; that was the ombudsman's volition, it was at the direction of the board or a request by you?

Mr Russell: No.

Senator BACK: He just saw that as being an early area which he should address?

Mr Russell: I believe so, and I make the point to you—and I remember we had this discussion during that references hearing—the ombudsman is an independent office. Whilst he reports to the board, it is at arm's length to the management of Airservices. Yes, I meet with him on a regular basis, but I am very mindful of the fact that he is an independent officer, that he has accountabilities and that he acts on those accountabilities accordingly, so my view of it has been that it has worked very well. It has worked very well indeed.

Senator BACK: There was a concern expressed by some that the independence of the ombudsman could or would be compromised by reporting to the board rather than to the minister or whatever. You do not believe that that concern has been realised, that his independence has been established sufficiently?

Mr Russell: It has certainly not been the case that his independence is in any way compromised.

Senator BACK: Just returning for a moment; I think it was originally advertised as a part-time position—or was it advertised as a full-time position?

Mr Russell: In the first year, frankly, we were not sure how big this role was going to be and I think in practice it might not be a full week. I just do not have the actual details. You may need to ask him, but it is proving he has got plenty to do.

Senator BACK: It might be, Acting Chair or Minister, that at a future estimates we might invite the ombudsman to appear, simply to give us the benefit of his observations.

Senator Carr: We would have to have a look at whether or not that would be consistent with the standing orders. We do not just invite anyone to an estimates committee.

Senator BACK: No. That is why I thought by approaching the chair—

Senator Carr: Yes, I know, but no matter who the chair was or who the minister was, you cannot change the standing orders.

Senator BACK: Right. Then that will be referred to the clerk. We will refer that through in the usual way, thank you. Just in terms of those 18 recommendations, I recall during the references hearings, concern by members of the public about the way in which they raise their

complaint or their inquiry to Airservices Australia on noise related matters. Can you tell me, perhaps on the basis of one of his recommendations or whatever, how, if at all, that process of communication from a member of the public and back to the public may have changed?

Mr Russell: The 18 recommendations that the ombudsman made in February are on a website, so they are all published. As I mentioned, about half of them go to detailed systems and procedures as to how the noise inquiry unit that we operate actually works; what members of that unit tell the public—how they tell the public—is in a framework that is frankly too technical. One of the issues that is contained in those recommendations is: are there protocols and are they sufficiently developed—and I can tell you they are not—to deal with unreasonable complaint behaviours as well, of which there are a small number but they do take up a lot of time. So it has been at the ombudsman's own volition that he looked at this issue first and, as I mentioned, I think we have learnt. We have accepted all of the 18 recommendations and now we are working our way through them. I think in time it will make a considerable difference to the way that interface with the public works.

Senator BACK: As I understand it, of the 19 federal and two non-federal community consultative groups—being 21—17 are set up now, and there are four yet to be set up.

Mr Russell: That is right.

Senator BACK: One would hope that that process would also yield positive results, so that is most interesting. You may recall in the references hearings on airfields, Tyabb, south-east of Melbourne, was an example of what almost appeared to be uncontrolled; it did not seem to come under either local, state or federal government jurisdiction in terms of noise. Can you just tell me, or remind me, what the circumstance was there and if there has been any change in regard to the capacity or the process of complaints by members of the public? It was particularly in relation, as I recall, to the fact that more noisy and older aircraft could actually use those airfields.

Mr Russell: Yes. I think we talked about this at the time, that we have no representation at the airfield in question. I would have to double check to see whether in fact we were collecting complaints from that area. I am happy to take it on notice and get back to you, but it certainly to my mind there has not been a lot of development that I am aware of since we had this discussion. Let me take it on notice.

Senator BACK: Thank you.

Senator NASH: I just have a few questions around the pricing of firefighting services. Can you just outline for the committee how the pricing process works for that?

Mr Russell: You would be aware that we are currently in a process before the ACCC to review our pricing proposal for the next five years. Just by way of context, this is the second five-year pricing program and the advantage of it from both the airlines' viewpoint, who ultimately pay these charges, and our own is that it provides certainty in terms of what we expect over a period of time. So, although we had considerable discussion the first time this five-year plan was put in place, it has generally been accepted that the principles that underpin that plan have worked fairly well. This time around, even though we have gone through a similar consultation process, generally people—and look, it is a very wide cross-section of the aviation community; you cannot please everybody—have, I think, understood that it did work

reasonably well. We are not making significant changes to the fundamental principles, and in that sense I think we have got a kind of a broad consensus on the core activity.

With respect to the fire service, there are three elements to that pricing proposal. There is an en route component, there is a terminal area component and there is the component for the fire service that we operate on a national basis. In the last pricing round, for which the discussions concluded in 2005, the ACCC took a view on a location-specific approach to the implementation of pricing fire services at regional airports. We charge on a tonnes flown basis or a tonnes landed basis. With aircraft tonnage being relatively lower at these larger regional airports, the price per tonne on a location-specific basis for a fire service would have been very high indeed. We were asked to look again at the issue, and for what is known as category 6 airport operations—they are the least category in terms of fire service—we put in place and suggested to the ACCC and then they agreed a network price for those category of operations. What it did was smooth the prices that we charge at regional airports; in other words, it brought them back to a much more acceptable level.

There is an element of cross-subsidisation in that pricing arrangement, and in the proposal that is currently before the ACCC there are a number of costs that we are seeking to recover as we have rebuilt this national fire service over the last few years. For instance, we are represented in more locations; we have got fire stations at airports in Karratha and in Broome; we have expanded our fire station operations in the capital cities to cater for larger aircraft—they have gone from what is called a category 9 to a category 10, which requires more firefighters to be available—and we are rebuilding the capital base of the fire service.

There are new fire stations—one in Perth we opened earlier this year—and we have gone through a re-equipment program where we have purchased over the last four or five years something in the order of 50 ultralarge fire trucks to replenish a fleet that was, in some cases, up to 20 years old. So that money needs to be recouped, and we are hoping that it is done in a sensitive way and that it does not impact too heavily on some of those regional airports.

Senator NASH: I will take you to a couple of the submissions and a couple of issues, just to get your response for the committee. The submission from Qantas states:

The costs for the new ARFF services should not be introduced prior to their actual implementation. This amounts to a prefunding of these services from which neither passengers nor airlines derive a benefit.

Can you comment on that? I am expecting that you have a different view, but is it not sensible to say, 'Well, don't expect any payment until you are actually providing a service', or in your view is the service already being provided?

Mr Russell: In our view, the service is being provided and we are seeking to recover a capital that has already been extended, if I have got your question correct.

Senator NASH: You do. So why are Qantas of the view that that service is not as yet being provided, just to make it clear for me?

Mr Russell: I cannot really answer that question. Perhaps it is something that the company might look at.

Senator NASH: This may well relate to what you were saying about flattening things out. I know that Rex has raised the issue that about half the airports they land at actually do not

have the ARFF there. Is that a valid concern? Are they actually paying for something where they are not even going to be able to access that service anyway?

Mr Russell: The way it works is that there is a CASA requirement that, when an airport sustainably gets to 350,000 passengers moved each year, within the following 12 months we must put a fire service in there. Some airports get to that number and then fall back as services are taken out or put in, as the case may be, but that is why there is that 12-month grace period before we implement a fire service. In some cases, Rex, who I know well, fly to some airports where that passenger threshold has not been exceeded—Dubbo and Wagga are cases in point here in New South Wales—and hence we are not there. Where they do fly—places like Sydney—they pay a fire service charge.

Senator NASH: I was of the understanding that they say about half the airports that they fly to do not actually have the service.

Mr Russell: They fall below that threshold; that is the reason.

Senator NASH: No, it is not the not having the service that they are complaining about, it is the fact that they are still having to pay for the service even though the service does not exist for them.

Mr Russell: They do not pay for it where we do not exist, if I could mix it up a bit. If they fly to Sydney, for instance, they pay for a fire service because there is one there and it is provided, and the airport itself is operating above that threshold.

Senator NASH: I understand that. Can I just ask you to comment on this then? Rex's submission in relation to the ARFF states:

As an operator of small regional aircraft Rex is not required to have ARFF services and in fact half of its flights are to airports without any ARFF available.

Despite this fact Rex is charged as a Category 6 aircraft whenever it flies to an airport with ARFF present. Charges for ARFF paid by Rex are already considerable and the pricing proposal sees them increasing further and at more than the projected CPI rate. By the end of the 5 year period Rex will be paying almost \$1m p.a. for a service that it does not require.

So, can you just explain the different view that Rex has to you in terms of that?

Mr Russell: For a lot of their air routes in regional Australia there is no fire service, so they do not pay for it. Where they fly and there is a fire service, they share that cost.

Senator NASH: So, what do they mean when they say, 'as an operator of small regional aircraft Rex is not required to have'—

Mr Russell: It is not related to the size of aircraft. The regulation relates to the number of passengers that move through that airport each year.

Senator NASH: So, are Rex incorrect in actually making that assumption?

Mr Russell: I would not say that about them; they have just got a different view.

Senator NASH: There are an awful lot of different views out there. I shall follow that up with them. I understand there are different unit rates for the different aircraft categories; is that correct? Can you give us a quick explanation of the impact that has?

Mr Russell: It is based on tonnage.

Senator NASH: This is what you were referring to before?

Mr Russell: Yes. The heavier the aircraft is, the higher the cost.

Senator NASH: So, there are the six categories?

Mr Russell: No, that is the fire service issue.

Senator NASH: Different entirely, sorry.

Mr Russell: There are, depending on the weight of the aeroplane—for instance, a SAAB aircraft that Rex operates, just over 13 tonnes, right up to the 737-800 series aircraft that are in the order of 77 tonnes—those sorts of things. It relates to the distance flown by the weight of the aeroplane.

Senator NASH: You might have just said and I could not quite hear; how many different categories are there?

Mr Russell: In that sense, they are not categories; they are simply related to the weight of the aircraft.

Senator NASH: So, it is not separate categories; it is each individual aircraft—

Mr Russell: There is a whole range of aircraft flying, but it is all about tonnage.

Senator NASH: So, each individual one is assessed on its own weight?

Mr Russell: Yes.

Senator NASH: Thank you. Thank you, Chair.

Senator XENOPHON: Mr Russell, you may be constrained in what you can say, but is Airservices Australia cooperating in an inquiry that the ATSB is undertaking in relation to an incident involving a Jetstar aircraft out of Darwin towards the end of last year? It was a windshear incident and there was no suggestion that the crew did anything but follow all the procedures accordingly.

Mr Russell: We cooperate with the ATSB on a whole range of their inquiries. I do not specifically know this particular issue, but it would not surprise me that we have been consulted over this issue by the ATSB.

Senator XENOPHON: Could you take that on notice? Obviously if it is an ongoing investigation, I do not expect you to give details until that investigation is complete, but just the fact as to whether you have been contacted by the ATSB.

Mr Russell: Certainly, if it involved air traffic control where we operate I can do that. I might say, if it was in Darwin the reason that I may not know about it is that it is operated by the Royal Australian Air Force—that operation in Darwin; the tower in Darwin.

Senator XENOPHON: But civil flights?

Mr Russell: It does not matter.

Senator XENOPHON: It does not matter?

Mr Russell: Sorry, it does matter—

Senator XENOPHON: It is the Air Force.

Mr Russell: but the Air Force operate the tower in Darwin and the tower in Townsville.

Senator XENOPHON: So, that means it is outside your remit?

Mr Russell: That is the reason I am not quite familiar with it when you ask it.

Senator XENOPHON: No, but what role do you have, given that all the major airlines go in there?

Mr Russell: If any incident like that happened in airspace that we are directly responsible for of course the ATSB talks to us about it.

Senator XENOPHON: Right.

Mr Russell: The reason I am a little hesitant to go into more detail is I just was not familiar with it.

Senator XENOPHON: I think one of the issues was whether an assessment was undertaken as to whether the immediately aboveground radar systems were as adequate as they could be. Again, it is not a criticism of Airservices Australia. I think that is one of the issues. It is seen that there was a period when the aircraft was going at about a tenth of its climb altitude after take-off because of a wind shear incident. I think there was an issue there.

Mr Russell: Firstly, in December last year we commissioned a new radar in Darwin. It is different, though, in terms of its profile from the Doppler radars that are used to assess wind shear. This is an issue that we are having a good look at in various airports around Australia.

Senator XENOPHON: I need to go very quickly to some issues that there have some media reports on previously—I think less than a year ago—about bullying and discrimination within Airservices Australia. It would be remiss of me not to ask these questions. I have also had other information beyond what was in the media and I want to carefully raise that. What are the protocols of Airservices Australia to deal with allegations of bullying and harassment in the organisation, and how many complaints have there been in the last three years in relation to either complaints or claims for compensation of employees of Airservices Australia in relation to bullying and harassment?

Mr Russell: There was a well publicised case that occurred in our operation in Melbourne last year. It is still subject to legal process and there is a limit, unfortunately, to what I can say about it. I am hopeful that we will settle this matter fairly soon. It did prompt us to have a look at this whole issue and we have put in place a number of processes. We have revised our fair treatment process within our organisation. We have appointed a series of our staff to act in these roles so that if there is a complaint of this nature in a local workplace they are the person they go to. We have conducted a campaign internally to ensure that people do understand that this sort of behaviour is simply not acceptable. We have trained in excess of 300 of our management to ensure that wherever possible this sort of behaviour is stamped out.

Senator XENOPHON: At the time that that well publicised case made it into the media, which was 29 July last year, the HR manager working for the organisation then—is the HR manager still working for Airservices Australia?

Mr Russell: No. It was not the correct title but, no, the general manager of people and change at that time has left the organisation.

Senator XENOPHON: How soon did they leave the organisation after this hit the media? I am not suggesting that they were involved; I just want to know in terms of the chain.

Mr Russell: It was in the order of September or October last year.

Senator XENOPHON: So, was there a cause and effect between this information going public and that person leaving the organisation?

Mr Russell: Not directly, no.

Senator XENOPHON: That person voluntarily left or they were asked to leave?

Mr Russell: We reached a mutually agreeable severance.

Senator XENOPHON: As to information I have had from people within your organisation—and, again, I want to put this fairly and carefully to you—how many senior executives have left the organisation in the last five years? I have been told there have been some 12 or 13 senior executives who have left.

Mr Russell: It is in that order, yes.

Senator XENOPHON: Again, I am happy to take this on notice, but can you advise whether there were monetary settlements in terms of those people leaving the organisation?

Mr Russell: Yes, there were.

Senator XENOPHON: Could I get details in relation to that? Did those settlements include any confidentiality agreements?

Mr Russell: It is usual in these circumstances for a deed to be produced. I can provide you with some further information on that issue.

Senator XENOPHON: I understand that you have also lost another senior executive just this week; is that right?

Mr Russell: Yes.

Senator XENOPHON: This person was specifically hired to lead a much publicised project to harmonise air traffic control with your RAAF colleagues; is that right?

Mr Russell: Yes.

Senator XENOPHON: That would be subject to a confidentiality agreement as well?

Mr Russell: I would imagine so, yes.

Senator XENOPHON: But you will be able to give us an idea of the sort of money that was spent?

Mr Russell: I will take that on notice.

Senator XENOPHON: I am not sure whether you have answered this question about the new tower in Melbourne. As someone who happens to fly into Melbourne as often as my Victorian colleagues or Senator Abetz who has to fly through Melbourne—

Senator BACK: Do you mean the one under construction? Is there not one under construction?

Senator ABETZ: I am very sensitive to the mention of my name, Chair.

Senator XENOPHON: I am sorry about the distraction, Mr Russell. When was that new tower due to be completed? Was it back in 2010?

Mr Russell: We did not start it until this past year. It is due to be completed in the second half of this year. I think from memory it is probably toward the end of the first quarter of the new financial year. It is on time.

Senator XENOPHON: There is an electronic information tool called Cognos or Dashboard; are you familiar with that?

Mr Russell: Yes.

Senator XENOPHON: That is a project under development by IBM?

Mr Russell: Yes.

Senator XENOPHON: This project apparently has an expenditure approved of how much?

Mr Russell: I would have to take that on notice.

Senator XENOPHON: Was it in the order of \$2 million to \$3 million?

Mr Russell: I cannot give you a precise number, but it was designed to bring together a lot of information in terms of how Airservices operates and put it into a process where we can get a better understanding as to how the organisation is working.

Senator XENOPHON: Are you confident that the amount that was budgeted for, which I understand was \$2 million to \$3 million, will be kept within budget, or is it going to blow out of budget?

Mr Russell: I would have to check on it, but I have heard nothing to the contrary that that suggestion is the case.

Senator XENOPHON: Could you give some detail, again because of time constraints, on notice as to how that will assist Airservices Australia in terms of how it will work?

Mr Russell: Yes.

Senator XENOPHON: I have had complaints from within air traffic control of staff shortages. I am not sure that was discussed before I got here. It is a high pressure and demanding job. Obviously they are highly skilled professionals. How do you deal with the issue of ensuring there are not staff shortages with air traffic controllers? Is that an issue that you see; that there are not—

Mr Russell: There is some broader context to this. We have put in place, and last year we published, a workforce report, which we are obligated to do each year. In that report we have looked at the demographic profile of our staff in quite some detail and worked out where we think the potential shortage is going to be. At the moment we have enough air traffic controllers to meet our requirements. The question will be twofold. Without further action to train more air traffic controllers it is more than likely there will be shortages, and we have that program, and have had that program, underway for some years. Secondly, there is the question of how those air traffic controllers are deployed. In my view, there is an opportunity to deploy that workforce more productively and that is something that we have been working on as well.

Senator XENOPHON: On Monday you said in a staff memo, in relation to the dismissal of the person in charge of the project to harmonise RAAF and Airservices air traffic control systems, that this would not impact on the once-in-a-generation opportunity to continue with that harmonisation. You are confident that it will not affect that?

Mr Russell: I am, yes.

Senator XENOPHON: Is it fair to say that your RAAF colleagues are quite anxious to have a new ATC system as soon as possible?

Mr Russell: We share the view with RAAF that there is an opportunity for Australia to jointly acquire and operate a single air traffic system, and to do that sometime in the next few

years. That is a project that both Chief of Air Force and I strongly support. I am confident that we will get there. It is a complex project, though.

Senator XENOPHON: I have a couple more questions. I would be grateful if I could get more information on notice about that project. The information I have had from within air traffic control is that they do not feel comfortable of a just culture in reporting safety concerns. How does the just culture operate within Airservices Australia, especially in air traffic control? The information that I have had, in quite explicit terms, is that they are worried about retribution if they speak out on issues. That is one person's perception. How do you deal with that perception so that people do not feel reluctant or reticent to come forward with concerns?

Mr Russell: In a safety critical organisation like this it is fundamental that you have a workable just culture well and truly entrenched. Unlike some other of our counterparts in other parts of the world I am very confident that that system works very well. There is never a question of retribution, of people putting up their hand and saying, 'There is an issue that has occurred.' Every day in our organisation we review the incidents that have been recorded. I sit in on those meetings. We review incidents that have been recorded in Australian airspace, by our own staff largely, and sometimes we follow things up. I think it is by that process that you learn how to improve how you operate and improve the safety of the air traffic system.

Senator XENOPHON: Could you provide details of the protocols and the information given to staff about just culture? That would be very useful. Finally, in relation to your earlier answer about a shortage of air traffic controllers, unless that is addressed do you see that causing flight delays in the short to medium future?

Mr Russell: We are working to ensure that that is not the case. As to the profile that we have looked at in terms of people who are likely to retire from our organisation over the next five years, initially we thought it was going to be fairly significant—over 30 per cent—across all of the disciplines in our organisation, because we have an aged workforce and there had not been a lot done about training new people. We have put a lot of work into that, firstly, and we will continue to do so for the foreseeable future. Equally we have found that—maybe it is a result of the GFC—people are just a little bit more reluctant to perhaps retire as early as they want to.

Senator XENOPHON: Because their super has tanked.

Mr Russell: That is what we are seeing. It is not something you want to bank on. We know we have to develop these new staff, and it is a major priority for the organisation.

Senator XENOPHON: Thank you very much, Mr Russell. Thank you, Chair.

CHAIR: Thank you, Senator Xenophon. The Broome tower is on its way?

Mr Russell: My word it is.

CHAIR: It is nearly there?

Mr Russell: Yes. On that issue, it is a combined facility. A new fire station and a tower is being built. Again, we are expecting that to be largely finished by that first quarter of the new financial year.

CHAIR: That is fantastic. Congratulations on the new Perth facility, too.

Mr Russell: Thank you very much.

CHAIR: It is a wonderful facility.

Senator BACK: Did you get an invitation?

CHAIR: I was there with bells on my toes.

Mr Russell: I am going—

Senator BACK: And you are in government; that is amazing.

Mr Russell: I am going to follow that up. Do not worry; I will make sure you get an invitation.

Senator BACK: Thank you.

CHAIR: I probably invited myself.

Senator BACK: Can I ask about the progress of the Brisbane Green Project—the RNP with Naverus—and where you are with it? My recollection was that you made certain predictions in terms of flying time savings and kilograms of fuel compared with standard flights and then it was to be expanded into other airports. I just wondered if you could give us an update on where that project is.

Mr Russell: It was a trial that we conducted a couple of years ago. We conducted it with Qantas on a trial basis approved by CASA. The results were very pleasing. I do not have them with me now, but there was clearly less flying time, savings in terms of emissions and so on. It then was incorporated into a broader program across Australia and we are hopeful that that program will result in RNP being employed at 28 airports around the country. At the moment we have paused on this program for some months, partly as a result of the learnings that we took out of the Senate noise inquiry, to ensure that the consultation program with respect to the introduction of RNP procedures is properly and well and truly managed. It is our aim to conduct some consultation in Brisbane for the introduction of RNP later this year. That is the first major airport rollout of a permanent procedure that we are planning. So, we have put a lot of work into making sure we get the consultation correct.

Senator BACK: When you say it is paused, is it paused at Brisbane or its the rollout into the other airports that is paused?

Mr Russell: It was paused for us to ensure that we had a robust consultation model in place everywhere.

Senator BACK: So, in other words, it is currently not being used or commissioned in Brisbane, either, at this moment?

Mr Russell: It is being used on a temporary basis by a number of airlines flying existing flight paths. The difference will be that, once we get this new procedure in place, some of those flight paths may well change and that is where I think the consultations are important.

Senator BACK: The savings will be, yes. Thank you. That was my only question. Thank you, Chair.

CHAIR: Thank you, Senator Back. There are no further questions of Airservices Australia, thank you, Mr Russell. We will now call CASA.

Civil Aviation Safety Authority

[15:49]

CHAIR: I welcome Mr McCormick and officers of the Civil Aviation Safety Authority, CASA. Questions, Senator Abetz.

Senator ABETZ: I welcome representatives of CASA. If I may direct Mr McCormick to the *Hansard* from last time, 22 February 2011, page 152, towards the bottom of the page, we were discussing a Mr Green. In your evidence you indicated:

Mr Green does not have an aircraft maintenance engineering background and CASA has no record of Mr Green completing any of the prerequisite aircraft maintenance engineering examinations.

Could you advise the relevance of those observations to an instrument issued pursuant to Section 42Z(c)6 of the regulations? This is a clause, I understand, which has clearly been specifically incorporated to cater for the situations that Mr Green was in.

Mr McCormick: Thank you for that question. Mr Green's matter is before the AAT and is scheduled for hearing over two days of next week. I prefer not to comment on that matter until the AAT process is complete.

Senator ABETZ: Can I ask you then, in general terms, for what purposes is an instrument issued under Section 42Z(c)6 of the regulations? Why was that countenanced?

Mr McCormick: I think we will have to take that on notice.

Senator ABETZ: You are telling me, what, that this is before the appeals tribunal shortly?

Mr McCormick: To my knowledge, it is set down for 31 May and 1 June. Mr Green has been absent and there has been a protraction to this process.

Senator ABETZ: In that case, in fairness, I do not think I should be canvassing this any further, but we may need to revisit it next time. I accept that, and thank you for advising me of that.

CHAIR: We have eight minutes until the afternoon tea break. Senator Xenophon, I believe you have some questions.

Senator XENOPHON: Yes, I do.

CHAIR: Would you like to lead and that will allow you to go to another committee later?

Senator XENOPHON: You want to get rid of me, don't you, Chair?

CHAIR: Was it written all over my face? Not at all; you are always welcome. Senator Xenophon.

Senator XENOPHON: Mr McCormick, you are coming to a references committee tomorrow, so I do not want to traverse over that. I will raise an issue that was in the media about issues of the Chairman's Lounge, and I do so respectfully. There was a media report, I think, in the *Daily Telegraph* on 16 May about the whole issue of the Chairman's Lounge membership with CASA, and I think a spokesperson for it saying:

No current CASA board member has been invited to become a member of the Qantas Chairman's Lounge during his or her tenure on the CASA board. Any board member who may have been invited to become a member would have received that invitation before becoming a member of the CASA board.

Is that the case?

Mr McCormick: I believe so.

Senator XENOPHON: I suppose the Chairman's Lounge is different from being a frequent flyer, because you get admission to the Qantas Club or the Virgin Lounge by virtue of the number of flights you are doing. The Chairman's Lounge is distinct from that; it is an invitation-only club. What is the attitude of CASA of its executives and board members being members of the Chairman's Lounge and, if they are, is it something that is disclosed in a register of interests?

Mr McCormick: To take your last part first if I could, we are considering now whether that is a declarable interest. We have not actually formed a view on that. We are taking some legal advice. On the first part—

Senator XENOPHON: Can I just go back to that. Presumably, you are relying on these. The APS codes of conduct are quite broad statements; I think it is fair to say that in terms of Australian Public Service values and the Australian Public Service Code of Conduct. But what would the problem be? Why go to the expense of legal advice when just as a matter of caution just declare?

Mr McCormick: We think that is where it is going. We are not going to expensive legal advice. We certainly will not go that far. The question is whether it—

Senator XENOPHON: I could give you some free legal advice.

Mr McCormick: Thank you for that. I will bear that in mind. We have not up until now formed an opinion that declaring memberships of frequent flyer programs or in fact the Chairman's Lounge is a conflict of interest matter, but we do think we will make a declaration on that matter.

Senator XENOPHON: If you are a member of a frequent flyer program or you are upgraded to, what is it, bronze, gold or platinum status, that is by virtue of the number of flights you do and the number of kilometres you fly and it is accorded to anyone who flies those kilometres, but the Chairman's Lounge is a little different, though, is it not?

Mr McCormick: I think so. Most people in this building are in the Chairman's Lounge as well.

Senator XENOPHON: Yes. I am not.

Mr McCormick: I think that article, if I remember it—and I do not have it to hand—was saying that there could be a conflict of interest in the way CASA deals with Qantas. I myself do not think there is an issue of conflict of interest really because of a lounge you sit in. As I say, most members of parliament—you excluded—have the ability to pass law which can directly affect Qantas.

Senator XENOPHON: I am not suggesting any of my colleagues have pulled their punches in their dealings with Qantas, present company at this table included. I can attest to that. You are the paramount regulator in this country for aviation safety. Could you understand a perception of unease in some quarters in the community; being a member of the Chairman's Lounge may be seen as something that would not necessarily effect your ability to do your work, but it shows a relationship by virtue of the invitation-only aspect of the Chairman's Lounge that some in the community would be concerned about?

Mr McCormick: Up until now the matter has not been raised. I personally do not see it as a conflict at all. As I said, we will be declaring those issues and not all members of the board are members of the Chairman's Lounge.

Senator XENOPHON: If an upgrade is given to a CASA employee, a CASA executive or a CASA board member, is that something that is a declarable interest?

Mr McCormick: Upgrades would be, yes.

Senator XENOPHON: Yes. So, that is something that is declared. You have a register of declarable—

Mr McCormick: Yes, we do for the board.

Senator XENOPHON: For CASA executives?

Mr McCormick: I personally have never had an upgrade, but every month I require my officers to make a declaration of any interests or pecuniary interests that have happened during the previous month, and that would be expected to be recorded there.

Senator XENOPHON: So, that is a public document or publicly accessible?

Mr McCormick: It is internal minutes of the directors meeting every month. We have never published those up until now.

Senator XENOPHON: Would it be not unreasonable for the public to know whether CASA executives were given upgrades by any of the airlines?

Mr McCormick: As I said, we take it as a declarable conflict of interest issue in that it has to be declared. We have not up until now addressed the question of whether it should be made public.

Senator XENOPHON: It is not discouraged? It is not something you say, 'Look, you should not.'

Mr McCormick: No, it is certainly not discouraged. It is an issue we have not turned our minds to, because we did not think it was an issue.

Senator XENOPHON: Do you see any issue in your role as the paramount regulator for aviation safety in this country for any executives in CASA—those involved in investigations—to be receiving upgrades from any airline?

Mr McCormick: No, I do not. Provided it is properly declared, I do not see an issue at all.

Senator XENOPHON: 'Provided it is properly declared', but is a proper declaration something that ought to be public?

Mr McCormick: As I say, we have not turned our mind to it. I can take that on notice.

Senator XENOPHON: If you could take it on notice in terms of upgrades that have been given. I guess the way that information will be treated is something for negotiation with the committee, but I would be grateful to get an idea of what upgrades have been given. Can I just go to another issue for the remaining two minutes, Chair?

CHAIR: Yes, of course you can.

Senator XENOPHON: I will touch on some of these issues of show cause tomorrow, but I want to talk about issues of enforcement and comparable jurisdictions. There is a smaller talent by virtue of Australia and our small aviation market. I think there was an issue where

Mr Rossiter, a senior CASA executive, went on to be head of safety at Jetstar. I have said I accept fully there was no conflict in between his shift and the exemption he gave to CAO48 before he went off to Jetstar. I accept that and I accept the market is smaller. How do you deal, I guess the other way around, when you have people coming from an airline to work with CASA? If someone has worked for Qantas does that mean they would not be investigating Qantas incidents for a certain period? Do you have some gap between having CASA investigators who have worked with one of the major airlines, which I understand has to happen all the time? How do you deal with that?

Mr McCormick: We do what you have said there. If someone comes from an airline to our organisation we do not allow them to oversee that airline straightaway. I think in some instances about 18 months has transpired before that person is—

Senator XENOPHON: Is that the benchmark?

Mr McCormick: I do not know whether we actually have a benchmark. Again, I can take that on notice and give you some examples, if you like.

Senator XENOPHON: That would be useful. This is just a generic question. People leave organisations for different reasons, sometimes on good terms, sometimes on not so good terms. How do you deal with the issue if there is bad blood between an airline and a CASA investigator? How do you deal with that?

Mr McCormick: For a CASA airworthiness inspector or flying operations inspector, as I said, it is generally 18 months—12 to 18 months—depending on what the organisation is. Of course, once they start work doing their primary function, as I say, as an airworthiness inspector, they are not working alone, they are working under supervision. We do not have a situation where one person makes a decision and does that in splendid isolation without his team leader knowing what is happening. There is direct supervision by our first level of management over the inspectors. So, their ability certainly these days to make decisions that are not in keeping with what we think is a reasonable decision is very limited.

Senator XENOPHON: I understand in a small aviation market is a trickier thing to manage compared with the US or Europe, but I am still puzzled by this whole issue of upgrades and whether it is desirable in the first place that CASA regulators, whose decisions are critical to an airline's operation, should get upgrades in the first place. I am really troubled by that.

Mr McCormick: I am not sure that we have had any upgrades. I have never been offered an upgrade.

Senator XENOPHON: No, I was misunderstanding, so let us make it clear. You are not sure whether there have been any upgrades in the first place?

Mr McCormick: That is what we will take on notice—to look at those.

Senator XENOPHON: That is fine. I am satisfied. It was a misunderstanding and I am grateful for that. Thank you, Chair.

CHAIR: Thank you, Senator Xenophon.

Senator O'BRIEN: I would be concerned if one of CASA's officers avoided flying on an airline they were regulating. I would hope they were confident to fly on it.

Mr McCormick: I concur.

CHAIR: Me too. Thank you, Senator O'Brien. If there are no further questions for CASA, I thank the officers. We now call the Australian Transport Safety Bureau.

Senator CARR: Mr Chair, is that the end of the proceedings?

CHAIR: I do not have any senators lining up. We will have a break.

Proceedings suspended from 16:04 to 16:16

CHAIR: Welcome back. Senator Back, you have some questions.

Senator BACK: Mr McCormick, I understand that consideration is being given by your agency to change cabin crew to passenger staffing ratios under Civil Aviation Order section 20.16.3 on cabin crew ratios; is that correct?

Mr McCormick: That is correct.

Senator BACK: Firstly, under that section, do you control both domestic and international cabin crew to passenger ratios?

Mr McCormick: I do not know whether it is actually under that same section. I will have to take that on notice.

Senator BACK: In any event, do you?

Mr McCormick: We control cabin crew numbers, correct.

Senator BACK: Could you then tell me for both domestic and international aircraft what is the current ratio of staff to passengers?

Mr McCormick: The civil aviation order that you refer to is one to 36 passengers. That is in a single-aisle aircraft, not a dual-aisle aeroplane, up to a passenger number of 216, from memory.

Senator BACK: Single versus a dual what?

Mr McCormick: A two-aisle aeroplane.

Senator BACK: I am sorry, yes.

Mr McCormick: The two-aisle aeroplanes basically come down to one cabin attendant per door to be used in the event of an emergency. To return to the domestic operations, one to 36 passengers is what that particular order—

Senator BACK: For a single-aisle?

Mr McCormick: For a single-aisle aeroplane. For some years now there have been a number of exemptions issued on the basis of safety cases, demonstration of procedures and aircraft certification from the original equipment manufacturer, where we have allowed operators to go to one to 50 seats. I would like to clarify one thing that was in the *Australian* newspaper last Friday, where the article referred to one to 50 passengers. That is incorrect. The exemptions allow up to one to 50 seats.

Senator BACK: By 'up to' is it a case-by-case, or aircraft design by aircraft design, basis that you actually make that allocation?

Mr McCormick: No, we do it on a case-by-case basis.

Senator BACK: Again, for my understanding, a case by case being aircraft type by aircraft type?

Mr McCormick: No, aircraft operator by aircraft type.

Senator BACK: Thank you. That is for a single-aisle. What about for a dual-aisle aircraft? Can you tell me what those numbers are?

Mr McCormick: I will have to speak generally without referring to the actual order. Generally, it is one cabin attendant per door which is intended to be used in the emergency evacuation.

Senator BACK: Thank you. Does the international standard vary from the figures you have just given me?

Mr McCormick: Europe, United States and New Zealand operate on the one to 50 seat number. The only country apart from Australia, to our knowledge, that has a different base order or base regulation is Canada, which allows one to 40 passengers, I believe. However, they also have the exemption provisions, which do operate up to one in 50 seats.

Senator BACK: Aircraft that come under the auspices of your agency are configured to the international standard in terms of layout, design and so on? The international standard, in fact, is consistent with the standard that you are advising us?

Mr McCormick: The international standard is demonstrated by evacuation. They actually do a full evacuation. The requirement is to get all the passengers off the aircraft using half the available exits in 90 seconds.

Senator BACK: That is the benchmark.

Mr McCormick: That is correct. That is what they must demonstrate before they can certify the aeroplane to that one cabin attendant per 50 seats. To the second part of your question, some aircraft that are delivered new to Australia are configured cabin attendant seats, meaning they have special restraint harnesses, they have communications available to the cockpit and so on. They are delivered to that standard of one flight attendant per 50 seats.

Senator BACK: In terms of overall aviation security, has there been or have you undertaken a safety assessment on the effect of any proposed changes on both aircraft safety and security, or has that been undertaken by agencies equivalent to your own in Europe, the United States or North America?

Mr McCormick: The House committee is looking at this, as I am certain you are aware. We appeared before them twice last week in Sydney and we are appearing before them again next week. The safety case, yes, is in our submission. That is in *Hansard*. To my knowledge OTS, the Office of Transport Security, has also done a security case and that also is in *Hansard*.

Senator BACK: So both of those have been recently concluded?

Mr McCormick: I cannot speak for OTS, I am sorry.

Senator BACK: But yours?

Mr McCormick: Ours is an ongoing process. Every time someone applies for this we look at the specifics of the operator and the aircraft type.

Senator BACK: Is it your conclusion, then, that the application or the implementation of an overall international standard would have any effect, adversely or positively, on aircraft safety and security and that of passengers and air crew in Australian flying conditions?

Mr McCormick: Again, from the safety point, one in 50 passenger seats has been demonstrated—there is science behind it—as such, as the international standard, and there would be no decrease in safety at that cabin crew to passenger ratio in Australia.

Senator BACK: What onus rests with the captain to ensure in any journey he or she has command of that the cabin crew have sufficient relevant training to undertake the evacuation role or any other related role that they may have to perform? Does he or she have an obligation to ensure currency, for example, of training standards or whatever?

Mr McCormick: That would be better asked of the individual operators, but we oversee cabin crew training and we regularly monitor that by our surveillance activities and others to make sure there are qualified and trained cabin crew. As to the relationship within an individual airline of what responsibilities they have on the captain, I am not privy to that.

Senator BACK: Once an international flight comes into Australian air space and lands at any of our airports, your agency would then have a level of responsibility and control over the activities of that aircraft operator?

Mr McCormick: That is correct.

Senator BACK: Just as an observation, having spent a lot of time flying with Asian airlines—the physical size of a lot of the cabin crew tends to be very small. I have actually observed instances in which they have not been able to undertake perhaps the type of activity you might require of them in terms of aircraft doors and things. Is that something that an aircraft operator would be expected to have some responsibility for, or is it something that an agency such as yours, either here in Australia or overseas, would be conscious of and, if you like, take control of responsibility for?

Mr McCormick: We issue foreign air operator certificates to overseas airlines that operate into Australia. We do not issue those unless they have a satisfactory cabin crew—and technical crew, for that matter—training system.

Senator BACK: So if a person's physical capacity was wanting you would expect that that would be picked up in that surveillance process?

Mr McCormick: The physical stature of the people is not an issue I can perhaps enlighten you on, but each individual airline that flies here of course is regulated in its own country and the regulations, as far as ICAO go, indicate the cabin crew fitness for duty—if I can use that all-encompassing term—is a requirement for that regulator to ensure on that airline.

Senator BACK: Thank you, Mr McCormick.

Senator HEFFERNAN: I have a couple of lots of questions that do not fit around tomorrow's happy event. Some of these questions have been raised by a private pilot who used to be a shearers cook and worked in the tax office in Albury and who now happens to be the member for Farrer, sitting behind you, so just be careful.

Mr McCormick: Thank you for the warning.

Senator HEFFERNAN: General aviation operators across Australia report that CASA imposed costs are sending them broke. Even more disturbing is that none of them is prepared to come forward to be identified, so I have just put Ms Ley in the gun. A typical example is the adding of an aircraft type to an air operators certificate, commonly referred to, as we all

know, as an AOC. Ms Ley has provided—I will not say where it has come from—these concerns:

The simple inclusion of an aircraft, already on the operator's AOC and putting it into an additional category ... the case here is the aircraft is already in the charter category and permission is being sought for it to be included in the air work category so it can do search and rescue. Aerial work is very similar to charter except that people are looking out the window.

That is fair enough. It continues:

All SAR operations will be supervised by AusSAR. The chief pilot has added a one-line amendment to the operations manual and submitted this. CASA has stated that the job will cost \$1,400, to be paid in advance and with no guarantee of time taken to complete.

So you have got that. Even at the exorbitant charge-out rate of \$160—it begs the question: what is your charge-out rate?

Mr McCormick: We have two. \$160 per hour is one of them.

Senator HEFFERNAN: What is the other?

Mr McCormick: I can take that on notice. Sorry, we have three, I have just been informed. We have \$130, \$160 and \$190.

Senator HEFFERNAN: How can it possibly take, at \$160—we will take the median—8.75 hours to complete this straightforward desktop task?

Mr McCormick: I can take that on notice and give you a breakdown of the hours involved.

Senator HEFFERNAN: This is to add one line to a document.

Mr McCormick: He may have submitted one line to a document. I do not know whether we accepted a one-line amendment to that document. Search and rescue is a specific task, which has a number of problems.

Senator HEFFERNAN: What scrutiny is CASA under in terms of its fees and charges?

Mr McCormick: Sorry, I spoke over you.

Senator HEFFERNAN: Who scrutinises your fees and charges? Who is the referee?

Mr McCormick: All our fees are—

Senator HEFFERNAN: You are sort of a monopoly.

Mr McCormick: Our fees and charges are passed to the minister and then they are put on our website for public comment.

Senator HEFFERNAN: Have you ever made a submission to the minister on fees and charges that were seen to be exorbitant and had it changed?

Mr McCormick: Not in my time. The fees regs, of course, are a regulation document. No.

Senator HEFFERNAN: So it is a reasonable cartel operation—your fees and charges?

Senator Carr: That is an opinion from you.

Senator HEFFERNAN: Yes, it is. How can it be demonstrated to a person such as this person, who feels that it is exorbitant, that these charges are reasonable? How do you satisfy your customer that they are not being ripped off?

Mr McCormick: The aviation white paper limits the amount that we can recover in total for four years, which is \$15 million. We do follow the guidelines of cost recovery that come from the government. As I said, these fees and regs are put to public consultation. I will ask our chief financial officer to expand on that. We are just in the process of renewing this document.

Senator HEFFERNAN: He is too big to argue with. Is that why he is the chief financial officer?

Mr Jordan: Every five years we are required to do a cost recovery impact statement, one of which is due next year. As part of that process we review all our charges within the agency and we put that out for feedback from industry. That is how it is reviewed. Once that feedback is done we send our cost recovery impact statement up to the minister for approval, and if there are any changes they would go through the normal legislative process.

Senator HEFFERNAN: A large modern accountancy firm, say doing consultancy work to government, will sometimes have a charge-out rate of several hundred dollars an hour, but the poor little bugger doing the work probably gets paid \$30 or \$40 an hour. An accountancy firm that is dealing with a simple little small business operation might charge a third or a half of the price. Do you not have allowances for the \$130 to \$190 step-up for viability for the person you are charging? This seem an exorbitant operation. Is there some right of appeal on the cost from the person that you send the bill to?

Mr Jordan: There is no right of appeal. I will go back to your first question. Those hourly rates are based on the skill set of a relevant officer. A person charging \$190 an hour would be a highly qualified person within the CASA organisation. A lower level person would be \$160, and traditionally your administrative staff would be \$130.

Senator HEFFERNAN: To give me an idea—and you may not wish to answer this—how much do you pay the typical person who does the job at \$160 an hour?

Mr Jordan: I would have to take that question on notice.

Senator HEFFERNAN: You can have a crack at it.

CHAIR: The officer has told you that he has taken it on notice. Do you have any further questions?

Senator HEFFERNAN: Calm down. I do. So, no right of appeal exists?

Mr Jordan: I would have to take that on notice.

Senator HEFFERNAN: No right of appeal exists?

Mr Jordan: That is correct. No right of appeal exists.

Senator HEFFERNAN: That is what you call 'a monopoly at work'. Mr Mrdak, you might decide that this is a matter for the ATSB. I have a question which relates to a repon matter. Would that be ATSB?

Mr Mrdak: What does the matter relate to?

Senator O'BRIEN: I have a question on the matters you were just raising. How long has CASA operated under a cost recovery regime for variations to air operator certificates? In other words, how long have you been charging applicants who want to either obtain or vary an air operator's certificate?

Mr McCormick: We will take that on notice; it predates me.

Senator O'BRIEN: It certainly goes back into the previous government

Mr McCormick: It does—at least.

Senator HEFFERNAN: I am sure it would.

Senator O'BRIEN: Yes. Perhaps you can supply us with a schedule of charges over that period.

Mr McCormick: Senator Heffernan, I could expand regarding the one line to the manual. That particular operation of search and rescue involves low flying. We have to make sure that people have been trained in low flying and the aircraft is equipped. There is quite a lot more to the one line.

Senator HEFFERNAN: I am sure that there will be an explanation. I have a matter of a recon, which is a means of reporting, and it may be a matter for the ATSB. It regards a pilot who made a report but who does not wish to give his name. He was a passenger on a plane that landed in Sydney. I can give the details, but I will not do so here. After this flight landed, another flight from a regional airline landed and stopped on the runway side of the holding point while a major regional aircraft took off with the plane still on the wrong side of the line. A report was made regarding that matter. Is that a matter for ATSB?

Mr McCormick: That is correct.

CHAIR: Senator Xenophon has some questions.

Senator HEFFERNAN: I have some questions. Chair, would a 'show cause' question be better for tomorrow?

CHAIR: We will leave that until tomorrow.

Senator HEFFERNAN: I have some questions from a farmer and a holder of a private pilot's licence regarding part 91 of the proposed Civil Aviation Safety Regulations 2011. Is that a matter for CASA? Is it correct that public consultation on this started in 1996?

Mr McCormick: Not this version.

Senator HEFFERNAN: It has been followed at various times by an NPRM in 2001 and several subsequent industry reviews. The existing draft of part 91 was prepared after those reviews were frozen in 2006. Is that a summary of what happened?

Mr McCormick: I do not know the previous history. This is a different document from the ones that were consulted.

Senator HEFFERNAN: I will go to my questions. That is just a little bit of colour and movement. The regulation reform process for part 91 has been going on for 11 years. How long does the authority think is a reasonable time in which to leave the industry in limbo as to its direction and intent in relation to regulation?

Mr McCormick: Part 91 is a very encompassing regulation. It goes across the breadth of the industry. As part of the operation's regulation suite there is part 121, which covers regular public transport high capacity, and there is also part 135. There are other parts that go together in that particular regulatory reform group. We are at the situation where we have part 91 out for public consultation. We will shortly have part 121 available. Part 135 has not been put out to consultation. In consulting on those documents we will take on board all comments that are

given and then it becomes an issue of the industry's capability to absorb change. The actual implementation of those regulations is not planned, as I said before, until next year. In other words, the existing regulations will continue to apply.

Senator HEFFERNAN: So, you think 11 years is a reasonable time for consultation?

Mr McCormick: That calls for speculation on my part.

Senator HEFFERNAN: How much has it cost the industry and the Australian taxpayer to fund this extraordinary situation over 11 years? I have to say that it seems bloody extraordinary.

Mr McCormick: Of part 91?

Senator HEFFERNAN: Yes.

Mr McCormick: I do not have that number, but I will take that on notice.

CHAIR: I do not think you have to make your points by throwing in the odd swearword. I would ask you to retract that.

Senator HEFFERNAN: Yes. It is a bugger that I do that.

CHAIR: You might think it is quite funny, but most people are probably sick and tired of you carrying on.

Senator HEFFERNAN: I take your point.

CHAIR: Are you going to withdraw the statement?

Senator HEFFERNAN: Yes.

CHAIR: Both the comments?

Senator HEFFERNAN: Having put on notice how much it has cost for the 11 years of consultation, how much will it cost to implement them? Is there a budget figure?

Mr McCormick: There will be a budget figure, but we have not turned our minds to that yet.

Senator HEFFERNAN: Do you think the reforms are credible and the cost of their preparation and implementation is reasonable?

Senator Carr: I think you are asking the officer for an opinion. You asked him whether he thought the reforms were credible.

Senator HEFFERNAN: It seems extraordinary to me that consultation could go on for 11 years.

Senator Carr: We have only been in office for a limited period. I presume that most of this consultation occurred during your government.

Senator HEFFERNAN: This committee does not draw any fear or favour.

CHAIR: Are there any other questions to the officers in direct relation to budget estimates?

Senator HEFFERNAN: CASA's proposed Civil Aviation Safety Regulation 2011 amendments propose offences of strict liability. These offences remove any notion of intention regarding certain safety regulations. Is that correct?

Mr McCormick: Strict liability is an Attorney-General's Department determination.

Senator HEFFERNAN: It is your civil aviation safety regulation, though.

Mr McCormick: That is correct.

Senator HEFFERNAN: So, you do not have a view on whether it makes any sense?

Senator Carr: You cannot ask the officers if it makes any sense. You will have to put it in a—

Senator HEFFERNAN: I will put it in a different fashion. Thank you for your guidance, Minister. It is asserted that these offences remove any notion of intention in regard to certain safety regulations. Why do you believe it is necessary to remove any defence of 'honest and reasonable mistake' from these regulations when exactly such a defence is regularly included as an element in existing regulation?

Mr McCormick: I will defer to Dr Aleck for a legal answer.

Dr Aleck: In the first instance, a reasonable mistake of fact is and has always been a defence to a strict liability offence. That defence has not been removed. Virtually every provision of the civil aviation regulations which involves an offence has always been a strict liability offence. The difference is that in 1995 or 1996, as a result of some amendments to the Criminal Code legislation, that information was included in the penalty clause of every regulation, whereas previously there was one regulation at the back that said each of these offences is a strict liability offence. They are offences that do not require a demonstration of knowledge or intent. In precisely the same way, and for the same reasons, most motor vehicle offences are strict liability offences. For example, you do not have to show that someone intended not to wear their seatbelt.

Senator HEFFERNAN: In the case of a motor vehicle, compulsory third-party insurance covers that liability. Do you have that for an aircraft?

Dr Aleck: We do not.

Senator HEFFERNAN: Should you?

Dr Aleck: That is an opinion.

Mr McCormick: There are some parts of it where it is required, but that is a question that the department might like to take on notice.

Senator HEFFERNAN: You might like to take that on notice.

Mr Mrdak: Certainly there is an intention to review the need for compulsory third-party insurance for damage to people and facilities on the ground in the event of accidents.

Senator HEFFERNAN: That seems to make sense.

Mr Mrdak: That work is underway now.

Senator HEFFERNAN: Why do you believe it is acceptable for such a punitive provision and the respective penalties to be the subject of regulation dealt with by the Governor-General in Council alone rather than being considered by the parliament? Is that too much of an opinion for you?

Dr Aleck: No. I can address the issue there. The inclusion of offences of strict liability or otherwise in regulations is governed by policy of the Attorney-General's Department and the justice ministry, which says you can have strict liability offences and regulations as long as they are exclusively pecuniary—so there is no incarceration—and they are low. In fact, the

maximum penalty that can be imposed under the regulations is \$5,500. That is a lot of money to some people but, compared with the kinds of penalties that could arise in other places, it is not that much. Those are the guidelines that govern the inclusion of those things in regulations. It is not to CASA, by any means.

Senator HEFFERNAN: Is it not true that strict liability offences—and this might be an opinion so I might have to rephrase this—diminish the legal rights of an accused and, therefore, should only occur with the considered consent of parliament?

Senator Carr: You have not rephrased that at all.

Senator HEFFERNAN: No, but it is not an opinion.

Mr McCormick: If the Attorney-General's Department and justice department regulations are approved, that is the mechanism by which the parliament oversees these offences.

Senator Carr: There is also a Scrutiny of Bills Committee, so they may want to address it through there.

Mr McCormick: The ordinances and regulations.

Senator HEFFERNAN: It is a disallowable instrument.

Mr Mrdak: If I understand this correctly—and I will just defer to Dr Aleck—these would be regulations. They would be made under statutory regulations. Therefore, they are covered by disallowance provisions as per normal Commonwealth regulation making as statutory instruments.

Mr McCormick: That is our understanding.

Mr Mrdak: As Dr Aleck indicated, these are consistent with Commonwealth policy in relation to such regulatory matters.

Senator HEFFERNAN: I would like to go to the existing CAR 234, which states:

The pilot in command of an aircraft must not commence a flight if she or he has not taken responsible and reasonable steps to ensure the aircraft carries sufficient fuel and oil to enable the proposed flight to be undertaken in safety.

That sounds pretty reasonable to me. The new proposed 91.510, on the other hand, states:

The pilot in command of an aircraft commits an offence if he or she has not planned the flight to ensure that after the landing the amount of fuel remaining in the aircraft's fuel tanks will be at least the aircraft's fixed fuel reserve. Reasonable steps are no longer sufficient and, of course, it is another strict liability offence to fail to plan the flight accordingly.

Based on that, is it not the case that, under 91.510, a pilot arriving at a destination with less than the fixed reserve has ipso facto failed to plan as required?

Mr McCormick: CAR 234, which you referred to, was also strict liability.

Senator HEFFERNAN: Under section 91.510 has that person who arrives at the destination without fixed reserves failed to plan as required?

Mr McCormick: That case could be made, yes.

Senator HEFFERNAN: Does the proposed new regulation simply mean that mandatory reserves of fuel and oil are now no more than ballast to a law abiding pilot?

Mr McCormick: I think that is an incorrect frame of view that your correspondent has formed. Reserve fuels are there for the very nature of the fact that you do not run out of fuel. There have been numerous instances, unfortunately, where people have run out of fuel, which is invariably due to poor planning.

Senator HEFFERNAN: I am putting my mind back a long way as a private pilot. Bear in mind that most light aircraft disasters are usually from pressing on when you should not be pressing on, such as going to the snow. So, does this tempt an otherwise prudent pilot to press on into uncertain weather conditions rather than take a larger unplanned diversion around them, thereby risking some small part of those reserves that might be consumed? If you have diverted around somewhere and you land without the reserve then you are in trouble.

Mr McCormick: As Dr Aleck has stated, that is a reasonable defence to that. That is an unforeseen event. To my knowledge, there has not been a regulation where common sense—if the safer course of action was to do something that was not covered by the regulation or may have appeared to be against the regulation—must not prevail.

Senator HEFFERNAN: Would this be a matter determined in a court?

Dr Aleck: If the issue came to CASA's attention and on the question of whether enforcement action ought to be taken against such a person, the investigation or the inquiry should indicate what the circumstances were around that. Our policy and our practice would be consistent with what a court would probably do, and that is that we would not initiate enforcement action if someone did what was necessary and appropriate in order to avoid an emergency situation. The law has always provided for that. The Criminal Code Act provides for that. There is a provision in our own act that actually specifies that force of weather is a matter that can give rise to a defence to what would otherwise be a contravention of the legislation.

Senator HEFFERNAN: That does not answer my question. Would that process finish up in court?

Dr Aleck: It could do, but what I am suggesting is that, if the facts were as you put them, I do not believe CASA would pursue the matter as an enforcement issue.

Mr McCormick: We would not. In fact, in that particular situation that you are talking about, an available defence to strict liability is the defence of sudden or extraordinary emergency.

Senator HEFFERNAN: I would not be confident if you went to court. As you know, the courts are not actually about the truth of the matter.

CHAIR: That is your opinion.

Senator HEFFERNAN: Courts are driven by the law and not necessarily by the truth. Is it correct that the proposed CAR 91.295 makes it an offence of strict liability for a pilot to fly an aircraft over a populated area at a height of less than the higher of the minimum safe height and the minimum operating height at any particular point in a flight other than when landing or taking off?

Mr McCormick: I do not have that regulation in front of me. I will take it on notice.

Senator HEFFERNAN: Does this mean that the authority will prosecute the pilot survivor of a crash arising from an engine failure on any occasion that a person or property on

the ground is endangered, even if the potential risk is not realised? Would you like to take these questions on notice?

Mr McCormick: I think so.

Senator HEFFERNAN: They are getting fairly complex. Where is flight in icy conditions, an activity generally proscribed by CAR 91.195, defined?

Mr McCormick: We will take that on notice. Part 91 is, of course, up for public consultation. We have not gone to a notice of proposed rule-making there. We would expect that people would give us some comments back in the consultation process.

Senator HEFFERNAN: With your indulgence, Chair, I will put that series of questions on notice.

CHAIR: Thank you. Before we wind up, Senator Xenophon has a few questions.

Senator XENOPHON: I know that part 91 is very broad in its design and it is up for consultation. One of the issues that is up for consultation, as I understand it, is mandatory simulators. Could you indicate where we are up to with that in terms of what is being proposed?

Mr McCormick: With respect to 91 or simulators in general?

Senator XENOPHON: I think there is a proposal to change it. Is there a proposal to change it so that you need to have a mandatory simulator for anything from 19 seats?

Mr McCormick: We have a notice of proposed rule-making 1007OS, mandatory flight simulator training, which has been out since October 2010.

Senator XENOPHON: What does that involve? Does that involve having a mandatory simulator for any aircraft of 19 passenger seats or more?

Mr McCormick: I will take that on notice. I do not have that in front of me. There are some weights involved as well.

Senator XENOPHON: Has consideration been given to what the cost of those changes to industry could be, and also could there be an unintended consequence that you will get people going to aircraft that would be below that threshold—let us say a 17- or 18-seat passenger aircraft?

Mr McCormick: I do not think we have seen any movement towards that particular technique.

Senator XENOPHON: It has not come in yet, though, has it?

Mr McCormick: No. The proposal on mandatory simulator training is directed towards regular public transport and charter operators who normally would not have a simulator available for, say, a Beechcraft Baron. Unfortunately, there was an accident on a training mission, as you know, in Darwin—it was Airnorth, which I think we have spoken about before—where tragically two people were killed. The training event that they were doing was flying with one engine inoperative. What we are attempting by this proposal is to have that manoeuvre practised in a simulator.

Senator XENOPHON: I understand the intent; it was just in terms of how it would be implemented. Those are the sorts of issues that I wanted to raise with you, but I am happy for you to take it on notice. Senator Back asked some questions about cabin attendants.

Obviously, with the rules of cabotage, you have cabin attendants that are flying from point to point from overseas carriers. What role does CASA have in terms of minimum levels of training to ensure that, under the rules of cabotage, if there is an emergency, they have the requisite training?

Mr McCormick: We do inspections on the aircraft when they are in Australia. I think I replied to Senator Back's question that a foreign operator does not get a foreign air operator's certificate from us to operate to Australia unless they have adequate training for their cabin and technical crew.

Senator XENOPHON: If someone is flying point to point domestically are there any rules or guidelines as to what is reasonable under the rules of cabotage?

Mr Mrdak: Australia does not allow foreign operators to operate domestic services. The only international airlines that can operate cabotage services are New Zealand carriers under our single aviation market in New Zealand. International carriers, under some bilaterals, have access to own stopover traffic, but only in exceptional circumstances do we allow international carriers to pick up domestic traffic between domestic ports.

Senator XENOPHON: Is there an issue with cabin attendants on those aircraft being used for flying on domestic flights?

Mr Mrdak: You are using the term 'cabotage.' Under our cabotage provisions, international carriers do not have access rights to pick up domestic traffic between two domestic points.

Mr McCormick: The one that you may be referring to, as Mr Mrdak said, is under the Trans-Tasman Mutual Recognition Agreement, the TTMRA, which in 2005 allowed Air New Zealand to operate into the Australian market. They operate their flights at one cabin crew per 50 passenger seats.

Senator XENOPHON: I did not frame my question as well as it should have been framed. I am talking about cabin crew coming in on an overseas carrier. Are they allowed to fly on domestic routes, point to point, within certain constraints, where domestic passengers are picked up? Is that something that is allowed under the current rules?

Mr Mrdak: No.

Mr McCormick: I think you are talking about cabotage now.

Mr Mrdak: They can carry their own stopover traffic, which they can pick up at a point and take to another point, as long as it is part of their international service. For example, a carrier may bring people into Sydney who then go on to Melbourne at a subsequent port, if that aircraft does further services. They can carry their own stopover traffic, but they cannot pick up Australian domestic passengers between two domestic ports unless they are covered by the single aviation agreement with New Zealand.

Senator XENOPHON: That is the only exception that applies. So, you cannot have cabin attendants whizzing around the country doing domestic routes?

Mr Mrdak: Not if it is an international carrier. If the international service is continuing on to another port, then that is an international service operated under the air operator's certificate. They have a foreign AOC by CASA, but the regulatory requirements are set by their country of origin, who regulate their initial AOC under the ICAO provisions.

Senator XENOPHON: Maybe I should get a briefing from the department directly, rather than taking up your time.

Mr Mrdak: I am happy to do that.

Senator XENOPHON: We heard from Airservices Australia about Darwin air traffic control, which Senator O'Brien pointed out was one of the two actually run by the Air Force. You are aware of an incident involving a Jetstar aircraft—and I emphasise there is absolutely no criticism of the way that the flight crew handled that incident; it was a wind shear incident—where there was a potential issue as to whether there was enough information for the flight crew about a weather event above which was linked to the wind shear incident. What role does CASA have in ensuring that we have best practice and the best systems in place in terms of air traffic control? How does that work in terms of their impact on air safety? What is the level of liaison or oversight on CASA's role?

Mr McCormick: I will ask Mr Cromarty, the head of our Office of Airspace Regulation, to add a few points to this. We regulate Airservices Australia via specific parts of the regulations and we audit them against those parts of the regulations.

Senator XENOPHON: Would that include Townsville and Darwin, which are run by the Air Force?

Mr McCormick: I will have Mr Cromarty answer that for you.

Mr Cromarty: We do not regulate either of the air traffic control units at Darwin or Townsville. However, we have recently come to an agreement with Defence that we would be able to put in place an observer on their oversight of their own units and, similarly, they can, if they wish, put in place observers on some of our oversights of Airservices.

Senator XENOPHON: I can understand if it was an Air Force base where only military aircraft fly in and out, but, of course, that is not the case for Townsville and Darwin. Should there be a greater degree of oversight by CASA, given the domestic and international traffic that goes through there?

Mr Cromarty: We do not have any legal ability to oversight Defence units. We are not allowed to.

Senator XENOPHON: Unless it is with their consent?

Mr Cromarty: Yes, and then it is only as an observer.

Senator XENOPHON: Have the observers moved in to Townsville and Darwin or is that starting to happen?

Mr Cromarty: We have not yet done one.

Senator XENOPHON: What time frame are we looking at for CASA observers being at those two airports?

Mr Cromarty: I do not know the program for Defence for their oversight of their own units.

Senator XENOPHON: What does that mean?

Mr Cromarty: I am presuming that they have a similar system to us, which is a program of oversight of their own units, as we have an oversight system for Airservices. We advise them when we are going to be looking at Airservices units and they decide whether they want

to come or not. So far they have only come on one and we have not been on any of the oversight of Defence units, as far as I am aware.

Senator XENOPHON: You have oversight of every other air traffic control around the country, by virtue of your arrangement with Airservices.

Mr Cromarty: Only the civil ones.

Senator XENOPHON: That is right, but given the number of civil aircraft that fly in and out of Townsville and Darwin airports, is there a gap in the regulatory framework? This is not a criticism of CASA.

Mr Cromarty: I understand what you are saying. I am not quite sure whether I would be passing comment on government policy.

Mr Mrdak: I should explain that we have two separate systems in Australia. We have the military ATS system, run by the Royal Australian Air Force. That operates to their military training standards. Mr Russell was outlining earlier the work that is now underway to try to move to a single harmonised ATS system. CASA's regulatory requirements are only for civil aviation operations. The military has their own systems.

Senator XENOPHON: We have civil aircraft flying out of Darwin and Townsville all the time.

Mr Mrdak: Darwin and Townsville are deemed to be joint user airports in those situations, as opposed to say, Williamtown, which is a RAAF Air Force base and allows limited civil operations. In those situations the air traffic control services are provided by Air Force. The air space settings are set up to ensure that they align with civil systems, but the actual operation of the ATS systems are done by the RAAF. It is an area that we are aligning more and more. I think as you heard Mr Russell say today, Chief of Air Force is working very strongly and cooperatively to align the training standards and the like.

Senator XENOPHON: We do not have any CASA observers at those airports yet, do we?

Mr Mrdak: No we do not, but as I have said, over the last few years there has been a lot of work to ensure that as civil traffic has grown to those locations that RAAF controllers are operating, wherever possible, to align standards.

Senator XENOPHON: I appreciate your answer, but is it not anomalous, given CASA's role at the pinnacle of aviation safety in this country, as the regulator for aviation safety, that you have two significant airports in this country where CASA may have an observer role at air traffic control at those two significant airports. It seems to be a disconnect between CASA's role. Again, this is not a criticism of CASA. They are constrained in what they can do. From a policy point of view, is there not some disconnect? They do not even have a role to say, 'We don't think the Air Force is doing this the right way.'

Mr Mrdak: They are not the statutory regulator of the RAAF ATS system. However, in saying that, in the last few years there has been a lot of work, including at the moment, where there are RAAF people located within Mr Cromarty's Office of Airspace Regulation to ensure alignment between RAAF and civil standards and operations of air space. I understand the point you are making and you are absolutely right that this is a matter of public policy.

Senator XENOPHON: It is an anomaly.

Mr Mrdak: It is an area where RAAF maintains their own operational system. That is not unusual. It is not inconsistent with what happens in a lot of countries, where there is a military ATS system at a civil ATS system.

Senator XENOPHON: CASA's role as the air safety regulator in this country is constrained at two airports that have many thousands of air craft movements every year. What would be wrong with CASA having a role in relation to those two airports?

Mr Mrdak: CASA's role is in relation to civil aviation safety standards. I understand the point that you are taking.

Senator XENOPHON: But they are constrained at those two airports.

Mr Mrdak: They are constrained to civil aviation safety regulation; that is correct.

Mr McCormick: Just to follow on from Mr Mrdak and Mr Cromarty's comments, there is an underlying level of air traffic control safety, if you will. That is not a very good term that I use as a working term. There is a minimum standard accepted for air traffic control procedures and air traffic controllers to follow—separate standards, et cetera. The Australian Air Force is assumed to be above that standard, and they regulate themselves. They cannot have two lots of people looking at one organisation in different ways. In some areas the civil aviation requirements may differ from the military's, but either system will provide at least the minimum that is required. So, the military overseeing their system, compared with us overseeing our system, and we are all above the minimum line.

Senator XENOPHON: Does that mean that for the civil aircraft that fly in and out of Darwin and Townsville that RAAF controls the air space? Is that the case?

Mr Mrdak: That is correct. The terminal air space in those locations is managed by RAAF.

Senator XENOPHON: That includes the radar systems and all the other paraphernalia that goes with controlling it?

Mr Mrdak: They have arrangements with Airservices for sharing of radar services and the like in locations, but the principal responsibility/provision for the ATS equipment in those locations is with the RAAF.

Mr Cromarty: There is one other aspect to this, which is the aerodrome infrastructure. We have oversight of the aerodrome infrastructure. When you say it is the whole operation, it is not the whole operation.

Senator XENOPHON: So aerodrome infrastructure.

Mr Cromarty: Not all of the aerodrome. We do not look at the military side of it.

Senator XENOPHON: If you have a situation where there is a concern about what air traffic control in Darwin or Townsville has done—there might be some safety issues arising out of that—you do not have jurisdiction at this stage?

Mr Cromarty: That is correct. If we were there as observers we would take it up with the team at the time.

Senator XENOPHON: You are not even there as observers yet.

Mr Cromarty: We have not been to one yet. No, that is correct.

Senator XENOPHON: You are not there as observers, and I presume it would be as observers on an occasional basis and not as a full-time observer?

Mr Cromarty: We have not set a timetable for that.

Mr Mrdak: Just going back to your point. If there were issues, for instance, where there are investigations by ATSB or safety issues raised, RAAF deals with those and any other agency.

Senator XENOPHON: Is RAAF subject to the ATSB?

Mr Mrdak: ATSB recommendations have been made to RAAF and RAAF have generally adopted it.

Senator XENOPHON: RAAF is not subject to the ATSB.

Mr Mrdak: The ATSB is an independent no blame safety investigator. When Mr Dolan appears he may wish to explain how that works. ATSB's recommendations are made to RAAF at times in relation to RAAF operations.

Senator XENOPHON: You can understand that some people would say that this appears to be anomalous, given CASA's role, that there are some gaps in the system in the sense that there is not a direct—

Mr Mrdak: I think you are assuming that there are gaps. Mr McCormack is saying that RAAF operates to minimum standards and generally well above those standards, including applying similar safety and separation standards to what would happen in any other civil ATS system.

Senator XENOPHON: I accept what Mr McCormick is saying, but if there is a concern about a breach of standards, then at this stage CASA does not have a role for those two airports.

Mr Mrdak: That is right, but you cannot make the assumption that means to a lesser degree of safety standards, because RAAF operates civil aircraft to certain safety standards, which are applicable to civil operations.

Senator HEFFERNAN: To a point. If something goes wrong and there is a liability because of the operations of the airport and I am going to litigate, who do I litigate against—the Air Force or CASA?

Mr Mrdak: It would depend on what the nature of the issue is. If it is an ATS issue in those locations it may well be a RAAF issue. RAAF is providing air traffic control services at those locations and not just those locations, but other locations where there are similar operations.

Senator HEFFERNAN: If I get run over by a plane or if there is an accident—

Mr Mrdak: Without project longing it—and this will sound a little silly—it would depend on where on the airfield you were run over as to where the liability would rest.

Senator HEFFERNAN: This is very complex. I would not be worried about me. It would be the plane that they would be worried about.

CHAIR: I thank the officers of CASA and now call the Australian Transport Safety Bureau.

Australian Transport Safety Bureau

[17:10]

CHAIR: I welcome officers from the Australian Transport Safety Bureau. Questions from Senator Xenophon.

Senator XENOPHON: Mr Dolan, I am not sure whether you heard the line of questioning about Darwin and Townsville airports being controlled by RAAF. In the event of an incident involving air space controlled by the RAAF, what jurisdiction do you have? CASA is constrained in these matters and I think they are looking at having observers in those towers. What jurisdiction do you have over the RAAF if there is an incident?

Mr Dolan: Effectively there are no constraints on our capacity to investigate if it involves a civil registered aircraft. There is also a requirement on Defence, in their management of civilian aircraft in military airspace, to notify us of any occurrences in the same way that Airservices has to notify us of occurrences, so we get visibility and the capacity to investigate.

Senator XENOPHON: So, whilst there are some constraints on CASA in terms of their regulatory role, there are no similar constraints to the ATSB?

Mr Dolan: That is correct.

Senator XENOPHON: That is good to hear. I understand that you may not be able to go into detail of a particular incident. There was an incident that has been the subject of questions at estimates before and in the inquiry on aviation training and safety in relation to the wind shear incident in Darwin, which involved RAAF controlled air space. Can you tell us how far that investigation has progressed, without saying anything that would compromise the investigation?

Mr Dolan: My understanding is that the investigation has proceeded well and we will shortly be bringing it to a conclusion, but Mr Sangston might be able to provide more information on that.

Mr Sangston: That is an office based investigation that we are carrying out.

Senator XENOPHON: What does that mean?

Mr Sangston: That means that it comes out in a quarterly bulletin. I would estimate it to be in the next quarterly bulletin. We have just released a quarterly bulletin in the last week or so.

Senator XENOPHON: Does that mean that you have interviewed? What would you normally do? Would you interview the crew and air traffic control? How does it normally work at that level?

Mr Sangston: There are a number of sources that we can use, including interviews. We can get radar and radio tape information. We can interview the operator and get documentation. Indeed, with office investigations, we have sourced flight data recorders—the black boxes—the same as with other investigations. We have a full gamut of sources of information.

Senator XENOPHON: So, when will that be out?

Mr Sangston: In the next quarterly report, about three months from now.

Senator XENOPHON: So, we will get some answers or the outcome of that?

Mr Sangston: Yes.

Senator XENOPHON: Mr Dolan, in terms of the relationship between the ATSB and CASA regarding the level of interchange of information, has that changed in the last couple of years? It is not a trick question. I genuinely do not know.

Mr Dolan: I can only speak confidently from my two years in the bureau. Over time there has been a rethinking on both sides as to what is the best framework for exchange of information. I do not think there has been any substantive change. What has happened, as a result of our discussions in the redevelopment of our memorandum of understanding with CASA, is that we have been clearer on our respective roles and, therefore, what information is exchanged between the two parties and how. However, the default position is that on the mandatory reporting scheme that we are responsible for in aviation we will pass on to CASA, on a daily basis, information that is de-identified to the extent required by the Privacy Act so that CASA has enough information to understand safety trends based on the occurrence notifications. On the confidential reporting scheme, we will pass on to CASA explicitly de-identified information in the interests of finding out what happened, which is to say that under confidential reporting our primary task is to make sure that whoever reported is not identified to anyone outside the ATSB.

Senator XENOPHON: I would like to go back to the wind shear incident in Darwin, where I have been at pains to point out that from my understanding there was no criticism of the Jetstar crew and that it was a severe weather event. Obviously it is for you to pass judgment on that. There was a question mark as to whether the radar at that airport, immediately above the ground, was adequate or not. Is that something that the investigation looked at in terms of the adequacy of radar at that airport?

Mr Sangston: That is something the investigation would consider. I do not know whether they have specifically finished that yet.

Senator XENOPHON: That is one of the problems with wind shear. In terms of the radar that is on the aircraft or the tower, it does not normally go immediately above.

Mr Sangston: Yes. There are some other possible installations of wind shear equipment in a number of airports around Australia, and I do not know whether Darwin would be one of those.

Senator XENOPHON: Will that be something that will be covered off in the report?

Mr Sangston: Certainly the report will look at wind shear and whether it might have been able to be determined or whatever weather it was in.

Senator XENOPHON: I look forward to reading that. Mr Dolan, I would like to go to the issue of the just culture, which I think all airlines espouse, but there may be variations of the theme in different airlines. Are you able to assess the sorts of reports that you get from different airlines? By that I mean in what comes through to the ATSB there is a certain amount of information that is different, either in the quality of the information or the type of the event from airline to airline. In other words, do some airlines report things that other airlines do not seem to report to you? I probably have not expressed that very well. In terms of benchmarks of openness, do some airlines give you more information than others with their reports and how do you get a uniform level of information that is useful and fulfils that just culture approach?

Mr Dolan: The answer to your question about variation is that what we tend to see more is variation over time within individual operations rather than variation between. We have cross-references on the adequacy and the comprehensiveness of reporting by at least some measures because with incidents that involve air space we normally get information from Airservices Australia so we can cross-reference that to the reporting that we get from operators and so on. We are reasonably confident that what is required to be reported to us under the mandatory scheme by and large is reported. There is the occasional problem with timeliness, and over time as different people move in to safety areas, get to learn their roles and so on, you tend to see some variability on the comprehensiveness of the reporting. We are alert to that and generally have conversations about the boundaries.

The final thing we are doing, which we think will help this situation, is reworking the reporting regulations to be much clearer in those grey areas where there seems to be some choice as to whether to tell us about something and to make it clear that it is a requirement to tell us.

Senator XENOPHON: As I understand it, that seems to be one of the issues where there seems to be a different approach. Some airlines will report some things that other airlines, in their culture, may not think is necessary. I am not saying there is any safety issue with that, but there seems to be a different emphasis between some airlines on this.

Mr Dolan: Mr Walsh may wish to add something, but certainly there is nothing I have seen—and I pay a reasonable amount of attention to this question—that would lead me to the view that there is a difference in the comprehensiveness or effectiveness of reporting between operators.

Senator XENOPHON: When I say ‘operators’, I am talking about major carriers.

Mr Dolan: Yes. I am assuming we are talking about high capacity in particular.

Senator XENOPHON: It would be wrong to assume that there is a significant difference between airlines?

Mr Dolan: From time to time, we hear concerns about the adequacy of the reporting system and the responsiveness of individual operators to it. We continually look for evidence that there is a problem. We have not seen anything other than that question of uncertainty at the margins about what is reportable, which we are fixing through tightening up the regulations and making them clearer.

Mr Walsh: The only thing that I would add is that for the major airlines, almost without exception, we receive the report that is submitted by the pilot. What the airline passes on to us is what the pilots have reported, and so we do get some variability in terms of that content.

Senator XENOPHON: Is there a protocol in place or do you have a rule in place that says that, if a report is made, you would normally want to see what the pilot wrote about the incident? Is that your preferred course? Let us say the airline filters something through saying, in broad terms, this particular incident occurred, would you insist on seeing what the pilot reported?

Mr Dolan: What we are interested in is enough information to understand the nature of the occurrence.

Senator XENOPHON: As a matter of course, would you ask to see the pilot’s report?

Mr Dolan: Not as a matter of course.

Senator XENOPHON: Would it be desirable to see the pilot's report?

Mr Dolan: I think in some cases it would be. Again, Mr Walsh can add additional information on this. In a number of cases we do not feel that we have enough information to understand adequately what happened and that is where we will follow up. In those sorts of cases we would sometimes be given a fuller report than the original one given to us.

Mr Walsh: The important thing is the report that we receive from the airlines. In the case of the airlines that do not have an electronic system, we receive the report that has been written from the pilot, and with the larger airlines, with their safety management system and their IT systems, essentially what comes to us is what the pilot submits through their system that automatically and at a set time is sent on to the ATSB. Almost without exception I can think of very few situations where we are not receiving what the pilot has produced.

Senator XENOPHON: Is there a requirement for the actual report submitted by the pilot to the airline, whether you see that or something through the safety management system, to be kept?

Mr Walsh: At the operator?

Senator XENOPHON: At the operator.

Mr Walsh: That would be a matter for the operator. I am not sure what the requirements are for the operator. The requirement to report is on a responsible person, which is either the pilot or the owner or operator. The pilot does not need to report to us if they are satisfied that another person has appropriately reported it to the ATSB.

Senator XENOPHON: Would it be desirable for there to be a requirement, at the very least, for any report that a pilot puts in to be not destroyed for a certain period so that you have the source document in the event that you need that at any time in the future?

Mr Walsh: I think that would be desirable, but that is probably not what is happening, to be quite honest.

Senator XENOPHON: Is that a CASA issue or does the ATSB make that requirement?

Mr Dolan: It depends what objective we are trying to achieve by this. From an ATSB point of view, there are two levels to this. Firstly, we have a series of requirements as to what is reported to us and a quite precise level of detail as to what should be included in such a report. The mechanism by which individual operators discharge that responsibility varies to some extent. The reason I am saying it depends is there is also a requirement under the just culture system, which is where this conversation started. Whatever variation you have on that, a key component of such a system is that there is an internal reporting system including an element with a confidential component to it. CASA's regulation of the safety management system of the operator is also relevant to this.

From our point of view, by whatever means, including through direct passing to us of a pilot report, if we have enough information to understand the occurrence, that satisfies our need. If we require more we will undertake an investigation and then we are likely to interview the pilot and a whole range of other things.

Senator XENOPHON: I understand that. It is just about whether the document should be preserved for future reference. It does not mean that you have to see it, but it means it is there

for you if you want to see it. I do not know whether Mr Mrdak has a comment, from a policy point of view, as to whether that would be desirable or not.

Mr Mrdak: I think Mr Dolan is covering it.

Senator XENOPHON: So, there is no view as to whether it is desirable to keep those things?

Mr Dolan: As Mr Walsh said, it is certainly desirable. I am not at a point where I have convinced myself that it necessarily needs to be mandatory, but I would agree with you that it would be desirable.

Senator XENOPHON: Perhaps on notice you could consider that. Maybe that is an issue that we can revisit at the next estimates.

Mr Dolan: Certainly.

Senator XENOPHON: Thank you.

Senator NASH: I have a couple of questions of the PBS, page 135. Can you explain the departmental capital figure of \$3 million in 2012-13? What does that relate to?

Mr Dolan: It appears you have different page numbers from mine.

Senator NASH: Is it page 135?

Mr Dolan: Yes. The capital number in 2012-13 relates to the funding that is necessary for us to prepare for the expected expansion of our role in rail and probably maritime investigations. It is part of the additional funding that we have been given in the budget this year to prepare ourselves for that expansion of our role.

Senator NASH: Could you expand a bit on the expansion for us?

Mr Dolan: Subject to final agreement by government, the proposal is parallel with the establishment of a single national rail safety regulation. We would also be given the jurisdiction to investigate all rail safety occurrences in Australia wherever they occur. At the moment we only do it on the interstate track. There is work in train to consider whether such a thing should also be done in relation to all commercial shipping or some subset of commercial shipping in Australia. The government has given us the resources both in terms of operating expenses and capital to build the capacity of the organisation to be ready for that, including opening or expanding offices; expanding our IT systems and so on, which is why we need capital.

Senator NASH: Could you take on notice to provide us with a break-up of the \$3 million? That would be quite useful.

Mr Dolan: Yes.

Senator NASH: The other question is again on the same page for expense measures. In 2012-13 we have \$234 million. Is that a projected overspend? Can you explain that for us?

Mr Dolan: Which one was that?

Senator NASH: It is on page 135 at the top of that table.

Mr Dolan: The \$135 million is the budget measures.

Senator NASH: Yes, that is right. Under where we have expense measures, under table 1.2, there is total resourcing for 2012-13 with what looks like \$234 million. Is that an overspend?

Mr Dolan: No. That is reflecting the fact that in putting capital into place we will have an expense associated with depreciation. Mr Mrdak has pointed out that we are talking about thousands of dollars here and not millions. If we go to the first line, \$65,000 in 2011-12 is the increase in the efficiency dividend. That is showing that the cost to the organisation of an increased efficiency dividend is \$65,000 in the first year, \$244,000 in the second year, and so on.

Senator NASH: Thank you for that.

Mr Dolan: I am sorry that it took me a while to navigate to the point that you were asking about.

Senator NASH: That explains it. Lucky it is \$244,000 and not \$244 million.

Mr Mrdak: Mr Dolan would love the \$240 million budget.

Mr Dolan: Give me a different expenditure pattern.

Senator NASH: I am sure you would. I have a question around travelling infants. I am trying to get a bit of an understanding on airlines, with the ATSB being the safety bureau. What are the safety expectations for travelling infants? It was raised with me by a constituent recently who felt that the conditions on board the aircraft perhaps did not pay as much attention to the safety of the infant travelling; that they did not seem to have enough awareness of what the procedures should have been for the travelling infants. From the point of view of ATSB, do you have an involvement in the development of the requirements or any kind of audit process over what is happening on the aircraft in terms of travelling infants?

Mr Dolan: As a general rule, no. Our attention would generally be drawn to that in the course of an investigation, essentially in those cases where there is an occurrence that has an effect on the passengers in the cabin of the aircraft. I do not recall any investigation that we have undertaken where there have been injuries to or problems with passengers where there has been a specific emphasis on problems with infants or young children, so I am not sure that we have much information that we can help you with. Is there anything that you are aware of, Mr Sangston?

Mr Sangston: I have a sense that we may go to that level of detail in an investigation that is coming to finalisation now, but not specifically in terms of infants. It is across adults, other passengers and some infants were also involved.

Senator NASH: Where would I best direct questions in terms of the policy area for the safety of travelling infants?

Mr Mrdak: If it is a specific safety measure, then it is probably to CASA. Let us take that on notice and we can come back to you. If it is a matter of safety regulation then it would be to CASA.

Senator NASH: Perhaps you could take on notice for CASA to come back with some detail about their involvement and the requirement for safety of travelling infants, as well as any audit processes that are in place of an ongoing nature that monitor infants in aircraft?

Mr Mrdak: On behalf of CASA I will take that on notice.

Senator NASH: Thank you.

Senator HEFFERNAN: Could you describe what a repcon is?

Mr Dolan: A repcon is shorthand for a confidential report. It refers to a scheme we run under the powers currently of the air navigation regulations that permits people to report to the ATSB safety related issues on a confidential basis. The key objective of that is to draw attention to potential safety issues in a way that protects the identity of the reporter.

Senator HEFFERNAN: I have an instance here—and I will come to the substance in a minute—of a person who submitted a repcon to ATSB and gives a number, 'I was informed that the ATSB was unable to investigate further unless I submitted an air safety incident report which is not confidential.' Is that right?

Mr Dolan: I would be surprised if we gave that sort of advice. From time to time, when someone gives us a somewhat informal report that they ask to be treated under the confidential reporting scheme, we ask them to give us a formal confidential report, which makes sure that we can give them the full protection and also gives us the chance to find out enough information so we can potentially investigate it. It sounds like there may have been something of a misunderstanding.

Senator HEFFERNAN: Sadly, there is an email trail to that effect. I will deal with that, because this person does not want to lose his employment. He does not want his name used, so we will not give too many hints, but there is a trail of email correspondence from the manager of repcon, ATSB. This was an incident where a plane landed in Sydney. After the flight landed, another aircraft, which was a regional airline, landed and stopped on the runway side of the holding point within the flight strip. Thus, the runway was occupied while both aircraft were stationary on the runway. It gives the flight number. It took off at 18.22. It says the aeronautical information publication states that an aircraft will not be permitted to commence takeoff until a preceding landing craft has used the same runway, has vacated and is taxiing away from the runway. Was there a report made or an inquiry held into this matter? Are you familiar with it?

Mr Dolan: Mr Walsh should be able to give some additional information. We understand there was notification to us under the confidential reporting scheme of such an occurrence, and we have been in discussions with the reporter about the best way of protecting the identity of the reporter whilst still having enough information to investigate. Mr Walsh, is there anything that you want to add?

Mr Walsh: No. The information that I have is that we received a report of a safety concern relating to an aircraft associated with a holding point on a runway. It might be helpful if I go through the process. When we receive a report from someone obviously the first thing we will do is ensure it is a reportable safety concern. We will then go through a process of de-identifying the report.

Senator HEFFERNAN: I have the paper trail that points to the de-identification.

Mr Walsh: We go back to the reporter to ensure that the reporter is satisfied that the de-identified text adequately satisfies that. As I understand it, in this particular situation, the reporter was not satisfied with the de-identified text and requested a copy of the original report that the reporter had submitted with an expectation that a revised report would be submitted to the ATSB. As I understand it, we provided a copy of the original text as

submitted to us back to the reporter on 20 May with an expectation that a further report was going to be submitted, but we have not received anything to date.

Senator HEFFERNAN: On 20 May?

Mr Walsh: That is correct.

Senator HEFFERNAN: I am at 19 May in this correspondence. If that actually happened, would that be a reasonably serious breach, a plane being given clearance for takeoff?

Mr Walsh: Our process in that situation would be to forward that text of the report, the reportable safety concern, in that situation probably to a number of individuals or organisations. We would probably send that to Airservices Australia for them to look at the matter. If we were able to identify the aircraft operators involved we would send a copy of the de-identified text to the aircraft operators as well.

Senator HEFFERNAN: Have you been able to do that?

Mr Walsh: No, because we do not have agreement on the de-identified text with the reporter.

Senator HEFFERNAN: I can, but I will not.

Mr Dolan: We would certainly have a strong preference that you do not, because it would make it more difficult to protect identity.

Senator HEFFERNAN: I have no intention. There is speculation here that it may have been reasonable for the tower control to have expected the aircraft to have cleared the runway. This person asked why the flight was given clearance to take off from an occupied runway. Why does the ATSB not allow confidential reporting and not take anonymous reports seriously? According to my paper trail, he was asked to submit a separate report to the air safety incident report. Just to make sure I do not muck this up, I will shut up and we will talk somewhere else.

Mr Dolan: What I will say to you very clearly is that we are interested in such reports and we will do everything we can both to protect identity and to investigate.

Senator HEFFERNAN: I appreciate that. They were interesting questions. Mr Chairman, I hope you noted that they were questions related to the budget that Senator Nash asked, which was a bit of a change. I am told by various people—we do not have you tomorrow but we have CASA back—that you are underresourced to do what is expected of you and that consequently there is uneven ground in the relationship between yourselves and CASA. Are you adequately resourced? Is that too much of an opinion, Minister?

Senator Carr: Yes, it is.

Senator HEFFERNAN: That is what I am told. Minister, I am pleased to see that you are still awake and you are doing well.

Senator Carr: It is very hard.

Senator HEFFERNAN: I would like to think that, if there is a need for more resources for ATSB, that the government, in its wisdom, will find a way to provide some more resources, given the growth of the job. Finally, is there any change in the pattern of stick-shaker incidents?

Mr Dolan: I am not aware of any recent additional reports of stick-shaker incidents, so to that extent there has been no change in the pattern. We are continuing with an investigation of one stick-shaker incident that I reported to the committee previously, and that will be completed probably within the next six months or so.

Senator HEFFERNAN: We heard evidence earlier today that there is a provision to empty the plane in 90 seconds. Is that right?

Mr Dolan: I am not as familiar as I should be with the cabin safety regulations. That is not something that I deal with very often.

Senator HEFFERNAN: That is what we were told earlier. I have often sat in the exit row and I always say to the hostess, 'I won't open it until you tell me not to unless you're dead.' I have often wondered whether I would be capable of opening it with the instructions that we are given on how to open it and whether that would take longer than the 90 seconds required for everyone to be out. Do you ever test the market on whether people who have no practice or just happen to be sitting in the seat and say, 'Yes, I'll do it. Yes, sir, I will', can actually do it?

Mr Dolan: I would generally see that more as a matter for CASA than for us.

Senator HEFFERNAN: It is a safety issue.

Mr Dolan: In some cases where we are doing an investigation and passenger investigation is part of it, such as in the case of the A380 with the engine failure that landed in Singapore, we will take a look at the adequacy of evacuation and other procedures. But as a general rule, it is a regulatory question for CASA rather than an investigation one for us.

Senator HEFFERNAN: Minister, do you think you could get it right and have them out in 90 seconds?

Senator Carr: I am not certain that I would have much to contribute.

Senator HEFFERNAN: I am sure that I probably would not, because the doors are all different. I would not like to be tested on it. I always look under the seat to see if the jacket is under the seat, but I often look at the door and think, 'My God, how do you open that?' Thank you.

CHAIR: Before I close the formal proceedings, I take this opportunity on behalf of the committee to wish a couple of our colleagues the very best for their future careers once they leave here on 30 June—Senator O'Brien and Senator Hutchins. Mr Mrdak, you stole my thunder yesterday and I strongly endorse your words. I am certainly going to miss the input and support from Senator O'Brien, who has had a very long and distinguished career on this committee, including as a shadow spokesperson for agriculture and transport. Senator O'Brien, on behalf of the committee, we wish you all the very best. We are going to have a few going-away parties in the next couple of weeks. To Senator Hutchins, who is working feverishly in another committee, if he is watching online, to you too, Hutcho, we will certainly have a few going-away well wishes in the next couple of weeks. On behalf of all the members, participating and full time, we are going to miss you both. On that, Mr Mrdak, thank you very much.

Senator HEFFERNAN: On behalf of the reference committee, I look forward to Senator O'Brien having a successful new career. I think he would have made an excellent minister for agriculture.

CHAIR: I absolutely agree.

Senator XENOPHON: I endorse everything that has been said. It is a rare thing for me to be able to agree with both you and Senator Heffernan, but this is one of those rare occasions, so all the best to Senator O'Brien.

CHAIR: It is rare for Senator Heffernan and I to agree.

Senator O'BRIEN: I would like to say thank you for all your kind comments. What I said to Mr Mrdak's comments I simply underline again: it has been a great privilege to be here, and in a sense I will miss it, but in another sense it is an awful lot of hard work when you are in opposition to do the job properly.

CHAIR: I am sure you will be watching us when you are completely bored. To *Hansard* and broadcasting, once again, thank you very much. To the secretariat and her staff, another wonderful job. On that, thank you very much everyone. We will see you next time. That concludes today's hearing and the committee now stands adjourned.

Committee adjourned at 17:46