

Rural and Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Budget Estimates May 2009
Infrastructure, Transport, Regional Development and Local Government

Question No.: AAA 01

Division/Agency: Aviation and Airports

Topic: Perth Airport

Hansard Pages: 26-27 (28/05/09)

Senator Back asked:

Senator BACK—I ask the questions because of a concern as to the fiscal status of the Westralia Airports Corporation. In terms of major capital expansion, I think Moody's have recently said that, in the absence of an improvement in market conditions and an agreement with the airlines, it is not expected to occur and will put pressure on WAC's credit rating. In other words, it causes us in the West, enormous concern that there may be some delay or in fact, termination of that particular project.

Ms Gosling—What I can do is outline some of the works currently underway and what is actually planned with that major upgrade proposal, if that would be of assistance.

Senator BACK—It would be. I would be most appreciative. Relating to the airport infrastructure itself—I will not get to the roads yet, because it is very difficult for most people to even get there—in 2007 Perth airport was the worst performer in the country with 33.6 per cent of flights delayed. I understand this has blown out to 36 per cent. Do you have any more recent figures? Can you confirm that deterioration of 33 to 36 per cent? Do you have any more recent figures?

Ms Gosling—I would have to take that on notice.

Answer:

Refer to the Bureau of Infrastructure, Transport and Regional Economics report for on-time performance figures for 2008.

http://www.bitre.gov.au/publications/17/Files/BITRE%20OTP%20Report_2008.pdf

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Question No.: AAA 02

Division/Agency: Aviation and Airports

Topic: Perth Airport

Hansard Page: 28 (28/05/09)

Senator Back asked:

Senator BACK—Thank you for that. Just with regard to access of aircraft, the Senator to my right had the dubious pleasure of flying with his good lady wife to Perth recently, and I think he is still getting over the shock of his approach into the terminal as we sort of made our way around through the barricades. There were 45 aero-bridges planned originally for the re-developed airport and I understand that have been scaled back from 25 to 45; is that correct?

Ms Gosling—I would have to take that on notice, Senator.

Senator BACK—Excellent. I guess that the aircraft we are speaking of happened to be the one the Parliamentarians fly on. Do you know if aero-bridges will be available for incoming and outgoing 737 aircraft at some time? Are you able to answer that?

Ms Gosling—I will take that on notice.

Senator BACK—I guess what I am anxious to know, as you have indicated you will provide, is the number of aerobridges. Do we know if aerobridges service 737s at other Australian airports?

Mr Tongue—They certainly do, Senator.

Ms Gosling—They do.

Answer:

Refer to Perth Airport's media release of 1 May 2008.

<http://www.perthairport.com/getfile.aspx?Type=document&ID=40702&ObjectType=3&ObjectID=3054>

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Question No.: AAA 03

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 30 (28/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—Can I have the list of approved aircraft since these regulations started, in 1995 I think for Sydney and 2000 for Adelaide?

Ms Ellis—I do have a copy of those two lists.

Senator HEFFERNAN—Can we get them tabled? I take it you have a copy of the copy, have you? Was the CL-Challenger 600-1-A11 type on the list?

Ms Ellis—No, my understanding is the aircraft that you are referring to is not actually on the list.

Senator HEFFERNAN—Was it on the list?

Ms Ellis—I would have to read the list. I am sorry, I have just shared it with you.

Senator HEFFERNAN—We will get a copy.

Ms Ellis—The circumstances are that the airports that are subject to curfew—Sydney, Adelaide, Essendon and Coolangatta—prohibit most jet movements during the night-time. The circumstances for each of those airports and curfews vary slightly. That said, for Sydney and Adelaide there is a list of prescribed aircraft that are exempt from the curfew requirements. The aircraft in question that you have mentioned is not one of those aircraft and—

Senator HEFFERNAN—The Act says that it should operate on type and the list says that it should operate on the model. Is that inconsistent?

Ms Ellis—Not according to the legal advice that we have received.

Senator HEFFERNAN—Could we see a copy of that legal advice?

Mr Tongue—We do not normally provide legal advice.

Senator HEFFERNAN—We are a bit inconvenienced in that we do not have the list. Is it my understanding that the Challenger CL-600-2B16 is on the list?

Ms Ellis—I will have to have the list.

Answer:

The original 'lists' of exempt jet aircraft under both the *Sydney Airport Curfew Act 1995* and the *Adelaide Airport Curfew Act 2000* are attached.

Departmental records show there have been 4 versions of the list of curfew-exempt jet aircraft under the *Sydney Airport Curfew Act 1995*.

The list of curfew-exempt jet aircraft under the *Adelaide Airport Curfew Act 2000* has remained unchanged.

[AA 03 – Attachment A]

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Question No.: AAA 04

Division/Agency: Aviation and Airports

Topic: Fort Street High School

Hansard Page: 31 (25/05/09)

Senator Nash asked:

Senator NASH—Aside from Fort Street High School, has the Commonwealth carried out insulation work on any other State Government-owned buildings?

Ms Ellis—Yes, the Sydney program. As far as the breakdown of public buildings is concerned, I would have to take on notice what/were state.

Senator NASH—If you could take on notice **(1)** how much was spent and where, that would be great. Given that the Commonwealth has taken responsibility for the State Government-owned buildings, **(2)** is there not any concern that an expensive precedent has been set? **(3)** Where is the line going to be drawn on what is going to be Commonwealth responsibility for State buildings from here on, outside of the context of election commitments?

Answer:

1. Attached is a copy of a list of State-owned public buildings in Sydney and Adelaide insulated under the program, as indicated by departmental records.
- 2-3 The decision to fund insulation work at Fort Street High was an election commitment.

[AAA 04 – Attachment A]

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Question No.: AAA 05

Division/Agency: Aviation and Airports

Topic: Fort Street High School

Hansard Page: 31 (28/05/09)

Senator Nash asked:

Senator NASH—There was another response to a question on notice, again from February, which declined to give details of the Fort Street High School insulation work on the grounds that the project for insulation of Fort Street High School has not yet gone out to tender. Is that the case? Has the project gone out to tender? Where exactly is that at?

Ms Ellis—As to the status of the Fort Street project, the funding does not actually come online until 1 July. In response to an approach from the New South Wales Government in March, the Government decided in April that the New South Wales Department of Education and Training would actually oversight the project. Our understanding is that there are additional works to be carried out at Fort Street High School and there are efficiencies to be achieved with the work being done simultaneously. The arrangements will be set—

Senator NASH—Sorry, can you just clarify that for somebody who does not do this sort of thing in buildings? What is the simultaneous work that is taking place?

Ms Ellis—I am not aware of the full detail of that. I could take that on notice.

Senator NASH—Given that you said there are benefits in doing it simultaneously, it would be good to know what that is.

Ms Ellis—I will take that on notice. The arrangements will be agreed between the Australian Government and the New South Wales Government through a national partnership agreement.

Answer:

The NSW Government advises the work it will be undertaking simultaneously with the noise insulation works is the refurbishment/upgrade of an on-campus science laboratory. This refurbishment is being funded under the Australian Government's *\$14.7 billion Building the Education Revolution Program* component of the *\$42 billion Nation Building Economic Stimulus Plan*.*

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Question No.: AAA 06

Division/Agency: Aviation and Airports

Topic: Legal Options for Future Communities at Tralee under Aircraft Flight Paths

Hansard Page: 33 (25/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—Now that we are on aircraft noise—and I am going to come back to airspace later—where are we up to with Tralee? The proposition at Tralee is that we are going to build a subdivision under the landing and take-off, which is just stupid, in my view—and I am a wool classer and a welder. Do we know where we are up to with that?

Ms Ellis—My understanding of the current status of the Tralee proposal is that the land has been zoned residential. There is a proposed development. The issue is that where the residences are proposed we fall within the current framework of the AS20/21 insulation standards within the 20 ANEF contour. If residences are established, it will be incumbent upon the developer to comply with relevant standards.

Senator HEFFERNAN—So will there be any—

Ms Gosling—Senator, can I just add to what Ms Ellis said. It is correct that the land has been zoned and now the decision as to whether to proceed with the development is with the New South Wales Government.

Senator HEFFERNAN—Can I just get this clear. Obviously, there was a disagreement between the operators of the airport and the developer of the land.

Senator Conroy—The operators of the airport being the largest donors to the Liberal Party in the ACT—that is the same thing?

Senator HEFFERNAN—That is for you. I understand the—

Senator Conroy—But that would be a fact, according to Electoral Commission records.

Senator HEFFERNAN—I have no idea. I do not give a rat's arse who donates to anything, because I do not think that should have anything to do with good judgment. I understand that the developer of the land might also be a donor and I do not care about that. What I care about is that Canberra has a fantastic facility which they hope to create a transport hub in. I am just wondering and curious as to why we would deliberately—and I do not know who else is in the purse of these people and I do not care, right, but obviously Queanbeyan Council has been influenced by some of it. I am interested as to why sane people, where Canberra has a fantastic facility that Sydney and other places do not, who have the opportunity to create a serious hub in aviation—would go ahead with this, knowingly agreeing to a subdivision under the flight path of the take-off and landings of this thing. There might be really good reasons why.

Ms Gosling—Senator, it is going to be a question for the State Government rather than the Commonwealth Government in terms of the development.

Senator HEFFERNAN—We do not want to revisit Wollongong. I am wondering: have you have been consulted? I mean, surely people in aviation would be able to say, 'This is stupid.' The guy who has the land, as I understand it—because I have had the discussions; I have not talked to him for three or four years and the AFP will tell you why, if you want to know—obviously has an option on the land. You say it has now been rezoned.

Senator Conroy—That is very funny.

Senator HEFFERNAN—Mate, you know my point.

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Senator Conroy—Just sledges someone—just gives us a lecture about probity and then sledges someone for being a crook. I love it.

Senator HEFFERNAN—No. Sorry, you are misinterpreting what I am saying. Will there be legal comeback on anyone if this goes ahead with the approval? So if the people who live there, who build houses under the flight path—and, sure, I have heard the argument that the plane will turn and all of that—

Senator Conroy—You raise a very legitimate point, Senator Heffernan.

Senator HEFFERNAN—Will there be—

Senator Conroy—We are happy to take it on notice.

Senator HEFFERNAN—On the developer or on the airport? It annoys me that a development goes ahead and then after the development has gone ahead, people decide to live there and then they say, 'We want to remove the airport.' That is my question.

Senator Conroy—That is a legitimate question and we will take it on notice.

Answer:

The Department is not in a position to comment on this matter.

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Question No.: AAA 07

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 33 (25/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—Could we then go back to my Challenger aircraft? These are concerns raised by people who obviously have a Challenger 600/1. In the list that you have provided, what I have asked for—and you may be able to give it to me on notice—is the list going back to the beginning of the list in the case of Sydney, 1995 and in the case of Adelaide, 2000. This list that you have given me supersedes those lists?

Ms Ellis—Yes, the two lists I have provided to you. One is a copy of the updated list that was updated by previous Minister Truss in 2005 for Sydney. My understanding is the list for Adelaide dates back to the origins of the curfew regulations for Adelaide, which is dated 2000.

Senator HEFFERNAN—So that is two lists, is it?

Ms Ellis—That is two lists.

Senator HEFFERNAN—So could we have the original list? What I would like to know—and maybe someone who is listening in the Department can tell us—is: was the Challenger 600/1 on the original list? Do you know?

Ms Ellis—My understanding is that it was not and it is not on the current list.

Senator HEFFERNAN—Yes, I am aware of that. The Act clearly states that they refer to aircraft types; is that right?

Ms Ellis—Yes.

Senator HEFFERNAN—Why then do the related regulations and instruments lists refer to all models and variances of types and not to the legal type of definition of them? **(a)**.

Ms Ellis—Senator, I am sorry; I would have to take that question on notice.

Senator HEFFERNAN—Thank you. You might have to take a few of these on notice. The models and variances described are generally sales and marketing descriptions, not legal definitions of types applied by the manufacturer and national regulatory authorities, including CASA. So, if you could give me the answer to that. Why the variation? As I said earlier, the access type and the lists say ‘model’. So, if we could have the answer to that. The people who are concerned about this have information that the CL-600 was originally on the approved list but it has since been removed and the Challenger 600-2B16 model 604 is now on the list but was not before.

Ms Ellis—That is my understanding.

Senator HEFFERNAN—But I have just said that the Challenger 600 was on the list. You say it was not.

Ms Ellis—I am sorry?

Senator HEFFERNAN—My information is that the Challenger 600 was previously on the list. **(b)**.

Ms Ellis—I will have to take that on notice because that is not my understanding.

Senator HEFFERNAN—Okay. If you do answer that the Challenger 600 was on the list, can you advise us why it was taken off the list and the process that made that possible? **(c)**.

Ms Ellis—We will do that.

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Answer:

- (a) The *Sydney Airport Curfew Act 1995* and the *Adelaide Airport Curfew Act 2000* refer to aircraft “type”. Neither Act defines the term “type”. Historically, both lists of light low noise jet aircraft have identified specific models.
- (b) The Challenger 600 was previously on the ‘list’ of curfew exempt jet aircraft in the Air Navigation Aerodrome (Curfew) Regulations for Sydney that was carried forward to the *Sydney Airport Curfew Act 1995* when it was introduced. The Challenger 600 has never been included in the list of curfew exempt jet aircraft at Adelaide.
- (c) Departmental records show that in 1999 the Challenger 600 was removed from the list following the public consultation process on the proposal to remove six aircraft types that were no longer operating from Sydney Airport.

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Question No.: AAA 08

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 34 (25/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—Why is it not possible without Ministerial intervention, as advised by your Department, to re-instate the CL600 as for the CL600-2B, as they are legally on the same type of air certificate and substantially the same aircraft and same compliant noise profiles? It is just like the difference between one type of Holden and another. Why is it not possible to sort that out?

Ms Ellis—I am not an aircraft specialist, I am afraid.

Senator HEFFERNAN—And neither am I.

Ms Ellis—My understanding of this particular situation is that it is a want for a certain operator to use an aircraft in and out of Adelaide or Sydney airport during curfew. The curfew legislation, as I say, specifies, for both Sydney and Adelaide, lists of the jet aircraft that can in fact be exempt from curfew arrangements.

Senator HEFFERNAN—I understand that.

Ms Ellis—The aircraft in question is not on that list. Changes to those lists, because they are legislative instruments, or changes to regulations would have to go through a legislative process.

Senator HEFFERNAN—(a) You are going to tell me how a plane that is on the list comes off the list. What causes it? You might take that on notice. If there are planes that have been on the list that have come off the list, what are the details of those planes and why were they on one minute and off the next? (b) In the Government fleet, do we have Challengers?

Mr Tongue—We do, actually.

Senator HEFFERNAN—(c) What model are they?

Mr Tongue—I will have to take that on notice.

Senator Conroy—That is for PM&C.

Mr Tongue—Or I guess we would have to talk to Air Force.

Senator HEFFERNAN—I would be curious where that fitted into this—that is, whether one came on the list because the Government bought the things and obviously you now have a need to fly inside and outside of curfew hours.

Mr Tongue—Generally, in aviation, exemptions are made for State aircraft. I am not sure that is the case here.

Senator HEFFERNAN—I would be curious to know what model of Challengers we have.

Mr Tongue—Certainly.

Answer:

- (a) Inclusion of small, low noise jet aircraft on the list of curfew exemptions at Sydney and Adelaide airports is a decision for the Minister of the day. Changes to the list under section 15 of the *Sydney Airport Curfew Act 1995* are detailed in the **attachments to AAA 03**. There have been no changes to the original Adelaide list.

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While neither Act prescribes a mechanism for determining what aircraft are permitted on the list, changes can be made if the Minister chooses. The Sydney Act specifies the public consultation process (see Clause 26) required if the Minister proposes to make changes to the list.

- (b) The Government fleet operated by RAAF Squadron 34 includes Challenger 604 aircraft.
- (c) Refer to (b) above.

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Question No.: AAA 09

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew legislation

Hansard Page: 35 (25/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—(a) There are a significant number of Australian aircraft on the register that are fully compliant in regard to the core requirements of the Act, including the Challenger 600-1, that are not permitted to operate within curfew hours—that is, under what the act says on type. Why is that so? What is the mechanism that is used to decide who does and does not get on the list?

Ms Ellis—I am happy to take your questions on notice.

Senator HEFFERNAN—(b) I am happy for you to do that. Why is it that there are three aircraft types—Falcon 200, HS125-700B, Mitsubishi MU300—that are on the list but are no longer operated in Australia but can be operated by foreign operators within curfew hours? .

Ms Ellis—Again, Senator, I will take your question on notice.

Senator HEFFERNAN—(c) What is the mechanism or justification that is used to discriminate on which of the Act compliant, Australian registered aircraft types are entered or not entered on the list of aircraft permitted to operate during curfew hours? Do you want me to repeat that?

Ms Ellis—No, I will take it on notice.

Senator HEFFERNAN—But you did not hear the question.

Ms Ellis—I am happy for you to repeat it.

Senator HEFFERNAN—It would be more polite if you heard the question then took it on notice. Wouldn't you agree?

Ms Ellis—My apologies, Senator.

Senator HEFFERNAN—What is the mechanism or justification that is used to discriminate on which of the Act is compliant, Australian registered aircraft types are entered or not entered on the list permitted to operate during curfew hours?

Ms Ellis—Senator, I think it would be helpful if we come back to you with the process. As I say, the issue at stake here is the particular operator's aircraft is not on the list—

Senator HEFFERNAN—And it has never been on the list.

Ms Ellis—I have taken that on notice to confirm. My understanding is it has not been.

Answer:

(a) Refer to AAA 08 (a)

(b) While some aircraft may not currently operate in Australia, they remain on the list if they still meet the requirements of section 15 of the Sydney Curfew Act and remain certified by CASA for operations at Sydney airport.

(c) Refer to AAA 08 (a).

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Question No.: AAA 10

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 36 (25/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—So, you have legal advice to the effect that the Act, which specifies on type, is not watertight, that you can get around it?

Ms Ellis—No, that is not what I am saying.

Senator HEFFERNAN—So, is the Challenger 600-1 compliant or not under the Act?

Ms Ellis—It is not included on the list and it is therefore not exempt—

Senator HEFFERNAN—No, that is not my question. Is it compliant under the Act? I know it is not on the list. Is it compliant to be on the list under the Act?

Senator Conroy—We will happily take that on notice and get you a precise answer.

Senator HEFFERNAN—Thank you. There is a respite period now, Minister, because I will move to Senator Back.

Answer:

The Challenger 600 is currently not on the list of curfew-exempt aircraft at either Sydney or Adelaide Airports.

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Question No.: AAA 11

Division/Agency: Aviation and Airports

Topic: Perth Airport

Hansard Page: 36 (28/05/09)

Senator Back asked:

Senator BACK—Just before I go to regional airports, I want to confirm the Minister’s offer to take on notice the question regarding the possible fate of the priority regarding the inter-modal project for Perth. Could the Minister in that same response also advise whether there are any mechanisms by which the Westralia Airports Corporation can seek other means of Government support to facilitate the development of the planned expansion? I repeat what I mentioned yesterday, and it is in that 2009 report, that the current cost to the Western Australian economy of the deficiencies of the airport is estimated at, I think, \$21 million, but more frightening is the fact that their plan suggests that by 2011-12 the loss to the economy will be \$207 million per annum. I ask if the Minister could take that on board, because that is a particularly serious issue, especially—

Senator Conroy—I am happy to add that to the issues we have taken on notice for you, Senator Back.

Answer:

On 8 May 2009, the Chief Executive Officer of Westralia Airports Corporation wrote to key stakeholders, including the Department of Infrastructure, Transport, Regional Development and Local Government, to confirm that they are proceeding with the staged inter-modal project for Perth airport through consolidation of all regular passenger transport services into the current international precinct. The project is expected to commence this year with the construction of “Terminal WA”.

In 1997, responsibility for the management and development of Perth Airport was transferred from the Commonwealth to Westralia Airports Corporation under a long-term lease. Under the privatisation model, the Commonwealth has not funded on airport infrastructure or re-development proposals.

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Question No.: AAA 12

Division/Agency: Aviation and Airports

Topic: Remote Aerodrome Safety Program Funding

Hansard Page: 37 (28/05/09)

Senator Back asked:

Senator BACK—Are you aware of aerodromes or councils that actually have not been able to get their act together and make application in a way adequate to be assessed? In other words, are you aware of airstrips around rural and remote Australia where they would be at risk of the Royal Flying Doctor Service not being able to land under adverse conditions, conditions sufficient for normal operation of those aircraft?

Mr Borthwick—I am not aware specifically of that information. I should add that, as part of our assessment process for the applications, the assessment panel includes a representative of the Royal Flying Doctor Service who brings the direct experience of operations into-and-out of the aerodromes that have applied. Through that process, they could put forward suggestions about aerodromes that they know about which perhaps did not apply, and we would contact that local council and encourage them to apply and provide whatever assistance we can to assist them in framing the application.

Senator BACK—Does the Department have sufficient funding, in the event that those applications come through, to be able to assist?

Mr Borthwick—I think in the most recent round, which has closed, there have been more applications for funding than we have funding available.

Senator BACK—In line with that—and I realise you would not have the information now—could you take on notice: is it possible for us to be informed of remote airports and amounts that actually have been successful over the last 12 months, 18 months to two years?

Mr Borthwick—That information is currently on our website, but we are happy to provide it to you as well.

Answer:

See <http://www.infrastructure.gov.au/transport/programs/aviation/rasp/>

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Question No.: AAA 13

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 40 (28/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—There you go. Can I go back to where I was? If so, I am reliably informed—and I stand to be corrected—that the Government Challengers are the 604s, which are on the list.

Senator Conroy—We said we would get back to you on that. We do not know that to be the case.

Senator HEFFERNAN—Anyhow, you can still get back to me. **(a)** With regard to compliance with weight and noise requirements under the act, unless the regulations and instruments have been used to discriminate against compliant aircraft, some people are arguing that the Act should define the types that should be on the list. The list is based on the model; is that right?

Ms Ellis—The list is based on what, Senator?

Senator HEFFERNAN—Not the type but the model.

Ms Ellis—I think we are getting into a legal argument and I am definitely not qualified—

Senator HEFFERNAN—And neither am I.

Ms Ellis—to give you an answer. You have asked if the 600 is—

Senator Conroy—We will take it on notice.

Senator HEFFERNAN—You will take it on notice?

Senator Conroy—Yes.

Senator HEFFERNAN—**(b)** Okay. Simple compliance with the weight and noise requirements under the act should be all that is required, surely. I mean, you either comply or you do not. If you comply, you should be on the list. Wouldn't that be a reasonable thing to say?

Senator Conroy—You are asking opinion now.

Senator HEFFERNAN—No.

Senator Conroy—Yes, you are. We are happy to take the question on notice.

Senator HEFFERNAN—Well, I will assert—

Senator Conroy—You can assert it and then you are asking the officer to comment on it.

Senator HEFFERNAN—No.

Senator Conroy—That does not change the fact that—

Senator HEFFERNAN—No, I would never do such a thing. If you complied with the weight and noise requirements under the act, that would have the added benefit of it not being necessary for the Minister or the Department to modify the list every time there is a new entrant onto the Australian register or a new compliant-type certificate added. You are either the right type, the right noise profile and the right weight or you are not, but that does not seem to be the way the system operates. We understand that the Act must also apply to foreign-registered aircraft; is that right?

Ms Ellis—Yes, Senator.

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Senator HEFFERNAN—Very good. Their suitability will of course be measured against the act and type, but is it true that they are also subject to a separate form of regulatory control for entry into Australia by your Department?

Mr Tongue—If they are regular passenger aircraft being flown by a foreign airline then they are subject to a whole range of controls to do with safety and security and then they receive a licence to fly into Australia. If you are talking about charter, there are different arrangements. The answer is: it depends on the circumstance but, yes, there are other controls.

Senator HEFFERNAN—(c) Obviously, these people are concerned—and our job is to represent concerns—that they are being denied the opportunity to earn regular and export income as a consequence of the interpretation of the Act. That is, their Challenger 600/1 is compliant under the Act but excluded under the list. They are of the view that the list has the unintended consequence of discriminatory conduct by Government, restraint of interstate trade, loss of significant export income, economic loss to the company and inability to hire more staff to service the existing demand currently filled by foreign competitors. So, with that in mind, I would be grateful if we could clear up this matter. Obviously if this 600/1 was originally on the list, we have all got a serious problem.

Mr Tongue—We will take the question on notice. I would simply note that the intended nature of the list is to protect people under flight paths.

Senator HEFFERNAN—Yes, I agree with that.

Answer:

- (a) Refer to the answer to AAA 07 (a).
- (b) Refer to the answer to AAA 08 (a).
- (c) Refer to the answer to AAA 08 (a).

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Question No.: AAA 14

Division/Agency: Aviation and Airports

Topic: Land at Badgerys Creek

Hansard Page: 41 (28/05/09)

Senator Nash asked:

Senator NASH—On the issue of the second airport, Badgerys Creek is no longer an option? That is completely off the radar?

Mr Tongue—Correct, Senator.

Senator NASH—What is the Government's plan for the land, then? I used to live in the area when all of this was happening and all of the acquisitions were occurring, which was an inordinately long time ago now. If the airport is not going ahead, what is the plan for the land?

Mr Tongue—That is a question for the Government.

Senator NASH—Minister, I suppose you are not—

Senator Conroy—I will take that on notice.

Answer:

The Government has ruled out Badgerys Creek as a second airport for Sydney.

The future use of the site will be considered in a joint Commonwealth/NSW Government study.

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Question No.: AAA 15

Division/Agency: Aviation and Airports

Topic: Sydney Airport Capacity

Hansard Page: 42 (28/05/09)

Senator MacDonald asked:

Senator IAN MACDONALD—(a) Under the current arrangements what is the maximum number of movements for Sydney airport?

Ms Gosling—In terms of hourly movements there is the 80 movements per hour cap, if that is what you mean. It is difficult to say.

Senator IAN MACDONALD—Following up from Senator Nash's question, **(b)** how do you assess when the airport is at full capacity—when the maximum number of movements have been reached?

Mr Tongue—Capacity is an interesting question. You can talk about hourly capacity, which is the 18 movements an hour cap, but it is also how movements are distributed through the day. For example, Sydney airport seems to be peaky—morning arrivals and afternoon departures. Basically, the answer to your question is a complex sort of issue about when capacity is reached.

Senator IAN MACDONALD—Under the current operating plan the maximum is 80 movements per hour for 18 hours a day, is it?

Mr Tongue—We are having to do the maths.

Senator HEFFERNAN—We will not hold you to it.

Senator IAN MACDONALD—When does the curfew start? Is it 10?

Ms Ellis—Eleven pm to 6 am.

Senator IAN MACDONALD—That is seven hours off 24, which is 17 hours a day. **(c)** So, the maximum use is 80 movements for 17 hours. How many of those hours are now at capacity, at 80 movements?

Ms Gosling—We will take that on notice.

Senator IAN MACDONALD—What I am seeking, and Senator Nash was referring to, is how many movements there are currently in each of those 17 hours.

Ms Gosling—We will take it on notice.

Senator IAN MACDONALD—That is doable, is it?

Ms Gosling—It is a question of whether you are doing actual movements for a set period, whether you are doing an average day or a busy day. We will try to give you some illustration.

Senator Conroy—We will try to give you an answer.

Answer:

- (a) The *Sydney Airport Demand Management Act 1997* (the Act) sets the maximum movement limit to apply at Sydney Airport outside the curfew period. The maximum movement limit is no more than 80 *aircraft movements* per regulated hour at Sydney Airport, excluding exempt aircraft movements under Part 3 Division 5 of the Act. *Aircraft movement* relates to movements of aircraft on and off a runway.

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- (b) There is no simple measure for assessing airport capacity. Apart from the movement cap, issues such as congestion in airspace, on runways, taxiways and aprons become relevant, as do environmental constraints (e.g. operating modes, weather, curfews) and limitations on aircraft parking stands, gates and terminal capacity (e.g. check-in and baggage delivery).

- (c) To implement a system of management for avoiding breaches of the 80 movement cap, slots for *gate movements* are allocated based on the scheduled arrival and departure of aircraft at the terminal gates. While there is an overall correlation between *gate movements* and *aircraft* (runway) *movements*, there can be significant differences in the period between a *gate movement* and its related *runway movement*, depending on a range of operational factors.

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Question No.: AAA 16

Division/Agency: Aviation and Airports

Topic: Exempt Aircraft Lists for Adelaide and Sydney Airport Curfew Legislation

Hansard Page: 42 (28/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—A former employee of Bombardier, the manufacturer of the Challenger aircraft, is prepared to swear that the Challenger 600 was on list in the late 1990s and was taken off and replaced by the 604 in the context of negotiations between Bombardier and the Government for the RAAF tender.

Senator Conroy—We appreciate—

Senator HEFFERNAN—A swap occurred.

Senator Conroy—that piece of information. As we said, we will take it on notice and come back to you with the situation as far as we are able to ascertain.

Answer:

Refer to the answer to AAA 07.

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Question No.: AAA 17

Division/Agency: Aviation and Airports

Topic: Swine Flu

Hansard Page: 56 (28/05/09)

Senator Back asked:

Senator HEFFERNAN—On that very issue, I understand a cleaner was threatened with the sack for refusing to go on board a plane carrying a passenger with possible swine flu. See media release dated 1 May 2009. Could you investigate that on behalf of this Committee?

Mr Tongue—I will take that on notice—

Answer:

Qantas publicly denied the allegations and indicated that the airline is not aware of any cleaner refusing to clean an aircraft.

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Question No.: AAA 18

Division/Agency: Aviation and Airports
Topic: Burnie and Devonport Airports
Hansard Page: 60 (28/05/09)

Senator Milne asked:

Senator MILNE—Thank you. I apologise, because I should have asked this in the Aviation and Airports Section, but to some extent it is Airservices as well. There is quite a lot of concern on the north-west coast of Tasmania about ongoing air services, particularly to Devonport. If you cannot answer this and it relates to the people who were here before, then could you take it on notice? Has there been any discussion—there has been media speculation—about the possible sale of the Devonport Airport, leaving the Burnie Airport as the main airport in North West Tasmania?

Mr Tongue—Senator, that is one for the Department, and I will happily take that on notice and see what we can find for you.

Senator O'BRIEN—The Devonport airport is owned by Tasports?

Senator MILNE—It is owned by Tasports.

Senator O'BRIEN—So, it is not a Federally-owned airport.

Mr Tongue—We can endeavour to find out what we can.

Senator MILNE—Nevertheless, I would be very interested. If I can just explain, there has been media speculation that Tasports is in negotiation for the sale of that airport. That would significantly alter air services going to the north-west of Tasmania and the mix in Tasmania, and I would just like to know if there has been any discussion about the sale; or, if the airport is sold, are there conditions requiring that it remain as an airport and that the appropriate level of oversight and whatever, in terms of air safety standards, would continue to apply. So, any information you could give me about the future of those two airports, Burnie and Devonport, and any discussion about them, I would appreciate that. Thank you.

Mr Tongue—I am happy to go hunting, Senator.

Senator MILNE—Thank you.

CHAIR—Thank you, Senator Milne.....

Answer:

Burnie Airport

The Burnie Airport Corporation purchased Burnie Airport from the Burnie Port Corporation on 1 February 2002.

A condition of sale was that the airport is operated and maintained as an airport open to public use and the aerodrome be available to open, unrestricted and non-discriminatory access by aircraft operators on reasonable terms and conditions.

The operation and maintenance of this airport is subject to the safety regulations and standards set under the *Civil Aviation Act 1988* and administered by the Civil Aviation Safety

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Authority. The airport must also comply with security standards set by the Office of Transport Security.

The Department has not been advised of any discussions relating to the future of Burnie Airport.

Devonport Airport

The Department has not been advised of any discussions relating to the possible sale of Devonport airport.

Under the terms of the Deed applying to Devonport airport, Tasports is not permitted to close the airport or take actions that would result in closure of the airport without having obtained the consent of the Secretary to the Department of Infrastructure, Transport, Regional Development and Local Government.

The operation and maintenance of this airport is subject to the safety regulations and standards set under the *Civil Aviation Act 1988* and administered by the Civil Aviation Safety Authority. The airport must also comply with security standards set by the Office of Transport Security.

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Question No.: AAA 19

Division/Agency: Aviation and Airports

Topic: Compensation Claim for Defective Administration: Canberra Airport Sub-Lease

Hansard Page: 60 (28/05/09)

Senator Heffernan asked:

Some people have made the following allegation. They state:

The Commonwealth failed, prior to the privatisation of airports in the nineties, to provide existing sub-lessees adequate opportunity to regularise their lease terms in order to secure a value for their capital improvements ...

We know that argument. They continue:

The Commonwealth has acknowledged its stated aim was to maximise the sale price of airport operations at the expense of the existing leaseholders. If you are going to sell it, you are going to tell the bloke who has owned it. As has been demonstrated at Canberra airport, there are lots of opportunities.

These people also allege:

The Commonwealth failed, despite provision to disallow airport master plans, to retain adequate control over airport operators, following privatisation, to ensure they act reasonably in respect of existing sub-lessees. This company, who I will not name, sought to renew long-term leases on its two sites in the year prior to the privatisation of Canberra airport in May 1998.

They go on to say:

The Federal Airports Corporation failed to give the applications proper consideration prior to the airport's sale. Discussions had been on the basis of a security of 25-year leases in return for significantly increased ground rental. The Federal Airports Corporation also failed to follow up an August 1997 ministerial direction setting out processes to follow where existing lease negotiations were in train. Despite the opportunity, the transport department failed to intervene when notified of this company's concerns prior to the airport's sale. The new airport operator subsequently failed to renew the first of a five-year option on one of the two leases, claiming that the site was shortly required for development purposes. And we can obviously see some of the spectacular development that has taken place.

Further, they say:

The then recently (refurbished) hangar complex was sold at a nominal sum. We otherwise had to demolish it and the airport operator proceeded to rent it out to our competitor. In reality, the hangar remained in situ for the next eight years. The other lease expired on 30 September 2004. The operator extended our tenure on the site at greatly increased rent—and we have seen all this at Bankstown as well—until July 2007, when we were given two weeks notice to quit and demolish the buildings. Alternative sites that were offered to us entailed the construction at our expense not only of a hangar and an office complex in a non-general aviation precinct on a remote part of an airfield, but also apron and taxiway. Moreover, the lease offer was for only 12 years, making amortisation of the costs over such a short period virtually impossible. The improvements would have been effectively gifted to the airport operator on lease expiry. Our presence at this airport is now curtailed and we had to relocate, including constructing new maintenance facilities, at another place at great cost and business dislocation. Our losses, readily quantifiable, through the failure to be granted the new lease is approximately \$4 million to \$5 million. Our original 2002 claims for defective administration and/or an act of grace payment to redress our losses were rejected by the then Transport Minister and Finance Minister respectively, based largely on advice

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from the Australian Government Solicitor and statements by the particular airport management. The Commonwealth Ombudsman has also examined the matter. He found that we had been disadvantaged by the privatisation process, the Federal Airports Corporation and subsequent treatment by the new airport operator, but he was not prepared to intervene on our behalf. The basis of our now reopening the matter is that we have had the opportunity to read the 2003 Attorney-General's legal opinion that was relied upon by the former minister in declining our original defective administration claim. Our detailed April 2008 submissions addressed to the Attorney-General identify significant areas. The Attorney-General referred the matter to the Federal Transport Minister, who passed it on to the Finance Minister to consider an act of grace application. This was followed up with a letter on 15 January to the Minister, pointing out the Department's responsibility to reconsider the defective claim. We have received no response, nor to a later letter of 5 May, addressed to the acting Departmental Secretary. We would like acknowledgement ... our matter was mishandled ... an undertaking from Department officials that they will immediately refer our 2008 submissions to the AGs, in order that the AGs might re-consider the merits of our defective administration claim and, whilst they are at it, the act of grace application, albeit that the grant or not of this is a decision for the Finance Minister or his delegates.

I will fill you in with the names that are missing at an appropriate time, because there is a feeling by some of the people involved in this that they can be intimidated and their business life made difficult by naming the various bits of it in public.

Mr Tongue—Senator, it sounds like a complex matter and I am happy to take it on notice. The question you are chasing is the current state of the matter?

Answer:

In relation to the matter identified in Senate Estimates Question AAA 19 of 28 May 2009, the Department has received a written application to review a series of decisions by the Australian Government to refuse a compensation claim under the Scheme for Compensation for Detriment caused by Defective Administration. The Department has referred the matter to the Australian Government Solicitor for advice.

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Question No.: AAA 20

Division/Agency: Aviation & Airports

Topic: Australian Airspace Policy Statement

Hansard Pages: 78-79 (28/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—Very good. Some might say that NAS is not in the US airspace classification system, but on page 23 of the Minister's Airspace Policy Statement, it is clearly set out there what our position should be. There is now a new draft policy statement, which I think you have got.

Mr Cromarty—Yes.

Mr Tongue—Senator, can I just clarify: is that the draft that was released on 2 December 2008, with the Aviation Green Paper.

Senator HEFFERNAN—As I understand it, it is the latest draft.

Mr Cromarty—No. That is not correct, Senator. This is the one that was released for public consultation; it is not the latest version.

Senator HEFFERNAN—Could we have the latest?

Mr Cromarty—You would have to seek that from the Department.

Mr Tongue—Certainly, Senator, we will get that for you.

Answer:

The draft released on 2 December 2008 is the latest publicly-available draft of the next Australian Airspace Policy Statement.

The final Statement will be provided to the Committee when it is agreed to by the Minister for Infrastructure, Transport, Regional Development and Local Government.

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Question No.: AAA 21

Division/Agency: Aviation & Airports
Topic: Australian Airspace Policy Statement
Hansard Page: 79 (28/05/09)

Senator Heffernan asked:

Senator HEFFERNAN—That one there, which is not the latest one, removes any reference to NAS or upgrading the airspace in any specific way. Why is that?

Mr Cromarty—The reason that—

Senator HEFFERNAN—It is a single document that replaces a much larger document.

Mr Cromarty—I understand, yes.

Senator HEFFERNAN—And it has taken out—

Mr Cromarty—The airspace policy statement from 2007, Senator, was an excellent document for doing what it was designed to do, which was to cover the transition from regulation of airspace by Airservices to CASA. And I fully understand and support that document because it set out, in some considerable detail, how we should operate. The drawback with that is that within this document there are several differences of requirement, some of which we have already touched on. So, for example, it says ‘Do NAS, but do risk-based.’ It says to take public transport operations as our first priority, and yet we should also consider other aspects of equitable access and efficiency. So, there are various aspects of this which are difficult to reconcile on occasion. In the new draft, what we are trying to do—

Senator HEFFERNAN—Which is the one I have not got, is it?

Mr Cromarty—Even in this particular version what we tried to do was to allow CASA the flexibility to do what was best for Australia in any particular circumstance.

Senator HEFFERNAN—By having no guidelines at all.

Mr Cromarty—There are principles in here, in the same way that there were in the original policy statement.

Senator HEFFERNAN—But there is no reference to NAS in there.

Mr Cromarty—No, there is not.

Senator HEFFERNAN—That is curious, is it not?

Mr Cromarty—But similarly, in the present policy statement it says—

Mr McCormick—Senator, while Mr Cromarty looks for the page number, that draft that we are referring to—

Senator HEFFERNAN—Which is the second latest version?

Mr McCormick—Indeed, or the one that you have. I have not released that or signed off on that document, which will require my signature before it went to—

Senator HEFFERNAN—You will put your wise head to it before it—

Mr McCormick—To the Department.

Senator HEFFERNAN—In due course, and at the appropriate moment, you will make that available to this Committee.

Mr McCormick—That is correct, Senator.

Senator HEFFERNAN—Thank you very much for your assistance.

Answer:

Once a new version of the Australian Airspace Policy Statement has been finalised a copy will be forwarded to the Committee.

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Question No.: AAA 22

Division/Agency: Aviation and Airports

Topic: Sale of Devonport Airport

Hansard Page/s: Written Question

Senator Milne asked:

1. When the Devonport airport was sold by the Commonwealth initially, what were the conditions of the sale regarding ongoing air services?
2. Have those conditions been met to date, given that the airport was sold to Tasmanian Ports? In full? In part? Please give details.
3. What powers does the Commonwealth have to enforce the original terms of sale?
4. Is the future of Devonport airport and a possible sale under discussion currently?
5. Do the original conditions of sale from the Commonwealth still apply? If not, why not?

Answer:

Refer to AAA 18.

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Question No.: AAA 23

Division/Agency: Aviation and Airports

Topic: Federal Airports Corporation Leases and Sub-Leases

Hansard Page/s: Written Question

Senator Heffernan asked:

1. How many sub-lease renewal applications were in train at FAC airports (listing Canberra separately) at the time of issue of the August 1997 Ministerial Direction to the FAC and FAC guidelines outlining the processes to be followed in the period leading to privatisation?
2. What additional resourcing was provided to FAC management to help them deal with the anticipated increase in sub-lease renewal applications following the announcement of airport privatisations?
3. What appeal mechanisms were available to sub-lessees who were not satisfied with either FAC and/or then departmental decisions relating to lease negotiations during the pre-privatisation period.

Answer:

1. In accordance with the *Archives Act 1983*, records greater than seven years old may be subject to disposal. Not all records held by the former Federal Airports Corporation (FAC) from that time still exist. To investigate any remaining records across all airports subject to the privatisation process is not considered an appropriate allocation of Government resources.
2. Similar to the response to Question 1, not all records held by the former FAC still exist. To investigate any remaining records is not considered an appropriate allocation of Government resources.
3. The function and powers of the FAC were established under the *Federal Airports Corporation Act 1986* (FAC Act). Section 9(b)(i) of the FAC Act confers the FAC with the power to “grant a person a lease of ... an area, a building, or a part of a building, at a Federal airport...” The FAC Act does not provide for any appeal mechanisms available to sub-lessees.

The Ministerial Direction of 18 August 1997 directed the FAC to consult with the Department prior to making any decision to enter into lease arrangements which have effect beyond 30 June 1998. Neither the Ministerial Direction, nor the subsequent leasing policy provided any appeal mechanism available to sub-lessees.

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Question No.: AAA 24

Division/Agency: Aviation and Airports

Topic: Noise Insulation for Public Buildings

Hansard Page/s: Written Question

Senator NASH asked:

1. Why was the insulation of these State Government buildings not the responsibility of the respective State Government?
2. Why did it become the responsibility of the Commonwealth to carry out the insulation work given that the buildings were owned by State Governments?
3. Aside from Fort Street High School, has the Commonwealth carried out insulation work on any other State Government-owned buildings? If so, how much was spent and where?
4. Given that the Commonwealth has taken responsibility for State Government-owned buildings in this case, has an expensive precedent been set?
5. Will the Commonwealth have to take responsibility for the insulation of any other State Government-owned buildings?
6. If so, how will the cost of this work be met?

Answer:

1. The framework approved by the Government for the insulation program was that eligible public buildings were eligible for insulation under the program regardless of ownership.
2. Refer to 1 above.
3. Refer to answer AAA 05.
4. Refer to 1 above.
5. This is a matter for future Government policy.
6. This is a matter for future Government policy.

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Question No.: AAA 25

Division/Agency: Aviation and Airports

Topic: Noise Insulation for Public Buildings

Hansard Page: Written Question

Senator Nash asked:

1. Is this an inadvertent oversight or is there still more work to be done at Fort Street High School that has not yet gone out to tender?
2. Are the details of the \$14.5 million project to insulate Fort Street High School in the Minister for Transport's electorate now available given that the work has been completed?
3. If not, when will this information be made available?
4. Maureen Ellis stated in the October 2008 round of Senate Estimates that the details would not be available until 2009. Given that we are well into 2009, will the details be made available this year?
5. If not, why are the details still being withheld?

Answer:

Refer to AAA 05.

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Question No.: AAA 26

Division/Agency: Aviation and Airports

Topic: Noise Insulation for Public Buildings

Hansard Page: Written Question

Senator Nash asked:

1. Does this mean that further work could be commissioned?
2. If so, what would be the estimated cost of this work and how would this cost be met?

Answer:

1. At this stage, the Australian Noise Exposure Index contours for 2008 are still being developed by an external consultant.
2. The Department is unable to provide an answer to this question.

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Question No.: AAA 27

Division/Agency: Aviation and Airports

Topic: Noise Insulation for Public Buildings

Hansard Page/s: Written Question

Senator Nash asked:

1. Has the insulation work been put out to tender?
2. What is the estimated cost of the insulation work at these sites?
3. How will this cost be met?

Answer:

- 1-2 The tenders for this work are currently being prepared.
3. The cost of insulating these churches is met through Budget funding and recovered over time through the Aircraft Noise Levy on jet landings at Adelaide airport.

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Question No.: AAA 28

Division/Agency: Aviation and Airports

Topic: Sydney Airport Capacity

Hansard Page/s: Written Question

Senator Nash asked:

The Government's National Aviation Green Paper states on page 17 that *Sydney Airport is approaching capacity*.

When will Sydney Airport approach capacity?

Answer:

Refer to AAA 15.

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Question No.: AAA 29

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

Given that Badgerys Creek is not going to be used as the site for a second airport, what is the Government's plan for the land?

Answer:

Refer to AAA 14.

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Question: AAA 30

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

Will the Commonwealth sell it?

Answer:

Refer to AAA 14.

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Question: AAA 31

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

Have any discussions to that end occurred?

Answer:

Refer to AAA 14.

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Question No.: AAA 32

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

What sites are being considered for the second airport?

Answer:

Refer to AAA 14.

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Question No.: AAA 33

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

What are the options?

Answer:

Refer to AAA 14.

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Question No.: AAA 34

Division/Agency: Aviation and Airports

Topic: Badgerys Creek Land Use

Hansard Page/s: Written Question

Senator Nash asked:

What are their respective merits?

Answer:

Refer to AAA 14.