

**The Parliament of the Commonwealth of Australia**

**Sydney Airport Curfew  
(Air Navigation Amendment)  
Bill 1995**

**Report from the House of Representatives  
Standing Committee on Transport,  
Communications and Infrastructure**

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**HOUSE OF REPRESENTATIVES STANDING COMMITTEE  
ON TRANSPORT, COMMUNICATIONS  
AND INFRASTRUCTURE**

**(37TH PARLIAMENT)**

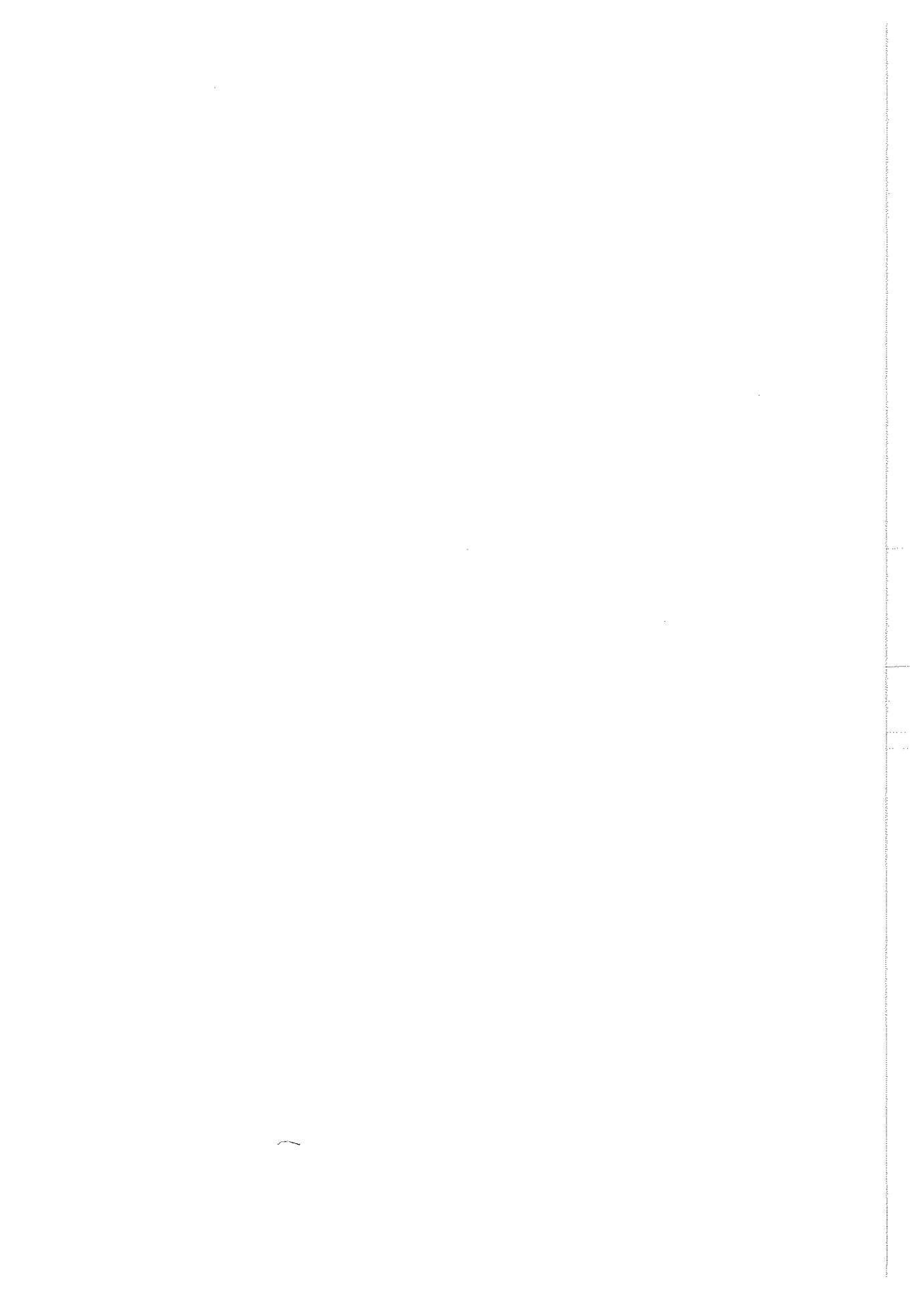
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# 1: INTRODUCTION

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## The reference

1.1 On 30 June 1995 the House of Representatives referred the *Sydney Airport Curfew (Air Navigation Amendment) Bill 1995* and the following additional and specific matters to the committee:

- (a) what measures could be considered to reduce the number of jet aircraft movements at Sydney (Kingsford-Smith) Airport between the hours of 11 p.m. and midnight and 5 a.m. and 6 a.m.;
- (b) the appropriateness and quantum of the penalties contained in clause 25K of the Bill in light of current Commonwealth criminal law policy; and
- (c) measures to improve community consultation prior to any changes to the curfew at Sydney (Kingsford-Smith) Airport.

1.2 The House asked the committee for an advisory report by 31 August 1995.

## Conduct of the inquiry

1.3 The inquiry was advertised in the *Sydney Morning Herald* and the *Telegraph Mirror* of 7 July 1995. Interested persons and organisations were invited to make submissions by 24 July 1995. Over 45 submissions were received, and these included submissions presented at the public hearings or in response to requests for information made by the committee. Community confusion with the Senate Select Committee on Aircraft Noise in Sydney may have reduced the number of submissions made to the inquiry.

1.4 Evidence was taken at two public hearings, on 21 August in Sydney and 23 August 1995 in Canberra. Details of those who made submissions and who appeared before the committee at public hearings are at Appendix 1.

### **Structure of the report**

1.5 The next chapter provides background information on the curfew. This includes its history, information on dispensations, complaints, curfew breaches and associated matters.

1.6 Chapter 3 describes and examines the matters referred to the committee by the House, namely the *Sydney Airport Curfew (Air Navigation Amendment) Bill 1995* and the three additional and specific matters pertaining to measures to reduce the number of aircraft movements during the 'shoulder hours' (11pm to 12 midnight and 5am to 6am), the appropriateness and quantum of penalties, and measures to improve community consultation.

1.7 Chapter 4 discusses other matters. The final chapter, conclusions, brings together salient features in the preceding chapters and makes appropriate recommendations.

### **The general approach**

1.8 Problems associated with the curfew should be seen as part of the wider issue of aircraft noise at Sydney Kingsford-Smith (SKSA). Be that as it may, the committee has received strict and limited terms of reference from the House. Community groups and the representatives of councils wanted changes such as no aircraft movements (other than emergencies) virtually from dusk to dawn. This is well outside the terms of request of the inquiry.

1.9 Nevertheless, these requests reflect community anger, concern and also confusion over operation of SKSA during the night. These concerns go to the heart of the matter and raise several important questions:

- what is the purpose of the curfew?



- is that purpose being defeated by the way the curfew is being administered, particularly by the ready granting of dispensations and push-backs during the shoulder hours?
- is that purpose being defeated by the operation of a large number of propeller driven aircraft and small jet aircraft from SKSA during the curfew hours?  
and
- what can be done to achieve the purpose of the curfew?

1.10 The purpose of the curfew is to give people who live under the flight paths some respite from aircraft noise. The proposition put to and accepted by the committee is that communities who live under the flight path need a period of clear relief from aircraft noise and that without it quality of life is diminished significantly.

1.11 Several airports in Australia and overseas have curfews. They include Adelaide, Perth, Heathrow, Frankfurt, Zurich, Rome, Narita and Hong Kong. There are also night time controls at some European airports and these include Orly, Munich, Copenhagen and Dusseldorf.

1.12 But as with most matters of great community concern there is the need to balance competing and conflicting interests. There is the need to recognise that one person's benefit maybe another person's loss. Thus a major requirement is accommodation. Industry must recognise and accept that it may have to give up some commercial benefit in order to give relief to those who live under the flight paths.

1.13 Associated with this accommodation is a key prerequisite for success - an open process of decision making, effective consultation and the prompt sharing of information. Without such processes the likely outcome will be continuing conflict.



## 2: BACKGROUND

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### History of the curfew

2.1 A curfew on jet aircraft at SKSA was first examined in the late 1950s. In 1958 Qantas and the Commonwealth Government agreed that 'jet aircraft would not be scheduled to take-off or land in the quiet hours of the night'. With the introduction of domestic jet services the curfew was expanded to include these operations. In 1963 a curfew on aircraft operations was introduced between 11pm and 6am. During the 1970s further restrictions were applied which effectively banned all off-scheduled jet aircraft in the curfew period. The curfew was modified in the late 1970s to allow the operation of small 'low noise' jet aircraft (Qantas, submissions page 94).

2.2 The curfew in Australian airports was examined in the 1985 report of the House of Representatives Select Committee on Aircraft Noise (HORSCAN, Parl. Paper 375/85). The arguments put forward then by community groups and industry are similar to those put to this committee in 1995 although the number of aircraft movements have increased significantly since then. The HORSCAN report examined the curfew proposals put forward by the Aviation Industry Aviation Council. The report called for the implementation of these proposals subject to certain conditions which included restrictions on propeller driven aircraft to Botany Bay by 1988 and specific quotas on landings of delayed international aircraft.

2.3 The HORSCAN report said that while it was desirable that a total curfew be placed on flying during sleeping hours such a proposal would be unacceptable to many, including industry. The report said that the revised policy would bring relief to many thousands of people and that amendments will only be possible following parliamentary scrutiny.

2.4 The current curfew arrangements can be traced to a trial introduced in late 1988. But before this the Australian Mayoral Aviation Council (AMAC) and the Botany Council lodged an

application in the Federal Court on 10 August 1989 to restore the pre August 1989 curfew on the basis that the proposed arrangements failed to meet the requirements of the Environment Protection (Impact of Proposals) Act.

2.5 The main changes in the 1988 trial from previous arrangements related to the shoulder periods(11pm to midnight and 5am to 6am). For the first time movements of jet aircraft (international passenger and air freight) were allowed during the shoulder periods but were restricted to flights over Botany Bay. These changes were introduced to cater for growing demand for access to SKSA by international passenger aircraft and night-time freight services.

2.6 In August 1988 the then Minister for Transport and Communications announced a new noise reduction strategy for SKSA to come into operation on 30 October 1988. The announcement said the new arrangements will be incorporated in regulations which will contain offence provisions and penalties for breaches.

2.7 The announcement said that the new curfew arrangements must be seen against the background of the approach that the Government is taking on the airport needs of the Sydney basin. This has three elements:

- the Government strongly believes that long suffering residents in the vicinity of KSA cannot and should not bear the whole burden of meeting the continued major growth of domestic and international aviation that will occur up to the turn of the century and beyond;
- it is Government policy not to build a third runway at KSA; and
- Badgery's Creek will be built as Sydney's Second Airport.

(Media statement 19 August 1988 and Coalition of Councils, submission 24, submissions page 65)

2.8 These trial arrangements were formalised in the Air Navigation (Aerodrome Curfew) Regulations issued under the *Air Navigation Act 1920* and commenced on 17 December 1989.

### **Details of the curfew**

2.9 For ease of understanding the curfew can be divided into several parts. The first covers operations. The curfew operates from 11pm to 6am. The major features of curfew operations include:

- aircraft must operate over Botany Bay;
- aircraft operating during the curfew must meet certain noise standards;
- limitations on the number of international aircraft movements between 11pm and midnight and 5am and 6am (the shoulders);
- restrictions on the type and number of jet freight aircraft movements; and
- restrictions on the use of reverse thrust by arriving aircraft.

2.10 The second feature of the curfew is exemptions. The curfew restrictions do not apply in cases of emergency, and noise certified propeller driven aircraft and 'low noise' jets (mostly business and 'small' freight jets) are permitted to operate during the curfew without limitations on the number of flights. They must operate into and from the south (over Botany Bay).

2.11 Curfew dispensations may be granted in exceptional circumstances. These dispensations include permission to fly over the suburbs rather than over Botany Bay.

2.12 The curfew is monitored by Airservices Australia and there are penalties for breaches. Initially there were administrative penalties but these were replaced with monetary penalties of up to \$25000 for curfew breaches in December 1994.

2.13 This, according to the Department of Transport, is one of a number of steps to tighten the curfew since the new runway came into operation in November 1994. The other steps are:

- the removal or phasing out of movements by large jet freight aircraft other than the BAe 146
- the transfer of jet freight aircraft during the curfew to Sydney West Airport when that airport is operational, and
- a considerable tightening of the exceptional circumstances test for the issue of curfew dispensations.

[paragraphs 2.9 to 2.13 based on Department of Transport submission no 36, submissions pages 123 to 126.]

#### **Aircraft movements during the curfew**

2.14 The available statistical information is for the calendar year 1994. The division of aircraft movements for the curfew period for that year is at Table 1:

**TABLE 1**  
**DISTRIBUTION OF AIRCRAFT MOVEMENTS**  
**DURING THE CURFEW**  
**(1994)**

	No	Percentage
International jet aircraft movements	1424	13
Jet freight aircraft movements	3433	32
Propeller aircraft movements	5563	51
Other aircraft movements	398	4
<b>TOTAL</b>	<b>10818</b>	<b>100</b>

Source: Derived from information supplied by the Department of Transport, submission 36, submission pages 128 and 147.

2.15 The large jets carrying international passengers are mainly B747s and B767s. Of the total of 1424 movements 44 per cent were during the 11pm to midnight shoulder and the balance in the morning shoulder in 1994. The pattern of movements varies during the year due to changes in daylight saving times in Australia and the countries of origin/destination of the international flights (submissions page 128).

2.16 The Department of Transport explained that April 1995 amendments to phase out noisier freight jets have had a significant impact on the types of aircraft used during the curfew. As a result the proportion of allocated freight jet aircraft movements by the quieter BAe 146 increased from 60 per cent in 1994 to 97 per cent in the month of June 1995 (submissions page 128).

2.17 Over half of total aircraft movements during the curfew were made by propeller driven aircraft which are noise certified and are allowed to operate at all hours of the night without limitations on the number of flights. The Department of Transport said that these aircraft can be noisy compared with the BAe 146 and referred to the possibility of freight operators using aircraft such as the Hercules to circumvent the restrictions placed on the number of movements by large jet freight aircraft (submissions pages 124 and 142).

2.18 Several witnesses complained of disturbance to sleep from propeller driven aircraft. The Coalition of Councils, Drummoyne Residents Opposing Aircraft Noise, the Lane Cove Airport Action Group and Ms O'Connor all referred to this nuisance, the annoyance of being woken up by badly tuned propeller planes. 'When props are out of tune, they do this harmonic noise which disturbs people at two or three in the morning' (Lane Cove Action Group, transcript page 31).

## **Dispensations**

2.19 Clause (8) of the regulations and the 1995 Bill state that the Minister may in any other exceptional circumstances approve in writing the take-off or landing of an aeroplane during the curfew. The Minister can delegate all or any of his or her powers under the regulations.

2.20 Dispensations are granted for example because of abnormally bad weather to pick up the actual capacity of the airport for that day. Of the 2.7 per cent of flights not over Botany Bay in 1994 (about 292 flights) about 70 per cent were for urgent medical reasons, 26.6 per cent were dispensation flights and the remainder were flights for search and rescue, flood or fire fighting or of an operational nature, such as adverse weather (submissions page 130).

2.21 Dispensations to use other than over water flight tracks were given because of the Kurnell oil refinery fire, the Christmas bushfires of 1993-94, the blocking of runway 16R by a disabled B747 and the cumulation of three days of unusually severe weather.

2.22 When the entire 26.6 per cent of flights not over Botany Bay is applied only to international jet aircraft movements this amounts to 78 flights not over Botany Bay in 1994, or one every 4.7 days.

2.23 The Department of Transport said that the granting of dispensations has been tightened. This may be borne out by the statistics. In 1994 the number of dispensations granted was 305 but this had fallen to 23 in the first six months of 1995. In the corresponding first six months of 1994 the number of dispensations granted was 144.

### **Breaches of the curfew**

2.24 The curfew at SKSA is monitored by Airservices Australia and previously by the Civil Aviation Authority. On a weekly basis (from 11pm on Sunday to 6am the following Sunday) each aircraft movement is examined and allocated to the specific allowable category of flight.

2.25 The international flights for the evening and morning shoulder periods and the large jet freight quotas are checked to ensure that they have not been exceeded. On a daily basis, all jet aircraft landings are monitored to ensure that reverse thrust is not applied at more than idle power. If any landings are identified that have apparently used more than the prescribed power, then the operator is contacted for an explanation.

2.26 There is a system for checking potential breaches and reporting apparent breaches of the curfew to the Department of Transport. The approach of the department is to send warning letters to operators



about breaches and a total of 14 warning letters were sent between 1989-92. The department has not been advised of apparent breaches since 1992 and to date there have been no prosecutions because no operator who has received a warning letter has committed another prima facie breach (submissions page 145).

2.27 The Department of Transport provided the committee with statistical information on noise complaints relating to international passenger jet aircraft during the shoulder periods for the three years from June 1991 to July 1994. Table 2 contains this information.

**TABLE 2**  
**COMPLAINTS, INTERNATIONAL PASSENGER**  
**JET AIRCRAFT MOVEMENTS**  
**(June 1991 to July 1994)**

	No of complaints	No of incidents	Location of complainants
Normal operations	23	22	Botany Bay suburbs
Go rounds	70	9	North
Landings from N	207	7	North
Late *depart to N	26	4	North
Late *depart to E	1	1	East
Total (3 years)	327	43	
* around 11pm			

Source: Department of Transport submission 36, submissions page 131.

2.28 The committee observes that the number of incidents complained of average 14.33 a year or around 1 per cent of total international jet aircraft movements in 1994. The Lane Cove Action Group said that the noise complaints line has a recorded message after 8pm, adding that people like complaining to people not machines (transcript page 33).

## **Push backs and scheduling**

2.29 The regulations and the 1995 Bill allow for push backs. Push backs are part of a standard operating procedure for departure of aircraft. Passenger aircraft get permission to push back from the gate by tractor on to the apron. The pilot next seeks clearance to taxi to the end of the runway and finally permission to take off.

2.30 The problem with push back and associated procedures is with bending the rules. The example given to the committee was of a freight operator using a hushkitted 727 which would not be permitted during the curfew but getting permission before 11pm and then leaving at 11.30pm albeit over Botany Bay.

2.31 The wider problem here is not of push backs but one of scheduling. The Department of Transport says that if an aircraft is pushed back prior to 11pm the aircraft is permitted to take off within a reasonable period of time. If the aircraft leaves after 11pm then it must take off to the south (over water). The regulations do not permit take off to the north (over the suburbs).

2.32 The problem as seen by the Lane Cove Airport Action Group, the Coalition of Councils, the Drummoyne Residents Opposed to Aircraft Noise and the Camperdown Residents Action Group was the around 11pm rush with take-offs to the north. The view was that aircraft supposed to take off before 11pm fly over the suburbs at about 11.30pm thus giving the public the impression that the curfew was being breached. The LCAAG disputed the Department of Transport on the matter saying 'we see them taking off over our heads' (transcript page 35).

### 3: THE 1995 BILL AND THE ADDITIONAL AND SPECIFIC MATTERS REFERRED TO THE COMMITTEE

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#### **The Sydney Airport Curfew (Air Navigation Amendment) Bill 1995**

3.1 This bill, a private Member's bill, was introduced by the Hon J W Howard (Leader of the Opposition) on 26 June 1995. The long title says, among other things, that the purpose of the bill is to entrench the curfew arrangements at SKSA and to ensure that changes to such laws occur only after public consultation.

3.2 In brief, the Bill proposes restrictions on aircraft movements at SKSA during the curfew period, namely between 11pm and midnight and from the beginning of the commencement of each day until 6am. It does this for the most part by transferring the regulations made under the *Air Navigation Act 1920* dated 29 November 1989 and dated 19 April 1995 into a proposed act of parliament.

3.3 There are several differences between the Bill and the regulations. First, the Bill prevents the Governor-General from making regulations to increase the number of aircraft movements during the curfew period. Second, the Bill requires the Minister when giving approval for take-offs or landings under 'other exceptional circumstances' to cause a statement to be laid before each House of the Parliament within 15 sitting days of that approval setting out the approval and the reasons for it. The third difference is that the Bill contains a process of public consultation before the Bill can be amended.

3.4 The concept of putting the curfew in legislation received general support from those who made submissions and appeared before the committee at public hearings. Ansett was not opposed to the Bill and Qantas and the International Air Transport Association did not see a problem in moving the regulations into legislation. All supported the status quo (Submission page 22 and transcript pages 18,64 and 100).

3.5 However, private citizens, community groups and councils felt that while the curfew should be enshrined in legislation the Bill does not go far enough. Some wanted the shoulder periods removed, others wanted a 10pm to 7am curfew with no aircraft movements in this period other than emergencies. For example, the Coalition of Councils recommended that the curfew should be legislated to protect the community from noise during night time, that the curfew period at SKSA be extended immediately to 10.30pm to 6.30am each day and that the 'shoulder periods' (ie 11pm to midnight and 5am to 6am) be abolished (Submission 24, submissions page 63 and submissions pages 1,8,10,12,13,14,23,38,41,42,43,57,74,107).

3.6 Mayne Nickless considered that the Bill is likely to restrict the freight transport industry's ability to respond quickly to technological developments and market change. Ansett did not want the discretion of the Minister to grant exemptions or to vary the curfew in exceptional circumstances to be curtailed (Submission 39 and 12, submissions pages 179 and 21).

#### **The additional and specific matters**

- (a) what measures could be considered to reduce the number of jet aircraft movements at Sydney (Kingsford-Smith) Airport between the hours of 11pm and midnight and 5am and 6am.**

3.7 This specific matter should be considered in the context of the general approach to the inquiry, to give people who live under flight paths some respite from aircraft noise. In the succeeding paragraphs the committee will examine the various options put to it, particularly from the Department of Transport. There are also two options put forward by the committee.

3.8 Almost all the different measures to reduce the number of jet aircraft movements during the shoulder hours were proposed by the Department of Transport. In all the department discussed 7 options. The submission from the Australian Mayoral Aviation Council proposed diversion or redirection to an alternative airport of any scheduled or early arriving aircraft at SKSA between 11pm and 6am. This is also discussed in one of the options put forward by the department. There are also two options put forward by the committee.

### **Measure 1 - reduce the number of permissible movements**

3.9 The only complete year for which there is information on aircraft movements during the shoulder periods is 1994. The information show 1424 movements of international jet aircraft and this compares with the maximum of 2912 allowed under the regulations and the Bill. In other words, the 1994 number represents close to half (48.9 per cent) of what is allowed. Therefore one way to limit the number of potential jet aircraft movements during the shoulder periods is to reduce the number of permissible movements allowed in the Bill to the number used at present.

### **Measure 2 - do not reallocate a curfew slot**

3.10 A second way to reduce the number of jet aircraft movements during the shoulder periods is not to allow the reallocation of a curfew slot when it is surrendered by an operator. For example, United Airlines has a daily flight from Los Angeles which arrives in Sydney at 5.40am. The airline representative said that if he could he would operate the flight half an hour later to link with more domestic connections into Los Angeles, thereby getting into Sydney around 6.15am (transcript pages 69,71). If this happens then those shoulder slots should not be reallocated to another operator.

### **Measure 3 - reschedule some flights into the non-curfew period**

3.11 The feasibility of this option depends on technical factors (the capacity of the international terminal system to handle the additional arrivals and departures) and economic factors (no significant reduction of aircraft movements into Australia).

3.12 The question of capacity can be divided into three parts. The Federal Airports Corporation said that their analysis showed that the system had the capacity to meet all flights between 11pm and midnight if those flights were moved to slots before 11pm.

3.13 In respect of the morning shoulder the FAC said that the northern winter schedule (October to March) has only a small number of flights, about three or four week, and there would be few difficulties moving those flights into the 6 to 7 or 7 to 8 morning hour.

3.14 The FAC said that with the northern summer schedule moving the morning shoulder flights into the 6am or 7am timeslots would present some initial gate capacity problems because this compounding of the demand for gates could occur between 8am to 10am. The major issue would be the terminal subsystems and the ability to handle passenger throughput. The Department of Transport said the key constraint appears to be baggage handling followed by gate constraints (transcript pages 146 to 149).

3.15 The Qantas submission differs from the views of the FAC and the department. Qantas says that 'such is the limitation of aircraft and passenger handling capacity during peak hours after curfew, that no more international flights at all can be accommodated at Sydney KSA before 10am on any day of the week after April 1996'. Qantas also says that the morning shoulder is necessary because there is nowhere to park international aircraft which arrive during the morning shoulder after the curfew ends (Qantas submission 28, submissions page 88).

3.16 Ansett is by no means clear that SKSA has terminal capacity to handle after 6am passengers displaced from morning shoulder flights. The company says that should these flights arrive after 7.00am 'it is clear that runway capacity would be insufficient' (Ansett submission 53, submissions page 225).

3.17 The Federal Airports Corporation said that its analysis on capacity, described at paragraphs 3.15 to 3.17, 'has completely ignored the airline scheduling preferences and other implications that may occur ...' (transcript page 145). Qantas referred to the factors (scheduling windows) that affect long haul flights into Australia. These factors include curfews at other airports as well as Sydney, the availability of handling 'slots', the market demand for connections and aircraft rotations. Qantas says that the bands are so narrow that in

respect of some flights from London to Sydney a scheduling window of only two hours is available. The daily London flight thus dictates an arrival time at Sydney at 5.05am (Qantas submission, submissions page 91).

3.18 A further point made by both the department and Qantas was costs. The FAC said that there would be a substantial capital outlay, probably \$100 million to increase capacity at the international terminal to reschedule flights from the morning shoulder into the non-curfew period (transcript pp. 148, 149). Qantas said its best estimate was \$300 million (submissions pages 91,92).

3.19 Matters associated with rescheduling are complex and time consuming. The committee proposes that the government confer with the airlines and the International Air Transport Association and then publish a report on the feasibility of rescheduling some/all of the shoulder hour flights into non-curfew times.

#### **Measure 4 - some or all the flights rerouted to Sydney West Airport when built**

3.20 The Department of Transport submission said that the Government has announced measures to ensure that the Sydney West Airport will be operational in late 1999, in time for the 2000 Olympics. The first stage of development will be capable of handling both domestic and international airline services and could therefore accommodate some of the current shoulder curfew traffic from SKSA.

3.21 International passenger facilities in the currently proposed terminal building would allow two aircraft arrivals or departures every 90 minutes. If the shoulder hour movements were transferred to Sydney West Airport the terminal facilities could be expanded to use the four parking bays contained in the initial development (submissions pages 134,135).

3.22 Qantas said that many of the European aircraft that come to SKSA in the early morning remain until the afternoon. There are no stand off positions at Sydney West Airport and this limits the capacity to two arrivals. Therefore more hard stand capacity was required (transcript pages 24,25).

3.23 IATA said that this capacity did not overcome the problem of passenger connections to other centres such as Melbourne or Brisbane (transcript page 73). Ansett said operators whose frequencies are limited and the bulk of whose passengers originate or terminate in Sydney may find this option feasible (Ansett submission, 53, submissions page 224).

3.24 It is clear that Sydney West Airport as planned will have some limited capacity to accept shoulder period flights in 1999. Despite what the airlines say, when SKSA reaches capacity then Sydney West Airport will continue to grow and ultimately Ansett and Qantas will have to provide links from that airport to other domestic airports. As this occurs it should be possible to phase out jet aircraft movements at SKSA in the shoulder periods.

**Measure 5 - some or all flights rerouted to other airports such as Melbourne or Brisbane**

3.25 The submission from the Department of Transport provides statistics from which the conclusion is drawn that SKSA provides a hub for carriers. The department says that the implications of rerouting needs to be addressed. It adds that rerouting could lead to an increased demand for domestic aircraft movements into SKSA or that carriers would not be willing to serve destinations other than Sydney (submissions page 135,136).

3.26 Ansett says that markets drive airlines, that the market prefers Sydney and that there is no certainty that if access to Sydney were denied the tourist benefits to Australia would be maintained (submissions page 226).

**Measure 6 - operators to justify shoulder movements**

3.27 This departmental proposal requires an operator to apply to the Secretary of the Department of Transport for approval for scheduled international jet aircraft movements during the shoulder periods. The secretary would consider factors such as availability of alternative



airports in the Sydney area and curfew constraints at overseas airports. The secretary would not be allowed to take into consideration other pressures in scheduling windows such as connections and capacity limitations at other airports. The number of approvals would be limited to no greater than the current quota levels (submissions page 140).

3.28 This proposal, with its appeals to the Administrative Appeals Tribunal, is time consuming and bureaucratic. The committee proposals made at paragraphs 3.9 and 3.10 are simpler and less costly to administer. They do not provide for allocation of new slots during the shoulder periods.

**Measure 7 - to prohibit take-offs to the north at or around 11pm**

3.29 The Department says that to avoid the current problems with take-offs to the north flying over the suburbs after 11pm the arrangements could be amended so that take-offs to the north are not permitted after say 10.45pm. The submission adds that this problem could also be solved by prohibiting any scheduled movements at the airport after say 10.30pm (submission pages 140,141).

3.30 The problem the department referred to was aircraft taking off to the north just before 11pm and then flying over the suburbs after 11pm. Both the Lane Cove Airport Action Group and the Coalition of Councils referred to these occurrences (transcript pages 33,43).

3.31 Ansett says that quite deliberately it does not schedule departures right up to 11pm. It has a buffer, presumably to cater for possible delays. With its last scheduled movement at 10.15pm if the curfew were brought forward to 10.30pm, Ansett would want to schedule its last departure at 9.45pm. This puts additional pressure on Ansett's operation (transcript page 97).

3.32 While the committee understands the position of Ansett, the committee is not convinced by the argument. The committee prefers the prohibition of any take-offs to the north after 10.45pm including domestic flights.

3.33 Aircraft which had received taxi clearance prior to 11pm and which may be delayed for operational reasons, would be required to take-off into the south. Such aircraft would be deemed to have departed at the time taxi clearance was given.

#### **Measure 8 - minimise landings from the north**

3.34 The department submission says that on a small number of occasions incidents of multiple landings from the north (over the suburbs) after 11pm and before 6am have generated a large number of complaints. The submission states that this problem can be overcome by amending regulation 9(8) to prevent operations that are not over Botany Bay. If this is done there would need to be some form of urgent disallowable instrument which would allow special use of the airport during the curfew.

3.35 Although this measure could add to the congestion during the morning peak the committee concludes that the measure is a useful one for providing respite from aircraft noise.

#### **Measure 9 - to avoid any abuse of push back provisions**

3.36 The departmental submission states that regulation 6(10) allows aircraft which would not otherwise be permitted to operate to take-off over Botany Bay within 'a reasonable time' after the curfew has commenced provided they receive a push back or taxi clearance prior to the commencement of the curfew. Some operators get push back clearance prior to 11pm but do not depart until 11.30pm.

3.37 The submission said that the problem could be overcome by deleting reference to push back. Then any departure after 11pm would be the result of airport operational delays (submission pages 142,143).

3.38 The problem as the committee sees it is unnecessary departures after 11pm even if they are over Botany Bay. The solution is related to measure 5 and given action on this push backs would become redundant.

### **The additional and specific matters**

- (b) the appropriateness and quantum of the penalties contained in clause 25K of the Bill in light of current Commonwealth criminal law policy.**

#### **Background**

3.39 Clause 25K of the Bill provides for penalties if there are unauthorised landings or take-offs during the curfew period. The clause states that if during a curfew period, an aircraft lands at, or takes off from, the Aerodrome in contravention of this Part, the operator of the aircraft is guilty of an offence. The penalty is 50 penalty units.

3.40 Clause 25 of the Bill is identical to the provisions in the existing Air Navigation (Aerodrome Curfew) Regulations. The penalty of 50 penalty units equates to \$5000 which is applied to an individual. In a situation where a corporation breaches the curfew, section 4B of the Crimes Act 1914 provides for a corporation to be fined up to 5 times the maximum amount for an individual. Therefore, under the current regulations a corporation can be fined up to \$25000 for breaching the curfew.

3.41 Details of the operation of the curfew are at paragraphs 2.22 to 2.24.

#### **Arguments for and against increasing the penalty provisions**

3.42 Most submissions to the inquiry supported an increase in the penalty provisions proposed in the Bill. The existing penalties were considered too small and, as such, would not provide a sufficient

deterrent. The Coalition of Councils supported increasing the penalty to \$50000 and the Australia Mayoral Aviation Council, said that a penalty should not be less than A\$50000, ie 500 penalty units (submissions pages 71 and 30).

3.43 Ansett and Qantas considered the current provisions to be sufficient. Qantas referred to a virtually 'perfect score' in terms of compliance and concluded that the present penalties are more than adequate (submission page 90 and transcript page 22).

3.44 The Department of Transport noted that the \$25000 penalty for a corporation would be less than the cost of overnight accommodation for 400 passengers on an international jet aircraft.

3.45 The departmental submission referred to a conclusion from the Attorney-General's Department on the general offence provision. That conclusion was that while the provisions in the Bill, taken from the 1989 Regulations, may have been appropriate at the time, such general offence provisions are now contrary to Commonwealth criminal law policy.

3.46 The Attorney-General's Department advice states that offences created in regulations are concerned with breaches of minor regulatory offences and the penalty levels are low. However if offences are relocated in an Act of Parliament, the Parliament may decide that more appropriate (higher) penalties should be imposed. These penalties should aim to maintain consistency with penalties imposed in other Commonwealth legislation for breaches of similar offences (submissions pages 169,170).

3.47 This could mean that penalties for curfew breaches should be the same or similar to penalties for violations of controlled air space. The department considers curfew breaches to be serious and says that penalties upto \$100000 for corporations could be considered. However, for such a penalty to be consistent with Commonwealth criminal law policy clause 25K should incorporate an appropriate fault element such as 'intentionally' or 'recklessly' breaching the provision (submission page 138).

3.48 The fact that the regulations are not breached is not necessarily a justification for the appropriateness of the level of penalty. Breaches are serious, and should be related to the purpose of the curfew, namely, to give people who live under the flight paths some respite from aircraft noise. The present maximum of 25000 is clearly inadequate as a deterrent. The committee believes that penalties of upto \$20000 for individuals and upto \$100000 for corporations would be more appropriate.

### **The additional and specific matters**

#### **(c) measures to improve community consultation prior to any changes to the curfew at Sydney (Kingsford-Smith) Airport**

3.49 This additional matter should be considered in the context of 25L (Consultation before amendment) of the 1995 Bill. The purpose of that section is to outline the process of consultation to be implemented before an amendment to the part is introduced. Under the section the Minister must seek submissions by advertisements in at least two daily newspapers not less than 120 days before the proposed amendment is introduced in a House of Parliament.

3.50 There are processes for community consultation and on 11 May 1995 the Minister for Transport announced the establishment of a Sydney Airport Community Consultative Committee chaired by the Hon J Riordan. That committee has assumed responsibility for monitoring the curfew.

3.51 The operation of the Riordan committee was criticised during the inquiry but the committee is not in a position to examine the validity of these criticisms.

3.52 The submission of the Department of Transport says that clause 25L of the Bill purports to restrict the right of the Minister for Transport to introduce legislation into Parliament. Advice from the Attorney General's Department (the Acting Chief General Counsel)

states that the section as drafted does not interfere with the privileges of Parliament but suggests better ways of requiring prior public consultation, while not purporting to restrict the right of a Minister to introduce legislation into Parliament.

3.53 The Acting Chief General Counsel offers two alternatives. The first is to require the Minister when introducing any amendments to report on what advertising and consideration of submissions occurred before introduction. The second is for the section to provide that whenever the Minister considers a review or revision the Minister should advertise and so forth and report the outcome of this process to parliament (submissions pages 139,173).

3.54 An important alternative has been omitted. Standing Order 28B(a) provides for the appointment of general purpose standing committees and 28B(b) empowers these committees to inquiry into and report on any matters referred to it by the House including any pre-legislation proposal, Bill and so forth.

3.55 The committee believes that the best public consultation process is the parliamentary committee. Therefore the Minister should be required either to refer any pre-legislation proposal to one of the general purpose standing committees of the House of Representatives or to explain why he or she has not referred the proposal to one of these committees if this is what happens when a Bill is introduced. If the latter course is followed then the House can still refer the Bill to a committee.

## 4: OTHER MATTERS

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### **Community consultation**

4.1 Several community groups and residents expressed concern at the delays in getting information on aircraft movements during the curfew. Added to this was distrust of the accuracy of the information provided.

4.2 There is a need to provide such information promptly, especially in the case of 'go rounds' or major noise intrusions.

4.3 This could be achieved by the relevant airlines industry association publishing as soon as possible a full explanation of the circumstances of the aircraft movement and airline involvement.

4.4 Such action will ensure that the facts are available almost immediately to residents and registered community groups affected by the noise disturbance.

### **Propeller driven aircraft noise**

4.5 Some submitters complained of noise from low flying propeller aircraft. It appears that these aircraft operations in Sydney air space during the curfew are not related to SKSA. They may be operating from Bankstown or transetting uncontrolled Sydney air space. Undoubtedly they are a cause of noise disturbance given the lower ambient noise level.

4.6 An investigation of night operations of propeller driven aircraft in the Sydney area should be conducted. This should enable measures to be developed to protect residents from unnecessary noise intrusions.

## **Noise complaint procedures**

4.7 Strong dissatisfaction with the Noise Inquiry Unit's Hotline was expressed in a number of submissions. Such procedures require skilled staff with knowledge of aircraft operations who follow up messages left by callers.

4.8 Some submitters asserted that people wanted to speak to people not answering machines about their complaints. Action should be taken urgently to ensure that noise complaints procedures are adequate to handle residents concerns promptly and effectively.

4.9 After an appropriate period of time these should be an evaluation of the effectiveness of the Noise Inquiry Unit.



## 5: CONCLUSIONS

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### Introduction

5.1 The purpose of the curfew is to give those who live under the flight paths some respite from aircraft noise. In recent months administration of the curfew has been strengthened by the tightening of dispensations and the phasing out of noisier (other than BAe 146s) freight aircraft. The proposals for further noise reductions relate mostly to the reduction in the number of jet aircraft movements during the shoulder periods.

5.2 It is important to keep things in perspective. Movements of international jet aircraft during the curfew are less than 15 per cent of the total.

5.3 The number that did not take off or land over Botany Bay averaged at most 1 flight every 5 days in 1994 and these figures, following the tightening of dispensations, have almost certainly improved in the first 6 months of 1995.

5.4 Another problem during the curfew is the large number of flights of noise certified aircraft including propeller driven aircraft. These flights account for over 50 per cent of total aircraft movements during the curfew. This problem is compounded by flights over the suburbs of Sydney which involve Bankstown and other airports. Not surprisingly the residents of Sydney are not able to distinguish between these and SKSA flights.

### **The Sydney Airport Curfew Bill and the 3 additional and specific matters**

5.5 The longer term objective should be the phasing out of all aircraft movements at SKSA between 11pm and 6am. The shorter term goal should be to reduce the number of aircraft movements in the shoulder periods.

5.6 The committee reports the Bill to the House with the following proposals for change:

1. section 25C(4) to (6) be changed by reducing the number of permissible jet aircraft movements to the numbers used at present;
2. a new clause be inserted which states that when an operator surrenders a curfew slot that slot not be reallocated to another operator;
3. the push back provision in 25(12) be deleted;
4. a new clause should be inserted that prohibits take-offs to the north after 10.45pm;
5. section 25D be amended by introducing some form of weight/noise limitation for propeller driven aircraft which are entitled to an unrestricted number of movements during the curfew;
6. a new clause be inserted that gives the Minister authority to increase the number of flights during the curfew for one-off events such as the 2000 Olympics;
7. section 25G(8) be amended by
  - (a) including the word 'dispensations'
  - (b) setting out the criteria to be used for granting dispensations, and
  - (c) preventing operations that are not over Botany Bay
8. section 25K be amended by making the penalties \$20000 for individuals and \$100000 for corporations;

9. the ministerial statement required in section 25G(10) be made within 5 sitting days;
10. the consultation provisions be deleted and replaced with the following:
  - (a) for longer term changes to the curfew the Minister be required to refer any pre-legislation proposal to a general purpose standing committee of the House of Representatives; or
  - (b) when introducing amending legislation the Minister be required to give reasons why the pre-legislation was not referred to one of these committees.

### **Other matters**

5.7 The committee also considers that the following matters require action as soon as possible. These are:

- a) the Government should confer with the airlines and the International Air Transport Association and then publish a report on the feasibility of rescheduling some/all of the shoulder hour flights into non-curfew times;
- b) the Government investigate immediately the night operations of propeller driven aircraft in the Sydney area;
- c) the Government examine the feasibility of extending the requirement for all take-offs and landings to be over Botany Bay in the period 10pm to 11pm and 6am to 7am during week-ends;
- d) the airlines industry be required to publish in local media an explanation of any 'go round' or significant noise incident as soon as possible after the incident; and

- e) procedures for handling noise complaints should be reviewed to ensure they are effective and adequate.

Peter Morris MHR  
Chairman  
31 August 1995

## CONDUCT OF THE INQUIRY, WITNESSES AND EVIDENCE

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### Conduct of the inquiry

1. On 30 June 1995 the House of Representatives referred the *Sydney Airport Curfew (Air Navigation Amendment) Bill 1995* and three additional and specific matters to the committee and asked it to provide an advisory report by 31 August 1995.
2. The reference was advertised in the *Sydney Morning Herald* and *Telegraph Mirror* and submissions called for by 24 July 1995.

### Witnesses

3. The following witnesses appeared before the subcommittee at two public hearings, Sydney (21 August) and Canberra (23 August 1995):

<b>Organisation/ Persons</b>	<b>Date(s) of appearances</b>
<b>Department of Transport</b>	
Mr Peter Thomas Core Secretary	21 August 1995 23 August 1995
Mr John Bernard Bowdler Deputy Secretary Operations	21 August 1995
Mr David Southgate Acting Director Environment Operations Aviation Division	21 August 1995 23 August 1995

**Organisation/  
Persons**

**Date(s) of  
appearances**

Mr Colin James Dahl  
Manager  
Environment Policy and Programs  
Airservices Australia

21 August 1995

Mr John Charles Cappelletti  
Assistant General Manager  
Air Traffic Services  
Airservices Australia

21 August 1995

**Qantas**

Mr Douglas William Gillies  
Group Executive Manager  
Aircraft Operations

21 August 1995

Mr Paul Edwards  
Executive General Manager  
Pricing Scheduling & Yield

21 August 1995

Mr Ernst Jurgen Krolke  
Manager  
Schedule Co-ordination

21 August 1995

Mr William Laurence John Bourke  
Manager  
Aircraft Development

21 August 1995

Mr David Charles Hawes  
General Manager  
Government Affairs

21 August 1995

<b>Organisation/ Persons</b>	<b>Date(s) of appearances</b>
<b>Lane Cove Action Group</b>	
Councillor Roderick Trevor Tudge Member	21 August 1995
Mrs Lynne Widdup Minutes Secretary	21 August 1995
Mrs Susan Marian van der Sluys Member	21 August 1995
<b>Coalition of Councils</b>	
Mr Barry Cotter Chair	21 August 1995
Mr Michael Refshauge Representative	21 August 1995
<b>Drummoyne Residents Opposing Aircraft Noise</b>	
Mr Trevor John Carter Chairman	21 August 1995
Mr David William Lidbetter Secretary	21 August 1995
<b>International Air Transport Association</b>	
Mr Ernst Jurgen Krolke Chairman Scheduling Procedures Committee	21 August 1995
Mr Ian Michael Bamber Vice-Chairman Scheduling Procedures Committee	21 August 1995

<b>Organisation/ Persons</b>	<b>Date(s) of appearances</b>
<b>Camperdown Residents Action Group</b>	
Dr Ann Long Representative	21 August 1995
Dr William Arthur Bubb Representative	21 August 1995
Ms Wendy O'Connor private citizen.	21 August 1995
<b>Ansett Australia</b>	
Mr John Joseph Benson Schedules Director	23 August 1995
Mr James Victor Kimpton Manager Aviation Policy	23 August 1995
Mr John Richard Langford Manager Airport Development	23 August 1995
Mr Jack Ford Moffatt Acting Chief Executive Officer	23 August 1995
Mr James Robert Tully Director of Operations	23 August 1995
Ms Genine Louise Vurlheim Wallinga Deputy Manager Aviation Policy	23 August 1995



<b>Organisation/ Persons</b>	<b>Date(s) of appearances</b>
<b>Australian Mayoral Aviation Council</b>	
Mr Peter Anthony Fitzgerald Executive Director	23 August 1995
Mr Edward John Hooper Project Manager	23 August 1995
<b>Board of Airline Representatives of Australia Inc</b>	
Mr Lucio Cardone Executive Director	23 August 1995
Mr Maurice William Tye Member, and Administration Manager, United Airlines	23 August 1995
<b>Mayne Nickless Ltd</b>	
Mr Richard David Creak Consultant (Aviation)	23 August 1995
Mr Vincent Thomas Johnson General Manager Express Courier Group	23 August 1995
Mr Desmond Powell Commercial Director Transport Group	23 August 1995
<b>Federal Airports Corporation</b>	
Ms Julieanne Margaret Alroe Passenger Services Manager	23 August 1995

<b>Organisation/ Persons</b>	<b>Date(s) of appearances</b>
Mr Jack Ford Moffatt Acting Chief Executive Officer	23 August 1995
Mr Grantley William Woods Terminal Services	23 August 1995

### **Evidence**

4. The evidence consists of written submissions and the evidence taken at public hearings. This evidence will be bound and copies sent to the National Library and Parliamentary Library.

5. The submissions authorised for publication are as follows:

<b>Submission No</b>	<b>Person/Organisation</b>
1	Dr G Harvey
2	Citizens Revolt Against Sound Harassment
3	Mr N Crane
4	Mr C Dimech
5	Mr G Crossley
6	Mrs K Vella
7	Dr S Anderson
8	Dr J Bruck
9	Ms W Southcott
10	P&L Sharratt

<b>Submission No</b>	<b>Person/Organisation</b>
11	Mr P Smith
13	Drummoyne Residents Opposing Aircraft Noise
14	Australian Mayoral Aviation Council
15	Mr J Berry
16	The Glebe Society
17	Mr C Britton
18	Ms S Rosen
19	Ms W O'Connor
20	Ms E Robertson
21	Mr P Riddy
22	Mr I Robertson
23	Lane Cove Airport Action Group
24	Coalition of Councils
25	Camperdown Residents Action Group
29	Mr B Johnson
30	Mr J Barros
31	Mr I Thackerey

<b>Submission No</b>	<b>Person/Organisation</b>
32	Master B Johnson
33	Doctors Educating About Flyovers
34	Mr J Mirkin
35	Mr J Hurrell
36	Department of Transport
37	Mr/Mrs E&G Hamilton
38	Mr/Mrs D&I Inkson
39	Mayne Nickless Limited
40	Mr/Mrs P&J Clune
41	Ms J Ohana
42	Lane Cove Airport Action Group
43	Coalition of Councils
44	Community Advisory Committee
45	International Air Transport Association
46	Ansett Australia
47	Ansett Australia
48	Department of Transport
49	Mr I Thackeray
50	Mrs T Calligeros

<b>Submission No</b>	<b>Person/Organisation</b>
51	Department of Transport
52	Department of Transport
53	Ansett Australia
54	Department of Transport