



The Parliament of the Commonwealth of Australia

**Report on the Provisions of the**  
**SYDNEY AIRPORT DEMAND MANAGEMENT**  
**AMENDMENT BILL 2001**

**Report by the Senate Rural and Regional Affairs and Transport**  
**Legislation Committee**

**May 2001**

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## ABBREVIATIONS

<b>ACA</b>	Airport Coordination Australia
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>BARA</b>	Board of Airline Representatives in Australia
<b>DTRS</b>	Department of Transport and Regional Services
<b>IATA</b>	International Air Transport Association
<b>KSA</b>	Kingsford Smith Airport
<b>NCC</b>	National Competition Council
<b>REROC</b>	Riverina Eastern Regional Organisation of Councils
<b>SACL</b>	Sydney Airports Corporation Ltd
<b>SMS</b>	Slot Management Scheme





# CHAPTER ONE

## THE COMMITTEE'S INQUIRY

### Reference of the Bill to the Committee

1.1 On 4 April 2001, on the recommendation of the Senate Selection of Bills Committee, the Senate referred the *Sydney Airport Demand Management Bill 2001* (the Bill) to the Legislation Committee for inquiry and report by 23 May 2001.<sup>1</sup>

1.2 The Committee is required to specifically consider:

- a) The impact of changes with respect to the *Trade Practices Act 1974*;
- b) The discussion paper released by the Department of Transport and Regional Services on the proposed changes;
- c) The ACCC decision on Ansett's takeover of Hazelton Airlines; and
- d) The impact on capacity at Sydney Airport and access of regional airlines.

1.3 In view of the ACCC's approval of the Ansett takeover of Hazelton Airlines, subject to an Undertaking to the ACCC by Ansett, the Committee sees no need to comment further on that matter at this time.

### The Committee's Inquiry

1.4 On referral of the provisions of the Bill, the Committee sought submissions from Government and other groups and bodies associated with and representing the interests of the aviation industry for their views. The Committee received eight written submissions, which are listed at Appendix 1 of the Report.

1.5 The Committee held a one-day public hearing on the Bill in Sydney on Thursday, 3 May 2001. The witnesses who appeared at the hearing are shown at Appendix 2 of the report.

1.6 All submissions made to the Committee and the *Hansard* of the Committee's hearing on the Bill are tabled with this report, together with supplementary material provided to it following the Committee's hearing. The *Hansard* of the hearing is available at the Hansard site on the Parliament House homepage on the Internet ([www.aph.gov.au](http://www.aph.gov.au)).

1.7 The Committee also acknowledges the co-operation of the Minister for Transport and Regional Services, the Hon John Anderson MP, in the provision of submissions provided to the Department as part of its consultation process, following publication of the March Discussion Paper, and also for the provision of the drafting instructions. These documents were of assistance to the Committee in its deliberations.

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1 *Journal of the Senate*, 4 April 2001, p 4175

**Consideration of the Committee's Report**

1.8 The Committee met on Monday, 21 May 2001 to consider its report.

**Acknowledgments**

1.9 The Committee acknowledges the assistance and contribution made to its inquiry by all those who prepared written submissions on this inquiry at short notice. The Committee also acknowledges the assistance provided at its public hearing on the Bill by all witnesses, and the prompt provision of supplementary information requested by the Committee. This co-operation has allowed the Committee to prepare and present its report on time.

1.10 The Committee also acknowledges the assistance provided to it in its examination of the Bill by reference to the analysis provided by the Law and Bills Digest Group of the Parliamentary Library.

## CHAPTER TWO

### SYDNEY AIRPORT CAPACITY MANAGEMENT

#### Introduction<sup>1</sup>

2.1 A slot management system has been adopted at Sydney Airport to manage access to the airport. The Sydney Airport Slot Management Scheme, established under the *Sydney Airport Demand Management Act 1997*, sets out comprehensive rules for allocating slots between airlines. Access for regional airlines is guaranteed with provision for new entrants. The Slot Management Scheme was formally implemented on 29 March 1998. In December 2001 the Government announced proposed changes to the Slot Management Scheme.

2.2 The justification for implementing the Slot Management Scheme initially was:

a) The establishment of a slot system, in tandem with the runway hourly cap through legislation, will provide a clear long term guide to airlines and airport planners. It will also ensure that the peak hour movements, which are approaching the 80 cap, can be managed in a non-discriminatory and efficient manner.

b) Without a planning mechanism for runway movements at the airport, congestion will increase, imposing a significant cost on airline operators (eg increased holding patterns), airline passengers (eg delayed arrival or departure), the airport operator (eg inefficient use of the infrastructure) and the community generally.

c) As most interstate operations hub through KSA the efficiency dividend from improved planning techniques at KSA will have flow-on network benefits for other Australian airports.<sup>2</sup>

2.3 The advantages of the Slot Management Scheme are described by the Department of Transport and Regional Services to be:

a) less clustering of flights in airline schedules;

b) greater predicability for investment;

c) fewer delays, and as a consequence fewer delays at other airports;

d) reduced time spent by Airservices Australia rescheduling airlines, thereby increasing resources available for core responsibilities;

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1 In March 1999 the References Committee produced a report titled *The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport On Regional Airlines and Communities*. Chapter two of that report contained a summary of the history of the introduction of slot management at Sydney Airport (Kingsford Smith Airport) as well outlining the attributes of the scheme. The introductory section of the present report draws on the material set out in the earlier References Committee report.

2 DTRS Website, 14 May 2001

- e) guaranteed access for NSW regional communities;
- f) less fuel waste leading to savings in costs and reduced emissions; and
- g) airlines rescheduling movements to improve the balance of arrivals and departures at certain peak times.<sup>3</sup>

2.4 The Government's objectives in proposing changes to the Slot Management Scheme were described at public hearing as follows:

The amendments to the scheme that are foreshadowed are really directed towards balancing a couple of objectives that the government has in mind. One is obviously to maximise the utility and efficiency of the existing capacity at Sydney (Kingsford Smith) Airport and, on the other hand, to ensure that the government's commitments to ensuring that there is continuing reasonable access by regional communities and the airlines that serve them to Sydney airport can be sustained. The amendments are directed towards striking a balance between those two critical objectives.<sup>4</sup>

2.5 As part of its 13 December announcement the Government stated that in its view Sydney airport was handling its growing level of traffic comfortably and that it was premature to build a second major airport in the city.<sup>5</sup> Instead, the Government announced that it had decided to maximise the use of Sydney airport by encouraging the use of larger aircraft into Sydney through amendments to the Slot Management Scheme, while at the same time making the following guarantees:

- a) Guaranteeing regional access to the airport;
- b) No alteration to the curfew; and
- c) Maintaining the current movements cap at 80 per hour.

### **The current arrangements**

2.6 Specifically, the *Sydney Airport Demand Management Act 1997* provides for:

- a) the allocation of slots permitting aircraft movements;
- b) the limitation of aircraft movements at the airport (otherwise than during curfew periods); and
- c) setting of the maximum movement limit at the airport while providing for the monitoring of compliance with that limit.

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3 DTRS, website, 14 May 2001

4 Evidence, 3 May 2001, p 3

5 Department of the Parliamentary Library, *Bills Digest* No. 109, 2000-2001, 23 March 2001, *Sydney Airport Demand Management Amendment Bill 2001*, p 1

2.7 A **slot** is defined as follows:

A slot is allocated under the scheme and permits a specified aircraft movement at a specified time on a specified day. All commercial and private aircraft require a slot to land or take-off at Sydney Airport.<sup>6</sup>

2.8 The Slot Management Scheme is required to be consistent within the maximum movement limit.<sup>7</sup> The Act limits aircraft movements at Sydney Airport to a Maximum Movement Limit of 80 aircraft movements per hour outside the curfew period, which operates between 11 pm and 6 am. The Minister may determine a lower movement limit in the form of a statutory instrument, which can be disallowed by either House of Parliament.<sup>8</sup>

2.9 The basic purpose of the Slot Management Scheme was to provide a system for the allocation of permissions for aircraft movements at Sydney Airport, within the maximum movement limit. Slots are allocated for scheduling seasons, ie Northern Summer [March – October] and Northern Winter [October – March]. A new allocation of slots is made at the start of each scheduling season.

2.10 A Slot Manager is responsible for managing the scheme and ensuring compliance. The Slot Manager is currently Airport Coordination Australia [ACA], an incorporated company whose shareholders are Ansett, Qantas, the Regional Airlines Association of Australia and Sydney Airports Corporation Limited [SACL].<sup>9</sup>

2.11 Under the present scheme slots are allocated for a single "scheduling season", where a season corresponds to the northern summer, March to October, and the northern winter, October to March. Access to a slot is primarily based on historical precedence although a number of slots have been set aside for new entrants.<sup>10</sup>

#### *Key attributes of the Slot Management Scheme*

2.12 Slots are allocated for a single "scheduling season", where a season corresponds to northern summer (March – October) and northern winter (October-March). The main criteria influencing slot allocations are:

- a) an operator (other than a non-scheduled operator or a general aviation operator) gains **historical precedence** to a slot if the operator operates an aircraft movement using the slot;<sup>11</sup>

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6 DTRS, website, 14 May 2001

7 *Sydney Airport Demand Management Act 1997*: Section 4 p 3

8 *The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport On Regional Airlines and Communities*, Senate Rural and Regional Affairs and Transport Reference Committee, March 1999, p 7

9 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 4

10 *The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport On Regional Airlines and Communities*, Senate Rural and Regional Affairs and Transport Reference Committee, March 1999, p 10

11 *Slot Management Scheme 1998*, p 11

- b) Some slots are set aside for new entrants;
- c) A 'use it or lose it' test, where an operator must use the slot allocated to them for at least 80% of the time over a season or lose the slot, subject to the Slot Management Scheme rules and exceptional circumstances.<sup>12</sup>

2.13 Other controls on operation of a slot include:

- a) a series of priorities for allocating "vacant" slots to new and incumbent operators (section 22 and 23 of the Scheme). These include, for example, giving preference firstly to international, then interstate and then regional operators, and giving preference to larger aircraft over smaller aircraft.
- b) a 'size of aircraft test', where an aircraft of the same size or larger, as proposed in the operator's application, be operated in the slot.

#### Allocation of slots with historical precedence

2.14 Under the Scheme, if an operator has historical precedence to a slot and has applied for it, the Slot Manager must allocate the slot to the operator, unless allocation of the slot:

- a) Would conflict with the maximum movement limit; or
- b) Would produce an unacceptable degree of clustering in aircraft movements.<sup>13</sup>

2.15 If operators who have historical precedence to slots are not allocated those slots and have refused substitute slots, those substitute slots go into the slot pool, unless they are regional service slots, in which case they must be offered to other regional service operators in order of priority set out under Section 24.<sup>14</sup>

#### Priority of allocations

2.16 Sections 22 and 23 of the Slot Management Scheme list the criteria for determining the order of priority in which slots are to be allocated in relation to competing applications for new entrants and incumbent operators respectively.

2.17 Section 22 criteria give priority to:

- a) Applications for new series or groups and where there are a number of applications for series or groups, the application for the greatest number;
- b) Applications for slots for larger aircraft; and
- c) Applications for services the possible times for which are limited by curfew at another airport.

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12 Section 7 of the Act

13 Section 18(1) of the Scheme

14 Section 18(4)

2.18 Section 23 criteria include:

- a) Where competing operators are applying for new slots, and they have not been allocated a slot to which they had historical precedence, then the slot will be allocated to the operator of the slot closer in time;
- b) Priority of international services over interstate services, and of interstate services over regional services;
- c) Series or group allocations take priority over those not for a series or group;
- d) Slot applications for larger aircraft take priority over those for smaller aircraft;
- e) Applications for slots the possible times for which are limited by curfew at another airport take priority;
- f) For services to be provided throughout the year;
- g) Regional services only take priority over non-scheduled services which in turn take priority over general aviation services.<sup>15</sup>

#### Permanent regional service slots

2.19 Special rules have been laid down in the Slot Management Scheme to maintain permanent regional service slots, based initially on historical precedence (slot use in 1997) and allocation in the first scheduling season of the scheme's operation. This arrangement, also known as the "regional ring fence", is discussed in Chapter 3.

#### Size of aircraft test

2.20 If the size of the aircraft that an operator proposes to use for a service is the key reason for the operator being allocated a slot, the operator must use an aircraft of at least that size if the slot is for a single slot, or for 80 percent of the services in a slot series or group.<sup>16</sup>

#### *Slot swaps*

2.21 The Scheme sets out rules governing the swapping of slots, both permanently and temporarily. Slot swaps must have the approval of the Slot Manager. One of the provisions governing permanent slot swaps covers regional services operators specifically:

A Regional Services operator may swap a Permanent Regional Service Slot permanently with an operator that is not a regional service operator only if the time of the other slot is within 30 minutes of the original time of the Permanent Regional Service Slot.<sup>17</sup>

2.22 The potential implications of this provision are discussed in Chapter 3.

15 Section 23, *Slot Management Scheme*, pp 17-18

16 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 8

17 Section 30 (2)

### **Additional issues affecting Slot Management at Sydney Airport**

2.23 In addition to the movement cap, capacity at Sydney Airport is affected by the following:

- a) the curfew, which allows only a limited amount and type of operation between 11pm and 6am. This includes a small number of freight aircraft, propeller aircraft under 34,000kg and some jet aircraft under 34,000kg that meet a specified noise standard, emergency operations and some international jets between 5am and 6am;
- b) the Long Term Operating Plan, administered by Airservices Australia, which imposes operating restrictions on runway use, with an emphasis on sharing noise around Sydney by using all three runways.<sup>18</sup>

2.24 The Long Term Operating Plan impacts on the number of movements, and hence slots, available at Sydney Airport. In addition to the 80 movements rule, the Minister for Transport and Regional Services can request "noise sharing modes" which reduce capacity below 80 movements per hour during selected periods of the day.<sup>19</sup>

### **The Amending Bill**

2.25 On 13 December, 2000, the Commonwealth Government announced in a policy statement that it would amend the existing Slot Management Scheme for Sydney Airport and introduced the *Sydney Airport Demand Management Amendment Bill* 2001 into Parliament on 8 March 2001. The Bill underpins the amendments to the Slot Management Scheme, which will be via regulation, and will ensure that the amended Scheme is not subject to the access provisions in Part IIIA of the *Trade Practices Act* 1974. The amendments are in line with s193 of the *Airports Act* 1996, which also makes Part IIIA of the *Trade Practices Act* subject to the demand management provisions of the *Airports Act* [Divisions 3-10].

2.26 The Discussion Paper on the proposed amendments describes the effect of the Bill:

It should be noted that the *Sydney Airport Demand Management Amendment Bill* does not pre-empt this discussion paper. It is a very short piece of legislation that simply ensures that the amendments to the scheme – whatever their final details – will be valid.<sup>20</sup>

2.27 The Bill's Explanatory Memorandum sets out the purpose of the Bill:

The purpose of the Bill is to underpin the Government's decision to amend the Sydney Airport Slot Management Scheme to address the growth of air traffic at the airport and guarantee regional access.

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18 *The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport On Regional Airlines and Communities*, Senate Rural and Regional Affairs and Transport Reference Committee, March 1999, pp 8-9

19 *The Effect of Pricing and Slot Management Arrangements at Kingsford Smith Airport On Regional Airlines and Communities*, Senate Rural and Regional Affairs and Transport Reference Committee, March 1999, p 9

20 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme* 1998, March 2001, p 5



2.28 The measures to implement the decision will be introduced as amendments to the Slot Management Scheme, a disallowable instrument made under section 40 of the *Sydney Airport Demand Management Act 1997*.

### **Part IIIA of the *Trade Practices Act 1974***

2.29 The proposed amendments in the Bill will ensure that the proposed limits to be placed on the access to slots at Sydney Airport are consistent with the *Trade Practices Act 1974*.

2.30 Part IIIA was inserted into the *Trade Practices Act 1974* by the *Competition Policy Reform Act 1995*, which had its origins in the Hilmer reforms on competition policy. The new Part IIIA was inserted to:

... establish a legal regime to facilitate third parties obtaining access to the services of certain essential facilities of national significance. The notion underlying the regime is that access to certain facilities with natural monopoly characteristics, such as electricity grids or gas pipelines, is needed to encourage competition in related markets, such as electricity generation or gas production.<sup>21</sup>

2.31 The provisions ensured access to certain services following the declaration of the services and negotiation of access with the service provider. If access is not able to be negotiated then it is arbitrated by the ACCC, with potential for review in the Australian Competition Tribunal and ultimately the Federal Court.

2.32 The *Sydney Airport Demand Management Amendment Bill 2001* will ensure that provisions of the *Trade Practices Act 1974* allowing access to declared services would be subject to the operation of the *Sydney Airport Demand Management Amendment Act*:

The provisions in the Bill will promote more effective slot management at Sydney Airport by ensuring that the regime under Part IIIA of the *Trade Practices Act 1974*, which allows access to declared services, does not override the Slot Management Scheme.<sup>22</sup>

2.33 The effect of the proposed changes will be to limit regional access to Sydney Airport in the following ways:

- a) to prevent regional airlines from obtaining more slots during peak times; and
- b) to potentially disadvantage regional airlines in the allocation of new slots outside peak times, given that the amended priority criteria will give preference to larger aircraft.

2.34 This limitation on access to services provided by Sydney Airport would probably come within Part IIIA of the *Trade Practices Act 1974*, which allows the National Competition Council to make a recommendation to the responsible Minister to make a declaration regarding access to services. Even though the Minister may decline to make the

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21 Senator the Hon Rosemary Crowley, *Senate Debates*, 29 March 1995, p 2438

22 Explanatory Memorandum *Sydney Airport Demand Management Amendment Bill 2001*, p 1

declaration, such a decision would be reviewable by the Australian Competition Tribunal. If this situation arose, there is potential for conflict between that process and government policy of maximising access to Sydney Airport. By making Part IIIA subject to the provisions of the *Sydney Airport Demand Management Act 1997*, the Bill prevents this situation.

### **Impact on existing arrangements**

2.35 The Committee notes that the proposed legislation, if passed, has no impact on the operation of the current scheme, even if the regulations amending the scheme are disallowed.<sup>23</sup> It is enabling legislation which will allow the new Scheme to be implemented without fear of challenge under the Trade Practices legislation. The legislation as proposed can be passed without prejudicing the existing scheme and the existing scheme will continue to operate until such time as new regulations are tabled.

### **The Discussion Paper**

2.36 The Government released a Discussion Paper in March 2001, which sets out the changes to the Slot Management Scheme. The Discussion Paper advises that the amendments to the scheme are designed to:

- a) Cap the number of regional slots allocated in peak periods at the current level;
- b) Establish a minimum aircraft seat limit for new slot allocations;
- c) Encourage airlines progressively to introduce larger aircraft, and
- d) Remove any risk that the major airlines could avoid the regional guarantee by migrating the regional slots held by their affiliates into non-peak periods.<sup>24</sup>

2.37 The Paper further states that the Bill also ensures that the amended scheme is not subject to the access provisions in Part IIIA (Access to Services) of the *Trade Practices Act 1974*.

2.38 The Government called for submissions on the proposed amendments by 4 May, 2001. Copies of almost all of those submissions were provided to the Committee by the Minister's office.

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23 *Evidence*, 3 May 2001, p 39

24 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 3

# CHAPTER THREE

## MAJOR ISSUES

### Submission comment

3.1 Submissions were supportive of the general thrust of the amendments to the Scheme, but there were some issues which were of concern for the different parties. For example:

- a) Submissions from regional bodies, while satisfied that current levels of regional access had been guaranteed, still expressed concern at the lack of any growth potential for regional access in peak periods and consequential limitations on regional economic development;
- b) Regional bodies were also concerned at the potential for discrimination that the imposition of the 18 seat limit on aircraft for new slot allocations;
- c) Requests for route specific slot allocations; and
- d) The impact of the push to larger aircraft on existing regional airport infrastructure requirements and consequences for airport owners.

3.2 Both IATA and the Board of Airline Representatives, the body representing international airlines flying into Australia, argued for no change, submitting that the proposed amendments would result in less operational flexibility for airlines and consequent reduced efficiency at the airport. IATA stated:

Firstly, the proposed amendment regarding aircraft priorities for allocating slots and the revision of the aircraft size groups can have a direct impact on an airline's ability to produce an operationally and economically viable schedule. The proposal fails to recognise the cyclical nature of the airline industry and the flexibility airlines require to meet the ever-changing demands in the market place.

Secondly, the proposed amendment does not follow the IATA worldwide Scheduling Guidelines, which define the worldwide procedures for the management of slots at airports.<sup>1</sup>

3.3 A number of submissions, and particularly those from the airlines, had concerns about the size of aircraft test.

### Regional Services

3.4 The Government has committed to retaining the numbers of regional slots at current levels, ie all regional operators who currently hold slots in the peak periods will retain them.<sup>2</sup> Peak periods will be defined as 6:00 am-11:00 am and 3:00 pm-8:00 pm on weekdays.

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1 IATA, Submission to DTRS

2 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme* 1998, March 2001, p 6

### *Permanent Regional Service Slots*

3.5 Special rules were laid down in the Slot Management Scheme to maintain permanent regional service slots, based initially on historical precedence (slot use in 1997) and allocation in the first scheduling season of the scheme's operation. This arrangement was known as the "regional ring fence".

3.6 If an operator who had a Permanent Regional Service Slot did not apply for that slot, the Slot Manager was required to offer the slot to other regional operators following the priorities given in the Scheme. Allowance was also made for new entrants who wished to provide a regional service.

3.7 Section 10 of the Scheme sets out the criteria for regional service slots.

- (1) A slot becomes a regional service slot:
  - (a) If:
    - (i) An operator gains historical precedence to it; and
    - (ii) It is allocated to the operator for a regional service in the first scheduling season after Part 4 of the Demand Management Act commences; or
  - (b) if:
    - (i) it is allocated for a regional service to an operator that had not gained historical precedence to it; and
    - (ii) the operator schedules and operates the service for 2 consecutive equivalent scheduling seasons.
- (2) an operator (other than a regional service operator) does not gain historical precedence to a Permanent Regional Service Slot unless:
  - (a) it is allocated the slot for a service that is not a regional service for 2 consecutive equivalent seasons; and
  - (b) it actually operates the service using the slot.
- (3) a slot ceases to be a Permanent Regional Service Slot if, for 2 consecutive equivalent scheduling seasons:
  - (a) it is allocated to an operator for a service that is not a regional service; and
  - (b) the operator actually operates the service using the slot.

3.8 These provisions mean that regional service slots can be lost if they are not used or can pass to a non-regional service operator, who is allocated a regional service slot and uses that slot.

### **The cap on regional service slots**

3.9 The revised arrangements include a cap on regional slots at current levels during peak periods at Sydney Airport. The cap will be determined and implemented as follows:

- a) the cap will apply in the Northern Winter 2001 scheduling season and all subsequent seasons;
- b) the benchmark for determining the cap will be the slots allocated and used in the Northern Winter 2000 and Northern Summer 2001 scheduling seasons.

3.10 The Slot Manager will be able to issue peak period slots to regional airlines on the following basis:

- a) Slots that have historical precedence;
- b) Slots where it is determined that a new service commencing in the Northern Summer 2001 season is a genuine year-round service, and
- c) Temporary peak hour single slots for handling short term capacity increases such as special events.<sup>3</sup>

#### *Guaranteeing regional services slots at peak periods*

3.11 It has been calculated that about 20 per cent of the slots currently used for regional services in the peak periods at Sydney Airport are not permanent regional service slots, in that they do not yet meet the requirement in section 10 of the Scheme, ie that they are used for regional services for two consecutive equivalent scheduling seasons (18 months).<sup>4</sup>

3.12 There is a concern that regional airlines could lose these slots to interstate or international services, resulting in a large reduction in services to regional New South Wales. In order to ensure that this does not happen, all regional slots allocated and used in the Northern Summer 2001 and Northern Winter 2001 scheduling seasons will be designated as Permanent Regional Service Slots.<sup>5</sup>

#### *Submission comment*

3.13 While regional organisations were satisfied that the current allocation of regional slots was to be maintained, they did suggest that there should be the capacity for increased access in the future. Gunnedah Shire Council was concerned at the limit on growth potential for regional services which would result from the cap [and also from the minimum aircraft seat limit for new allocations].<sup>6</sup>

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3 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 7

4 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 7

5 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 7

6 Gunnedah Shire Council, *Submission 8*, p 2

3.14 Riverina Eastern Regional Organisation of Councils [REROC] requested that non-regional airlines not be able to gain historic precedence to a regional slot, but that slots allocated to non-regional airlines from the regional slot pool, always be returned to the regional slot pool, irrespective of use.<sup>7</sup> A similar restriction on the allocation of regional slots to non-regional operators was made by the State Chamber of Commerce.<sup>8</sup>

3.15 Bathurst City Council, in a submission to the Department, expressed its concern at the longer term implications of the amendments. The Council acknowledged the guaranteed regional access, but argues that the restrictions on time slots to present levels and the introduction of aircraft size limitations, 'restrict the medium to long-term growth of Bathurst Airport, which will affect its ongoing viability, and have a negative flow-on effect to the local economy'.<sup>9</sup>

#### Route specific slot allocation

3.16 Gunnedah Shire acknowledge the growth of the hub and spoke system in country New South Wales as an accepted market arrangement to ensure reasonable access for country residents to KSA, but also suggests that some sort of route specific allocation be considered:

What Council desires is that there are some direct linkages between the KSA regional slot allocations and country regional centres to ensure that rural communities are able to be effective partners through a consultation process to help maintain the longer term sustainability of regional airline services.<sup>10</sup>

3.17 The Bathurst City Council and REROC submissions to the Department also suggested linking routes with time slots. However, the CEO of Airport Coordination Australia, the Slot Manager for Sydney Airport, advised the Committee that operational efficiency required that slots not be route specific:

If you have route specificity which forces an airline to operate a particular route and the route is not profitable, the airline will drop the route. If I, as a slot manager, cannot use that slot and allocate it to another route, we would really lose some valuable peak period capacity. Therefore, slots really cannot be route specific.<sup>11</sup>

#### Relative economic value of international traffic

3.18 The SACL, was concerned that the impact of high peak numbers of regional services combined with increased domestic services would 'crowd out' international services.<sup>12</sup> Because international services provide a significant economic benefit to Sydney specifically and Australia generally, the volume of international traffic using the airport should be

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7 REROC, *Submission to DTRS*, pp 1-2

8 State Chamber of Commerce, *Submission to DTRS*, p 2

9 Bathurst City Council, *Submission to DTRS*, 2 May 2001, p 1

10 Gunnedah Shire Council, *Submission 8*, p 2

11 *Evidence*, 3 May 2001, p 13

12 SACL, *Submission 7*, p 5

maximised. For this reason, SACL supports permanent regional service slot status being granted to qualifying slots as at the date of the Government's 13 December announcement.<sup>13</sup>

### **Priority for larger aircraft**

3.19 Apart from the cap, there are additional amendments to the scheme, which are designed to encourage airlines to introduce larger aircraft progressively and which enhance the priority for services for which larger aircraft are operated. The amendments:

- a) Establish a minimum aircraft seat limit for new slot allocations;
- b) Enhance the priority for aircraft size in allocation of slots to new operators;  
and
- c) Enhance the priority for aircraft size in the allocation of new slots to incumbent operators.

### *Amendment to Section 23*

3.20 Section 23 sets out the criteria for determining the priority in which slots will be allocated to incumbent operators. The new scheme proposes to amend section 23, to advance the size of the aircraft to the second most significant criterion, [it is currently fifth], with historical precedence remaining the most significant and the relative importance of the other criteria remaining unchanged.

3.21 The Discussion Paper states:

The new order of priority will come into effect for the allocation of slots in relation to the Northern Winter 2001 scheduling season and subsequent scheduling seasons. The change in priority will not result in regional services being replaced by international or interstate services. All the regional slots will be ringfenced.<sup>14</sup>

### *Applications by new operators*

3.22 Section 22 sets out the order of priority for new entrants. The arrangements for new applications for slots at Sydney Airport will be amended to give precedence to applications for larger aircraft over applications for slot series or groups. Specifically, the amendment will give the following priority:

- a) An application for a slot to operate a larger aircraft takes priority over one for a slot to operate a smaller aircraft;
- b) An application for a series or slot group takes priority over one that is not for a slot series or slot group, an application for a slot series takes precedence over an application for a slot group, and (between 2 applications for slot series, or 2 applications for slot groups), the one that is for more slots takes priority over the other, and

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13 SACL, *Submission 3*, p 5

14 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 9

- c) An application for a slot to provide an air service the possible times for which are limited by a curfew at another airport takes priority over one for a slot to provide a service not so limited.

*Submission comment*

3.23 The Board of Airline Representatives in Australia gave evidence at public hearing. The Board represents the majority of international airlines flying into Australia. Their representative opposed the proposed amendments, arguing that the current slot management arrangements were operating efficiently and effectively. The Board argued that the proposed amendment relating to aircraft priorities in the allocation of new slots, combined with the revised aircraft size groups had the potential to reduce the efficiency of operations at Sydney airport:

From our point of view we believe that some of the amendments that are being proposed are likely to in fact reduce the efficiency of operations at Sydney airport and certainly reduce the flexibility of international airlines, in particular, operating to and from the airport.

The main area that we have a concern with is in relation to the proposed amendment relating to aircraft priorities in allocation of new slots, combined with the revised aircraft size groups that the amendment bill puts forward. We believe that that issue, in particular, is of particular concern to international airlines.<sup>15</sup>

3.24 The Board doubted that, if the new arrangements come into effect, 'it would be in the best interests of either the efficient operation of Sydney airport or the efficient operation of airlines and the future development and progress of tourism to Australia'.<sup>16</sup> The Board also pointed out that the proposed changes to the system of priorities for allocation of new slots is not in accordance with IATA Worldwide Scheduling Guidelines.<sup>17</sup>

3.25 Qantas also questioned the different priority accorded aircraft size from that under the IATA rules, expressing concern that the priority would impede operational flexibility. Qantas proposed that the aircraft size criterion be qualified by addition of a condition that requires use of the initially nominated aircraft type for two equivalent seasons, but that once historical precedence had been achieved, a downward change of gauge be permitted.<sup>18</sup>

3.26 The Sydney Airport Corporation Limited [SACL], also expressed concern at larger aircraft being given priority over international services. The SACL states:

International services generally have less discretion in terms of the time the service can operate due to curfews and scheduling windows in and out of busy international hub ports. It is worldwide practice to give priority to international airlines for this reason and in the national interest. New international services deliver substantial economic benefits to the economy.

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15 *Evidence*, 3 May 2001, p 27

16 *Evidence*, 3 May 2001, p 29

17 BARA, Submission to DTRS, p 1

18 QANTAS, *Submission to DTRS*, p 2



While international aircraft are generally large, the introduction of new international services with mid-sized (say, B767 size) aircraft is an important step in serving new international destinations.

Accordingly, SACL recommends that the priority for international services retain its current 2<sup>nd</sup> place in priorities, with preference for larger aircraft elevated to position 3.<sup>19</sup>

3.27 Many of the submissions from local government bodies, including those from the Local Government and Shires Associations of NSW and the Riverina Regional Organisation of Councils, while supporting the general thrust of the amendments, expressed concern at the priority to be given to larger aircraft in new slot allocations. REROC questioned the assumption that regional passenger numbers will increase because airlines will have an incentive to operate larger and more comfortable aircraft and argued that in fact the trend was to operate smaller aircraft more frequently.<sup>20</sup>

3.28 The concern that the preference accorded larger aircraft would ultimately disadvantage regional and rural communities, which cannot generate the passenger numbers to warrant the use of a larger aircraft was complementary to that relating to the minimum passenger seat requirement for new allocations. REROC suggested that where a regional airline is applying for a non-peak hour slot and slots are available that no minimum seat limit be applied.<sup>21</sup>

#### *Government response to stakeholder comment*

3.29 In the revised drafting instructions provided to the Committee, the committee notes that the Minister has determined that further consideration is to be given to the detailed arrangements to encourage airlines to progressively introduce larger aircraft through giving larger aircraft higher priority in the slot allocation process. This part of the proposed package of amendments is to be the subject of separate drafting instructions.

#### *Revised aircraft size groupings*

3.30 Section 5 of the Scheme sets up seven aircraft size groups, based on their number of seats. Aircraft in the same group are treated as if they are the same size for determining slot priority.<sup>22</sup>

3.31 The Discussion Paper argues that the current aircraft size groupings 'do not distinguish adequately between the large aircraft used on international and on some domestic services and proposes amending Section 5 of the Scheme 'to give airlines an incentive to use larger aircraft for their services through Sydney Airport. The amendments will alter the groupings to differentiate more between aircraft with a seating capacity greater than 350 seats. The revised groupings are set out in Table 3.1.

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19 SACL, *Submission 3*, p 5

20 REROC, *Submission to DTRS*, p 2

21 REROC, *Submission to DTRS*, p 3

22 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 10

Table 3.1 Section 5: Aircraft Size Groupings

Group	Current Section 5 Capacity	Proposed Government Amendment
(a)	Fewer than 30 seats	Fewer than 30 seats
(b)	30 – 49 seats	30 – 49 seats
(c)	50 – 100 seats	50 – 99 seats
(d)	101 – 150 seats	100 – 149 seats
(e)	151 – 250 seats	150 – 249 seats
(f)	251 – 350 seats	250 – 349 seats
(g)	350 or more seats	350 – 399 seats
(h)		400 – 449 seats
(i)		450 or more seats

*Submission comment*

3.32 BARA was concerned at potential for limiting the operational efficiency of international airlines and commented:

The amendments could have the effect of enforcing relinquishment of a slot or slots allocated to an international airline should that airline, at some time in the future, have to operate a smaller aircraft than that initially nominated at the time of the slot allocation. Such changes to aircraft gauge may be required from time to time to accommodate the cyclical or seasonal nature of airline operations. Airlines require greater flexibility in their operational planning than that seemingly afforded by the proposed amendments.<sup>23</sup>

3.33 Ansett expressed concern about the proposed aircraft size groupings, arguing that the proposals 'potentially undermine the principle of grouping aircraft of same type and allows gaming by carriers'.<sup>24</sup> The airline further argued that the proposed seat bands did not reflect the aircraft changes that have been occurring in commonly used aircraft types, especially the B747 type, which would split under the proposed arrangements. The concern is that a marginal seat increase could allow a similar type aircraft to gain a regulatory advantage, depending on the configuration of seating in an aircraft:

Depending on the carrier, B737-400 can range from 139 to 162 seats, B767 domestic can [vary] by 235 to 253, and B747-400 358 to 408.<sup>25</sup>

23 BARA, *Submission to DTRS*, p 1

24 Ansett Airlines, *Submission 6*, p 2

25 Ansett Airlines, *Submission 6*, p 2

3.34 The airline recommended an alternative approach, based around the likely families of aircraft and which concentrates on the broad use of larger aircraft type to maximise capacity. The airline argues that the proposal as it stands creates a potential problem for the Slot Manager and would in any case be difficult to monitor.<sup>26</sup>

3.35 The Ansett proposal is as follows:

- a) Retain proposed band (a) but reflecting the proposed minimum aircraft size limit, and refer to 'aircraft with from 18 to 30 seats';
- b) 100 to 199 – this accommodates the older and newer generation narrow body families, eg B737-200, 300 and new 800 series as well as A320;
- c) 200 to 299 – this accommodates older generation wide-body twin engine aircraft families, eg B767-200, 300 for international and domestic operations;
- d) 300 – 349 – this accommodates operators of new generation wide body;
- e) 350 – 449 – this avoids a situation where operators of same B747 types are not spread over two levels by effectively merging the proposed bands (g) and (h);
- f) retain proposed band (i) aircraft with more than 450 seats.<sup>27</sup>

3.36 Qantas also disagreed with the proposed structure, arguing that all categories should ascend in 50 seat blocks, but pointed out that where such aircraft as B747's had the potential to span two categories, the airline should be protected against a situation where a differently configured aircraft threatened continued use of a slot.<sup>28</sup>

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26 *Evidence*, 3 May 2001, p 24

27 Ansett Airlines, *Submission 6*, p 2

28 Qantas, *Submission to DTRS*, p 3

Table 3.2 Proposed size groupings and alternative proposals

Group	Current Section 5 Capacity	Proposed Government Amendment	Ansett amendment	Virgin Blue amendment
(a)	Fewer than 30 seats	Fewer than 30 seats	18 – 30 seats	Up to 30 seats
(b)	30 – 49 seats	30 – 49 seats		31 – 80 seats
(c)	50 – 100 seats	50 – 99 seats		81 – 130 seats
(d)	101 – 150 seats	100 – 149 seats	100 – 199 seats	131 – 200 seats
(e)	151 – 250 seats	150 – 249 seats	200 – 299 seats	201 – 350 seats
(f)	251 – 350 seats	250 – 349 seats	300 – 349 seats	351 – 450 seats
(g)	350 or more seats	350 – 399 seats	350 – 449 seats	+450
(h)		400 – 449 seats		
(i)		450 or more seats	retain	

3.37 Ansett also stated that, in their view, the rise in ranking of the aircraft size criteria would create substantial limits on commercial flexibility to respond to market developments. Ansett cited the following example:

...on applying for a new slot to develop a new market with a larger aircraft size, there will be no subsequent ability to reduce aircraft size without threatening grandfather rights, in response to changed market conditions. In practice, the new ranking is likely to mean some carriers will operate the services over capacity in an effort to retain grandfather rights. This in itself does not contribute to maximising efficiency of Sydney airport.<sup>29</sup>

3.38 At public hearing, the Board of Airline Representatives was asked about the Ansett proposal. While acknowledging that the Ansett proposal was an improvement, the Board representative reiterated that the commercial pressures on aircraft operations and the fluctuations in route profitability would still be an issue under the Ansett proposal:

But just off the top of my head, even with this grouping, we still have the problem that, if you want to change from one aircraft to another on an international route, you have the same sort of situation. It probably overcomes the reconfiguration of

29 Ansett Airlines, *Submission 6*, p 2

the cabin issue but, if a carrier wanted to go from a 747 down to a 767, for instance, on a particular route because of market fluctuations—and they do occur; the variations in demand during the Asian economic crisis were a particular example—it is a problem for a new carrier coming in if they come in at the peak of a tourism cycle and start operating 747s. About four or five years down the track, when the cycle busts and they have to go back to a 767 or an A340, they could lose that slot under this arrangement. Even under this distribution system that Ansett have put forward that is still a possibility.<sup>30</sup>

3.39 Virgin Blue does not support discrimination based on aircraft size, but suggested that if it was to apply then it should follow established international norms. Virgin Blue also argued that the aircraft size test should only be used on international services and proposed its own set of criteria. [see above]<sup>31</sup>

### **Minimum seat limit for new slots**

3.40 One of the amendments to the scheme will apply a minimum aircraft seat limit of 18 seats or more to applications for new slots; ie slots that do not have an historical precedence. The limit is to apply from the Northern Winter 2001 scheduling season and all subsequent seasons.<sup>32</sup>

3.41 There will be three exceptions<sup>30</sup> to the minimum aircraft seat limit, namely:

- a) slots that have historical precedence because they were used by regional airlines in the Northern Winter 2000 and Northern Summer 2001 scheduling seasons. As a result, no existing services with small aircraft will be affected;
- b) new regional service slots allocated in the Northern Winter 2001 scheduling season for year-round regional services for which equivalent slots were held during the Northern Summer 2001 scheduling season, and
- c) where a regional operator is allocated a Permanent Regional Service Slot that was previously operated with aircraft below the 18 minimum seat limit.

### *Submission comment*

3.42 The Local Government and Shires Association opposed the minimum 18 seat aircraft size for new slot allocations. The Association was concerned that capping the slots at current levels and then allocating new slots only to aircraft with a seating capacity of 18 seats or more might be detrimental to economic development in some parts of NSW, given that airlines servicing regional Australia are not necessarily in a position to operate larger aircraft into Sydney.<sup>33</sup>

3.43 Gunnedah Shire Council also criticised the 18 seat limitation, arguing that the relevant factor was commercial viability and fleet safety of services operating between

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30 *Evidence*, 3 May 2001, p 30

31 Virgin Blue, *Submission to DTRS*, p 5

32 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 8

33 Local Government and Shires Association of NSW, *Submission 5*, p 1

regional centres and KSA and the strategy had the potential to disenfranchise both smaller communities and niche airline service operators.<sup>34</sup>

3.44 Dubbo City Council's submission expressed concern at the impact the introduction of larger aircraft might have on their airport infrastructure:

Airport owners may be required to provide major upgrades to their airport infrastructure to enable larger aircraft to operate at their airports. This would require in Dubbo's case extension of the Main Runway to allow regional jets to operate. These extensions are estimated to cost \$2M.<sup>35</sup>

3.45 However, Virgin Blue, a strong regional presence, argued that small aircraft operators already had a significant number of slots and were already protected under the regional pool scheme. Virgin Blue suggested that any new slots allocated in peak period should not be allocated to aircraft with fewer than 100 seats, to ensure access to prime time slots for new entrant airlines proposing jet services.<sup>36</sup>

3.46 SACL, while supporting the proposal for a minimum aircraft size of 18 seats to applications for new slots, argued that consideration should be given to a progressive stepped increase towards larger aircraft over the next five years, 'consistent with the Government's intention of encouraging airlines to progressively 'upgauge' average aircraft size and to the development of regional 'hub and spoke' systems'.

#### *Committee comment*

3.47 The Committee notes that the Government has made a commitment that for those regional service slots which are currently operated using aircraft with fewer than 18 seats will retain the slot, notwithstanding the smaller aircraft. The Committee expects the Government to maintain this commitment.

#### **Slot swapping**

3.48 The Discussion Paper also noted an ambiguity contained within the Slot Management Scheme, which could allow major airlines to swap regional services in peak periods for international or interstate flight slots. The Scheme provides for the following:

A Regional Services operator may swap a Permanent Regional Service Slot permanently with an operator that is not a regional service operator only if the time of the other slot is within 30 minutes of the original time of the Permanent Regional Service Slot.<sup>37</sup>

3.49 This provision means that Permanent Regional Service Slot can only be swapped with an international or interstate slot that is within 30 minutes of its 'original time'. For example, an 8:30 am Permanent Regional Service Slot can only be swapped with an international or interstate slot between 8:00 am and 9:00am. The Discussion Paper notes:

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34 Gunnedah Shire Council, *Submission 8*, p 2

35 Dubbo City Council, *Submission 4*, p 2

36 Virgin Blue, *Submission to DTRS*, p 3

37 Section 30 (2) of *the Slot Management Scheme*

The intent of the Scheme is that the 'original time' of a slot is the time it first became a Permanent Regional Service Slot, regardless of any swaps that may have taken place.

3.50 However, the concern is that the word 'original' could be taken to mean the time of the slot at the start of each scheduling season and that 'under this opportunistic interpretation, an airline could progressively swap its Permanent Regional Service slots out of the peak periods and replace them with international or interstate services'.<sup>38</sup>

3.51 The concern is that any increase in the flexibility of swaps between regional and non-regional slots could discriminate against regional communities, resulting in regional travellers having to fly at less convenient times of the day.

3.52 One of the stated amendments to the Scheme will ensure that it is very clear that the 'original time' of a Permanent Regional Service Slot is the time at which the slot first became a permanent slot for the purposes of subsections 10(1)(a) and (b) of the Scheme. A Permanent Regional Service Slot which is returned to the regional slot pool will retain the time it was last allocated or permanently swapped, and retains the same original time.

*Submission comment*

3.53 Ansett's submission supports the original time slot requirement, but suggested that the 30 minute rule did not allow for sufficient flexibility, given the realities of managing a logistically complex regional, domestic and international network. Ansett recommends that a one hour period would be a better basis for service connection needs.<sup>39</sup>

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38 Department of Transport and Regional Services, *Amendments to the Sydney Airport Slot Management Scheme 1998*, March 2001, p 12

39 Ansett Airlines, *Submission 6*, p 2





# CHAPTER FOUR

## CONCLUSIONS AND RECOMMENDATIONS

### General concerns

4.1 The Committee is concerned at recommending the passage of legislation, for which no regulations are yet available and considers that such a practice is not to be encouraged. However, the Committee acknowledges the provision of the drafting instructions to it by the Minister for Transport and Regional Services, which goes some way to alleviating the Committee's concerns.

4.2 The Committee also notes that the current Slot Management Scheme will continue to operate until such time as new regulations are tabled. Committee members will make detailed comment on the regulations in the Senate at that time.

### Major issues

4.3 The Committee makes the following general comments on the regulatory arrangements as currently proposed by the Government:

- a) The priority to be accorded aircraft size for new allocations is at variance with international practice and should be reviewed. It would appear from submission comment that, given the constraints on international services and the lower degree of flexibility available to international carriers, that international services should take priority over aircraft size;
- b) Existing regional service slots must be protected in order to ensure regional access to Sydney;
- c) While acknowledging that a seat limit is to apply for new allocations, existing regional services which operate smaller aircraft must be given adequate assurances in relation to their continued ability to operate such aircraft in their current slots;
- d) The aircraft size table as currently proposed is clearly in need of amendment. The Committee considers that the amendments along the lines suggested by Ansett are appropriate and offer the most practical method of assigning slots. The committee also acknowledges the difficulty of ensuring compliance with such a scheme based on seating capacity instead of aircraft type, once the allocation has been made.

**Recommendation**

4.4 The committee recommends to the Senate that the *Sydney Airport Demand Management Amendment Bill 2001* be enacted without amendment.

Senator Winston Crane

Chairman

22 May 2001

# APPENDIX ONE

## SUBMISSIONS

<b>Submission no</b>	<b>Author</b>
1	Mr Col Giddins
2	Riverina Regional Organisation of Councils
3	Impulse Airlines Limited
4	Dubbo City Council
5	Local Government and Shires Associations of NSW
6	Ansett Australia
7	Sydney Airports Corporation Ltd
8	Gunnedah Shire Council
9	New South Wales Government*

\*The submission from the New South Wales Government was received too late to be dealt with substantively in the report



## **APPENDIX TWO**

### **HEARINGS AND WITNESSES**

**Sydney, 3 May 2001**

#### **Department of Transport and Regional Services**

Mr Paul Merner, First Assistant Secretary, Airports Division  
Mr John Elliott, Assistant Secretary, Airports Planning  
Mr Greg McColl, Director, Industry Policy

#### **Sydney Airport Slot Manager (Airport Coordination Australia)**

Mr Ernst Krolke, Chief Executive Officer

#### **Ansett Australia**

Mr Peter Harris, Vice President, International and Government Affairs  
Mr Keith Herdman, Manager, Regional Strategy

#### **Board of Airline Representatives in Australia (BARA)**

Mr Warren Bennett, Executive Director

#### **Local Government and Shires Associations of NSW**

Councillor Barry Ryan, Vice-President, Shires Association of NSW  
Councillor Allan Smith, Mayor of Dubbo, Executive Member, Local Government Association NSW  
Mr Geoff Darby, Manager, Business Operations, Dubbo City Council

#### **Sydney Airports Corporation**

Mr Chris Falvey, Director, Corporate Affairs  
Ms Julieanne Alroe, Deputy Director, Aviation  
Mr Steven Fitzgerald, Manager, Economics

