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COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

SENATE

Hansard

RURAL AND REGIONAL AFFAIRS AND
TRANSPORT LEGISLATION COMMITTEE

**Reference: Airports Bill 1996 and
Airports (Transitional) Bill 1996**

MONDAY, 24 JUNE 1996

CORRECTIONS TO PROOF ISSUE

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SENATE

Monday, 24 June 1996

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
COMMITTEE

Portfolios: Primary Industries and Energy; Transport and Regional Development

Members: Senator Crane (*Chair*), Senator Conroy (*Deputy Chair*), Senators Calvert, Bob Collins, McGauran and Woodley

Participating members: Senators Abetz, Boswell, Brownhill, Burns, Chamarette, Chapman, Cook, Harradine, Ian Macdonald, Sandy Macdonald, Margetts, Schacht Tambling and Tierney
Senators Brown, Eggleston and Ferris from 1 July 1996

The committee met at 8.23 p.m.

Matter referred by the Senate:

Airports Bill 1996

Airports (Transitional) Bill 1996

Senator Tambling, Parliamentary Secretary to the Minister for Transport and Regional Development, in charge of the bill.

CHAIR—I welcome everyone to this hearing. On 30 May 1996, the Selection of Bills Committee recommended, and the Senate agreed, that the provisions of the Airports Bill 1996 and the Airports (Transitional) Bill 1996 be referred to the committee for inquiry and report by 20 August 1996. This evening we will hear evidence from the Hon. Grant Tambling, Parliamentary Secretary assisting the Minister for Transport and Regional Development and from officers of the Department of Transport and Regional Development and the Department of Finance.

You will notice that the television cameras and sound technicians are here tonight. It should be noted that the committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcasting of committee proceedings.

Before we commence taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament or its members and others necessary for the discharge of the functions of the parliament without obstruction and without fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of evidence given by him or her before the Senate or any committee of the Senate is treated as a breach of privilege.

I remind witnesses that the committee prefers all evidence to be given in public but, should you at any stage wish to give your evidence, part of your evidence or answers to specific questions in private, you may apply to do so and the committee will consider your request. Departmental officers should note that they will not be required to answer questions which seek opinions on matters of policy, reasons for certain policy decisions, or the advice they may

have tendered in the formulation of policy. If necessary, the committee will allow officers reasonable opportunity to refer questions to superior officers or to the minister.

Hardham, Mr Ivon, Deputy Chairman, Airport Sales Task Force, Department of Finance, 470 Northbourne Avenue, Dickson, Australian Capital Territory

Harris, Mr Peter, First Assistant Secretary—Aviation Policy, Department of Transport and Regional Development, Canberra, Australian Capital Territory

Merner, Mr Paul, First Assistant Secretary—Aviation Operations, Department of Transport and Regional Development, GPO Box 594, Canberra City, Australian Capital Territory

White, Mr Joc, Assistant Secretary—Airport Regulation, Department of Transport and Regional Development, Canberra, Australian Capital Territory

Wolfe, Mr James, Director—Airport Policy, Department of Transport and Regional Development, 22 Cooyong Street, Canberra, Australian Capital Territory

CHAIR—I now invite the parliamentary secretary to make an opening statement. At the conclusion of his remarks I will invite members of the committee to submit questions to him. Tonight's hearing is the briefing on the public record by the department and the parliamentary secretary, and we have set down one hour for this particular hearing. At the conclusion of this hour, any further questions for the parliamentary secretary or officers of the department will be handled at the completion of the hearings, after we have heard from other witnesses, as there will obviously be things that come out of other hearings. Over to you, Senator Tambling.

Senator Tambling—Thank you, Mr Chairman. I appreciate the opportunity to be here this evening. Can I refer the committee in particular to the second reading speech of the minister, Mr John Sharp, in the House of Representatives on 23 May 1996 which did go into comprehensive detail with regard to this particular legislation. I am sure that in the course of your committee's deliberations the departmental officers will be keen to assist you. Officers will also be available at the hearings you may have at a later date as issues may arise that have been canvassed by various witnesses.

To turn to the legislation, the Airports Bill 1996 and its accompanying legislation, the Airports (Transitional) Bill 1996, form the regulatory underpinning for the sale of long-term leases at federal airports. The sale of leases provides an opportunity for the private sector to invest in the development and management of Australian infrastructure. Leasing of airports was included in the government's election commitments. The government is taking the necessary action and dealing with each of these matters.

Airports cannot be leased until the regulatory sales legislation has been passed. In that regard I would mention that, as you would be aware, Mr Chairman, this legislation is currently held up in the Senate. The next stage of the sales process requires the release of information memoranda which will need to contain full details on the post-leasing regulatory regime. The information memoranda will need to be ready for release by October to avoid delaying the sales process, hence the importance that we place on the passage of these bills.

If I can now outline the bills, the Airports Bill 1996 sets out the proposed airport regulatory regime, including the necessary public interest regulatory controls on the operations of the airports, post-leasing. The provisions have similarities to the lapsed Airports Bill 1995. The essential provisions include: majority Australian ownership; five per cent limit on airline, and associate, ownership; Commonwealth controls over land use planning and building; new

environment strategy requirements on airport lessees; financial transparency and monitoring of quality of service provided by airport operators.

The government's bill also ensures: access to airports for new entrants and other users; clarifies the application of state laws—for example, trading hours—which apply other than where the Commonwealth seeks to regulate; and, where discretionary powers are used, allows submissions from airport operators and requires explanations to be tabled in parliament. In relation to airport pricing, our aim is to ensure there is no abuse of the potential market power of airport operators. Our election commitment was to cap landing charges at the airports using a CPI-X system. The necessary prices oversight will be undertaken by the Australian Competition and Consumer Commission.

The Airports (Transitional) Bill 1996 sets out the transfer and leasing arrangements, including the establishment of airport companies by the Commonwealth or purchasers as a vehicle for the leasing process, the transfer of staff and assets, and the strengthening of the FAC's ability to contribute to the leasing process.

The bill provides for clarity and certainty on processes which allow government and community input with regard to land use planning and building controls, and a greater compatibility between on and off airport development. Each regulated airport operator will be required to establish an airport master plan—essentially a long-term land use plan to cover a 20-year period—and major development plans for projects such as runway and terminal development at airports which can, where significant environmental impacts result, require appropriate environmental impact assessment processes, as is currently the case. Airport operators will also need approval for new building activities on airports sites.

Master and major development plans and environment strategies will be subject to ministerial approval. The bill ensures that the airport operator company undertakes a 'public comment' process providing the opportunity for all interested parties to comment on master plans, major development plans and environment strategies. The views of airport users, such as the airlines and other tenants, states and local governments, will be a significant part of the public comment process.

The Minister for Transport and Regional Development has responsibility for the Airports Bill 1996. This bill continues a Commonwealth regulatory regime at the major airports, with administration of essential regulatory controls the responsibility of the department.

The Minister for Finance has responsibility for the Airports (Transitional) Bill 1996. The airports sales task force, which is an arm of the Department of Finance, is responsible for administration of the sales processes, including matters relating to vendor and Commonwealth due diligence and the preparation of sales information memoranda.

To conclude with the current position, you would be aware that the airports bills were passed by the House of Representatives on 29 May 1996 and introduced to the Senate on 30 May 1996. Second reading speeches were incorporated in *Hansard* on 30 May and further consideration of the second reading of these bills by the Senate has been adjourned until the Spring sittings.

I am sure that the officers here with me today will be happy to field questions on matters that I have covered, or on the issues that are in your committee's reference.

CHAIR—Let me start with a couple of points. Firstly, Senator Tambling said that officers would be available as we progress down the situation. Almost certainly—although we have not determined it—one or two or so hearings will be held outside Canberra. Can you check

with the minister to see whether it is possible we can have a departmental officer in attendance at those hearings to deal with any matters of complexity that we need to get instant information on that may arise?

Senator Tambling—Certainly. I am quite able to indicate that officers will be available to the committee.

CHAIR—Thank you.

Senator Tambling—Are you in a position to indicate at this stage any dates or planned proposals for hearings?

CHAIR—Nothing of a substantial nature. We are going to have to have a meeting this week. As I am sure you are aware, the industrial relations hearings virtually wipe July out for a number of us. Combine that with the Telstra hearings and you can see the difficulty we have. But we are certainly looking at late July or early August and we would certainly be visiting one or two of the outlying airports that are going to be sold. But beyond that we have not finalised anything.

Senator Tambling—Your early advice of dates would be appreciated.

CHAIR—Thank you. Secondly, you made reference to the lapsed 1995 bills which were—I think you used the words—‘of a similar nature, but with some variation’. Could we get the differences expanded upon from either yourself or somebody at the table, please?

Mr Harris—The basic difference relates, firstly, to access provisions. The government had an election commitment in place to ensure that access was made available to new entrants. There is now a provision in the bill which effectively requires an airport operator to provide an access undertaking under the national competition policy reforms as they are now reflected in the Australian Competition and Consumer Commission’s legislation. That undertaking will effectively require an airport operator to indicate to the commission how it will provide access to new entrants and other parties seeking to use airport facilities.

Secondly, the status of Federal Airports Corporation master plans was at issue for some parties who sought to bid for airports and wanted to be able to use the FAC master plans existing at airports. It has been allowed under the legislation that is in front of the Senate for those plans to potentially form draft master plans which might be subject to approval by the minister.

Thirdly, there have been some improvements requiring statements of reasons for non-reviewable decisions made by the minister. There are areas in the legislation in relation to the granting of leases; the approvals to transfer a lease; the approval to provide an airport management agreement; declarations on practical control and slot allocation, and, in certain circumstances, the minister would table in parliament an explanatory statement with the terms of any decisions on these matters.

With respect to rescue and firefighting services, there is an ability now for the minister to allow those services to be provided by another authority as long as they meet the relevant safety standards put in place by the Civil Aviation Safety Authority.

Finally, concerning the definition of ‘major development plan’, some entities that were considering bidding for airports were interested in ensuring that there was clarity around the definition of ‘major development plan’ and the definition has been made clearer in the bill that is now in front of the Senate.

CHAIR—Did you mention cross-ownership provisions?

Mr Harris—The cross-ownership provisions which previously were in the 1995 bill have been removed from the existing bill.

CHAIR—You raise the issue of access provisions. Does that mean if a modern day Compass Airlines came along that they would not be given the run-around that they were given previously in terms of getting access into a number of the airports around Australia?

Mr Harris—It requires the airport operator to indicate to the Competition and Consumer Commission how they would provide access. So in the sense of saying it would eliminate the possibility of run-around, certainly from the point of view of an airport operator it would eliminate the possibility of run-around because that undertaking is an enforceable provision for the Competition and Consumer Commission.

Senator WOODLEY—I wonder if you could tell us in what sense, if any, can the government talk about a competition regime between airports if it is going to be possible for one group to own more than one airport? In what sense, in any case, do airports compete with one another? I thought they were a service facility rather than in any sense being in competition.

Mr Harris—We would tend to take the view that in most circumstances airports do not compete so much against each other because passengers go to a particular airport because they want to go to that destination. Very remotely at the margin there may be competition between airports but in practice we would probably tend to agree that there is very limited scope for competition. The access provisions that are referred to are all about the possibility for airport operators to construct a regime for people to get access to the airport in order that airlines may compete rather than airports may compete.

Senator WOODLEY—I notice in the media there has been speculation about the possibility of the minister revisiting the cross-ownership rules. Can you inform the committee where such consideration is at?

Mr Harris—The minister indicated in the debate in the House of Representatives that he would be prepared to give some consideration to issues raised in relation to cross-ownership but I have no further guidance beyond that that I can provide to the committee at this stage.

Senator WOODLEY—You might need to take this question on board as well. One concern I have is that if the cross-ownership rules are revisited, are we going to see the possibility of one group having more than one airport or are we likely again, as the media has suggested, to see that there might be a 15 per cent ownership rule applied, or 10 per cent or whatever? The concern I have is that once you introduce percentages into cross-ownership rules, we have seen in other areas how a 15 per cent, 20 per cent, 17 per cent or whatever becomes a game of bingo almost and deals are done. It seems to me that if the minister is going to revisit this he ought to rule out that kind of cross-ownership. You might like to take that on board.

Senator Tambling—I will certainly raise it with the minister.

Senator WOODLEY—I notice that the minister has said that the Australian Competition and Consumer Commission will safeguard competition. I am not sure in what sense. Would there be some kind of regulation? How would they safeguard competition in that sense? The concept is a bit hard to get hold of.

Mr Harris—I think the minister was probably most directly referring to the access undertaking provision that I referred to earlier. He may also have been referring to the fact that within the bill there are quite specific provisions about pricing scrutiny and quality of

service scrutiny, which will be undertaken by the Australian Competition and Consumer Commission.

In terms of the access undertaking, in practice, the way that the bill is constructed, if an airport operator does not provide an enforceable undertaking to the Competition and Consumer Commission within 12 months of taking over the airport, the airport is deemed for the purposes of the Competition and Consumer Commission's legislation to enable the Competition and Consumer Commission potentially to involve itself directly in negotiations. That is not guaranteeing that they would, but the opportunity then emerges. In that sense there is a substantial incentive for that access undertaking to be put in place by an airport operator in advance.

We are therefore ensuring that, not only on the pricing side but also on the side of ensuring that you can actually get your service—your airline—onto the airport, there is an opportunity for the competition authorities to play the appropriate role.

Senator WOODLEY—Senator Tambling or someone mentioned before about fire services and so on being under the control of or run by a separate entity. Is that what is proposed for the air services division or the air services corporation, whatever it is going to be called?

Mr Harris—The way the legislation is framed, and I will say this subject to correction from my colleagues, the normal option, if you like, would be for that service to be provided by Airservices Australia. But the opportunity is provided in practice for an operator to come to the minister and say, 'Here is an alternative entity,' for example, a state fire brigade, who will meet the appropriate standards established by the Civil Aviation Safety Authority, and they provide an alternative to me to utilising the Airservices arrangements. But I think it would be fair to say that in practice the expectation and the way the bill is drafted is that Airservices will provide that particular service at an airport.

Mr White—If I could just add a little bit. The bill does provide for any other arrangements to be ones which are approved by the minister.

Senator WOODLEY—I am a bit worried about a tug of war, and let me describe it to you. I guess there are two questions. The first one is: how will the Airservices part of the operation be funded? Then that leads on to the second question which I will give you at the same time: if you have Airservices having to fulfil certain standards that are laid down in legislation but they are being funded, for instance, by the services they provide to the airlines or whoever, I can see a real problem between the obligation to fulfil the regulated standards and competing for services and cutting funding, perhaps, in order to enable that competition to be put in place. You can see where all the other questions I might ask would lead. Let me just throw that one out and see where we go.

Mr White—I think the important part of it is that the arrangements would be ones that are either entered into by Airservices and therefore in accordance with the normal funding arrangements or if they are not of that nature then arrangements that are approved by the minister and separate from what Airservices is itself doing. Would you like to just expand on the—

Senator WOODLEY—Perhaps if I just ask the simpler question first: how will the Airservices part of the operation be funded?

Mr Harris—Airservices Australia will provide the service at the airport unless an airport operator wants to put another arrangement in place.

Senator WOODLEY—Who would Airservices Australia be funded by—the government?

Mr Harris—Airservices Australia charge their customers for the provision of rescue and firefighting services, amongst other—

Senator WOODLEY—And the customers are the airlines.

Mr Harris—The airlines.

Senator WOODLEY—Can you see the problem I am putting to you: the tug of war between competing to provide the service at a particular price and having to meet the standard? I am just cynical about that proposition. I guess that is a policy matter.

Senator Tambling—In general, when the standard is determined first, competition then arises with regard to the provision of those services that are already stipulated.

CHAIR—Will that standard be set down in regulations?

Mr Harris—The standard for providing firefighting services at airports is already in existence. It effectively follows the International Civil Aviation Organisation standard.

In that sense, therefore, I cannot actually see the conflict emerging unless an airport operator seeks to vary the nature of the provider. If they sought to change the nature of the provider, the standard would still have to be met. There is no doubt, given the way that the legislation is framed, that the standards that are required for the provision of firefighting services at airports would be met. It would merely be a question of, 'Is there an entity who could provide this, other than Air Services Australia?'. But the expectation in practice would be that Air Services Australia would provide the service.

CHAIR—I would like to just follow that one up, to get it absolutely clear. We have a new piece of legislation which allows competition to come in, in terms of providing that service, but the same regulations as apply now will apply into the future. So it will not be a necessity to put regulations into this act, bearing in mind it is a totally new situation.

Senator Tambling—We are addressing the issue, at the moment, of rescue and firefighting services.

CHAIR—Yes. That is what I am talking about.

Senator Tambling—In that regard, we are saying there is no proposal to change the regulations.

CHAIR—Thank you.

Senator MARGETTS—Under competition policy, given that all tenderers indicated that they were going to provide services of the same quality, would the operator be obliged to accept the cheapest quote?

Mr Harris—The minister must agree, under the legislation.

Senator MARGETTS—Would he be exempt?

Mr Harris—No. A proposition could be put to the minister—

Senator MARGETTS—Will this be exempt from competition policy legislation?

Mr Harris—No.

Senator MARGETTS—So it is not up to ministerial approval. Unless it is exempt from competition policy legislation, will not cheapest quotes apply, if they promise to provide the same quality?

Mr Harris—You would have to ask the competition authorities, but I have done some work on competition policy legislation, as it is currently framed, in the past. It does not actually oblige you to take, as it were, the cheapest quote.

Senator MARGETTS—But there is not actually ministerial discretion in competition policy, unless exemptions have been specifically sought. Is there?

Mr Harris—There are no exemptions, as it were, from the competition policy legislation, unless it is specifically stated in legislation. Nevertheless, you can specifically state in legislation, under the national competition policy, an exception. You certainly can do that.

Senator MARGETTS—Yes, but it is not done in this legislation.

Mr Harris—This legislation does actually say that the services would have to be provided in accordance with an arrangement approved in writing by the minister for the purposes of the section. So the minister does have the power.

Senator MARGETTS—But it is not exempted from competition policy so, in fact, the minister would be subject to competition policy.

Mr White—That is incorrect.

Senator MARGETTS—As far as I know, everything will be. So, to at least an extent, it will be.

Mr Harris—The national competition policy legislation applies in the broad, unless legislation is put through which says it does not apply in a specific case. It does not actually apply here.

As I have said, I am not an expert on the national competition policy legislation in each of its forms, but I have done some work on it in the past. It would be my understanding that there is no way that, effectively, you could be obliged to take a particular quote under national competition policy legislation. An operator would still, for the purposes of this, have to meet the standard; the minister would have to agree that the operator met the standard; and the airport operator would have to put the proposition to the minister in the first place.

Senator MARGETTS—Would you not have to wait and see?

Mr Harris—Unless you were able to go to the competition authorities and say, in some sense, ‘You’ve denied me a fair hearing’, I would find it difficult to envisage how that could actually apply. We could get some further advice for the committee on that.

Senator MARGETTS—Can you envisage somebody putting in a quote that is not going to say that they would meet the standards required?

Mr White—I think that there are other possibilities and it may be that an operator is interested in a service that would be provided by somebody else that might have some different characteristics that might, while meeting the standards, provide some other functions or whatever that Airservices was not interested in doing. Price would obviously be a consideration although it might not be the important consideration.

There would be other possible arrangements. There may be circumstances in which Airservices does not want to provide a particular location for those sorts of services. There would be a range of possibilities and all the legislation is doing is saying that there is an expectation that Airservices would provide these particular services. However, there may be circumstances where that is not, for whatever reason, appropriate and there is scope for an alternative arrangement to be agreed by the minister.

CHAIR—Could we get Mr Harris to get that further advice? The reality of competition policy is you do not have to accept the lowest quote. If we could get that further advice it would be very useful.

Mr Harris—I would be happy to provide that advice.

Senator MARGETTS—We need information about whether or not the operations will be operating according to the competition policy.

Senator WOODLEY—The Commonwealth and state governments operate out of airports to serve a number of their own purposes. I am not sure how they are going to be fulfilled once you have a privatised airport. Let me give you a simple example, but there are many others. There is a lot of dispute at the moment at Brisbane airport because they now have enforcement of the two-minute waiting period and Commonwealth cars are forever in trouble because, clearly, they are unable to fulfil a two-minute waiting period. Not only that, Commonwealth drivers normally go inside the airport to meet the VIP, whether it is a judge or a minister or whoever. That is against the law because you are not supposed to leave your vehicle.

They are just a couple of simple examples. There are more complicated ones when you begin to talk about security for prime ministers and ministers. I know that one of the ministers and one of the backbenchers in the present government raised this just one or two days ago because they ran into some pretty serious argument at Brisbane airport for that reason. How do you see some of these kinds of issues being resolved if you have a totally privatised airport?

Mr Harris—The basic position is that this legislation does not change any other regulations or requirements under other legislation. The statutory obligations, for example, under the Air Navigation Act remain in place, or under the Defence Act or anything else. So if there are specific requirements which apply at airports as a result of that legislation, those will be obligations taken on by a private airport operator.

The particular question you raise in relation to Commonwealth cars relates to the Federal Airport Corporation's by-laws in relation to parking and maybe Mr White could provide a little bit of background on that.

Mr White—The background to your question is best answered by looking at what happens at the moment and then what might happen post-leasing. At the present time it is worth explaining that the airports are Commonwealth places. They are places that are owned by the Commonwealth and, in accordance with Commonwealth provisions in legislation, where Commonwealth law is enforced at that location then it takes precedence over state law.

If you look at the FAC operations at the moment, the FAC act is a complete scheme and where the FAC implements by-laws or has other forms of control over what happens at the airport then that has the force of law and it displaces state law. It means that at the moment at FAC airports the law which applies in relation to parking matters is the FAC by-law position, although there can be arrangements with the states as to the support for what happens in particular locations. That is the position at the moment.

When you look at the post-leasing situation, there is an ability under the Airports Bill for regulations to be made which would have the effect of continuing Commonwealth law in respect of a range of matters. I think another aspect of that is that if the regulations are not made then state or territory law could apply. But take this particular case of parking: if there were to be Commonwealth regulations in relation to this matter, that is the law that would apply, irrespective of the fact that there is now a private owner of the facility. So that is the essential point, that where at the moment the FAC owns and operates and is to an extent self-

regulatory, post-leasing there will be private operators but they will still be subject to government law, if you like. As I said, for parking, if there were regulations then that would be Commonwealth law and if there were not then state law would apply because it is not displaced by any Commonwealth law.

Senator WOODLEY—Can I suggest to you that, at Brisbane airport at least, there are already many disputes occurring. It would be worth you taking that on board and just pointing out to the minister that there is a real problem there and it may need to be addressed before we go any further.

Senator MARGETTS—To follow up a statement made by Senator Woodley, if anyone wanted to go overseas or interstate from Perth, there is not any real choice available. There have been a number of studies from overseas indicating that exchanging a government enterprise for a private monopoly has been shown to be less than efficient. Have any similar comparisons been done in relation to privatised airport monopolies?

Mr Harris—I am not aware, I must say, Senator, of studies which show that airports have been privatised and are shown to be less than efficient. It is our impression, in fact, that where airports have been turned over to a private operation the level of innovation in the provision of the service can be quite substantial and also better working relationships tend to exist between customers and those airport operators. I think this particularly seems to apply in the case of quite large, specific European airports where there are what I would call working relationships established between the larger customers which tend to ensure a long-run level of cooperation and understanding in relation to, on the one hand, the airport operator's obligation to provide investment at that facility and, on the other hand, the airlines' role in terms of providing the customers that guarantee the use of that facility. That would be, I would say, our impression in terms of the operation of private airports overseas.

Senator MARGETTS—But you are aware of general studies that have concluded that exchanging a public enterprise for a private monopoly is not efficient.

Mr Harris—In the broader context, exchanging a public monopoly for a private monopoly, in the absence of any other activity to offset it, certainly I have seen views expressed which would suggest that that is not necessarily the most productive way to behave. But we would tend to suggest that under this regulatory regime we put in place here there are quite strong incentives for behaviour by airports in terms of the scrutiny on quality of service which exists in the bill, the role of the Competition and Consumers Commission in ensuring that those quality service indicators are available for public scrutiny in terms of the CPI minus X regime pricing at airports which we referred to earlier. In terms of the access undertakings that would have to be provided by airport operators. The incentive structures that are now being established tend to try and encourage, firstly, that cooperative relationship between airports and their customers and, secondly, an incentive for airport operators to spend a substantial amount of time ensuring that they do lift their productivity at airports. The bottom line of CPI minus X in the end is that the X factor is said as some broad equivalence to the productivity gains that you might actually expect to obtain out of an airport. When that is in place you can expect, I think, to see airport operators searching around for quite efficient provision of services.

Senator MARGETTS—Environmental standards are to be set by regulation. If there is no regulation in force, do state or territory environmental laws apply?

Mr White—Yes, that would certainly be the case. If there were no regulations in force, state and territory law would apply.

Senator MARGETTS—So with anything that is not mentioned in the act do state and territory laws automatically apply?

Mr White—I do not think, Senator, that you could say—

Senator MARGETTS—Or does it not—

Mr White—It is certainly the intention that, where it is possible for state and territory law to apply, then that would be the case. Commonwealth law overrides state and territory law, but where there is no conflict and there is no question of overriding then state and territory law would apply.

Senator MARGETTS—Is FAC currently subject to normal state and federal environmental laws?

Mr White—No, they are certainly not, to the extent that they have their own regime. There is no question of them automatically being subject to state and territory environmental law.

Mr Harris—Senator, the legislation that is in front of the Senate for consideration provides an environmental management regime which is a cut or two above that which currently applies, in that private airport operators, when they take over, will have to develop environment management strategies and have those approved by the minister, and there is a public consultation process attached to those environment management strategies. So, aside from the regulation to which you have already referred, there is also a requirement in the bill for environment management strategies to be established.

Senator MARGETTS—Yes, I understand that. But if, currently, FAC airports are not subject to state and federal environment laws, for instance, you are suggesting that there is no automatic falling onto state and federal environment laws for any purchaser of the airport?

Mr White—No, that is certainly the case.

Senator MARGETTS—So where are we left?

Mr White—Turning to the provisions relating to environment management, in division 3 of part 6 there are references to the environmental standards which will apply at airports and regulations about environmental standards—

Senator MARGETTS—What page is that?

Mr White—That is on page 101 of the Airports Bill 1996. There are references in section 124 to regulations which can be made in relation to standards and imposing requirements at airports, and regulations in relation to monitoring and remedying breaches of environmental standards at airports, and so on. And section 128 says:

(1) Subject to this section, it is the intention of the Parliament that this Division is not to apply to the exclusion of a law of a State or Territory to the extent that that law is capable of operating concurrently with this Division.

But the advice that we have is that where there are regulations in relation to those matters then that would displace state and territory law.

Senator MARGETTS—Okay. How do the standards differ, in relation to such things as noise, between various states?

Mr White—At the moment how do they differ?

Senator MARGETTS—Yes.

Mr White—Without going through a complete comparison of all the different provisions of state environmental law, there can be differences from state to state. The intention would be—your question was about noise?

Senator MARGETTS—For the moment.

Mr White—To the extent that the noise that you are asking about is noise generated at an airport, then there is provision in this bill for regulations to deal with that matter and for those to be applied consistently across major airports.

Senator MARGETTS—Many airports include buffer zones of bushland. Certainly that is the case with Perth. What environmental laws will apply?

Mr White—To the buffer lands and bushland outside the airport boundary, do you mean?

Senator MARGETTS—Some of them have buffer zones inside the official security zone and some, like Perth, have a buffer zone which is inside and outside the security zone.

Mr White—The position would be quite clear in relation to the boundary of the airport. Within that boundary, those airports are Commonwealth places and Commonwealth law would apply. To the extent that there are the types of environments that you referred to, they would be subject to Commonwealth environmental law at the airport site.

Senator MARGETTS—Which Commonwealth environmental law? There is no mention at all that I can see, on page 101 or throughout this bill, of habitat or species.

Mr Harris—If Perth airport were taken over by a private airport operator, the private operator would be required to put in place an environment management regime. An environment management regime would be put in place only after public consultation, and with the specific requirement that the minister be advised of the outcome of the public consultation, and the minister has to agree to the strategy. Therefore, if in developing an environment management strategy there was public consultation which drew attention to a particular issue, such as the preservation of remnant bushland, at the minimum an operator would be required to draw that matter to the minister's attention.

Senator MARGETTS—Where does it say in the bill that that is the case about, say, endangered species? If the only things the bill talks about are noise and pollution, where can we point to in the bill to say that things like endangered species or endangered habitat must be taken into consideration?

Mr White—I refer you to section 107 on page 90, headed 'Contents of draft or final environment strategy'. Subsection (2), for airports such as Perth airport, says:

In the case of an airport other than a joint-user airport, a draft or final environment strategy must specify:

- (a) the airport-lessee company's objectives for the environmental management of the airport; and
- (b) the sources of environmental impact associated with airport operations; and
- (c) the studies, reviews and monitoring to be carried out . . . in connection with the environmental impact associated with airport operations; and
- (d) the time frames for completion of those studies and reviews and for reporting on that monitoring; and
- (e) the specific measures to be carried out by the airport-lessee company for the purposes of preventing, controlling or reducing the environmental impact; and
- (f) the time frames for completion of those specific measures; and
- (g) details of consultations undertaken . . . and
- (h) such other matters (if any) as are specified in the regulations.

My colleague was referring to what would essentially be an important new regulatory requirement imposed on private lessee companies to develop environment management strategies that deal with the environmental issues at their airports, to consult on those proposed strategies and to seek approval for the strategies. By 'consult' I mean to go out to public comment and to give people who have a particular matter that they wish to be pursued an opportunity to draw that to attention.

Once the environment strategies have been finalised by the airport operator, the lessee must submit those to the minister for approval. Quite importantly, at the end of that section, there is provision in section 122 for a requirement on the airport lessee company for that airport to take all reasonable steps to ensure that the strategy is complied with, a requirement which can be backed up with an injunction power. So there really are some quite important new environmental provisions that are intended to apply in consultation with local communities, to ensure that the outcomes achieved over time are very satisfactory; and there is provision for proposals that the airport operator makes to actually be pursued and given effect.

CHAIR—After this question we will have to move on to Senator Conway and Senator McGauran for their questions.

Senator MARGETTS—I have not finished my questions yet.

CHAIR—We have got a time limit set for tonight. You have been going for nearly 15 minutes and neither of these gentlemen have had an opportunity. We officially finish at 9.23 p.m., so if there is further time we will come back to you.

Senator MARGETTS—That is really not satisfactory, because this is the only chance that I think these kinds of questions will be asked at this stage.

CHAIR—Listen, I am not going to continue debate. The committee agreed to set down a time for hearings tonight to take the briefing. I know Senator Conroy has some questions; I do not know about Senator McGauran. I have got to be fair to everybody at the table.

Mr Harris—Are the department officers going to be coming back?

CHAIR—Yes. I said at the start that, at the end of the hearing, as we are doing with the others, the officers come back and we have a longer session with them then.

Mr Harris—If there are specific questions in writing that the committee would like to submit, we are quite happy to provide information in another—

CHAIR—At the end of tonight's meeting—and I do not really mind if we run five or six minutes over time because I have got some questions I want to ask as well—I will give them an opportunity to put them on notice if they have not been able to handle them.

Senator MARGETTS—Okay. Let me have my final question: I put it to you that in the case of Perth airport, there is important habitat in the bushland surrounding the airport which includes listed wetlands, and areas of banksia bushland of very high quality and a range of habitat and species. If someone looked through this to find what environmental standards were required, and then looked at what was required in terms of sources of environmental impact associated with airport operations, they might well argue that what you mean by environmental impact is, firstly, environmental pollution, or secondly, the emission of noise, or thirdly, the disposal or storage of waste at airport sites. They could say, 'We have applied ourselves to all of those, and there is nothing there to do with that habitat.'

As I have only got one question I will have to put it in the same question: in cases like Perth airport, is it not the case that there are plans further down the track for development of another parallel runway which, considering the bad placement of the international airport, would go

right in the middle of the wetlands? What sort of a situation are we creating if we are going along with the proposal to sell the airport on the basis that, somewhere down the track, people will do something which we know, if they applied now, they would not get a leg in. It is our first plans that are most important, not what is going to be happening somewhere down the track.

Mr Harris—In relation to the first half of your question, the nature of the regulation that is proposed, as actually specified here, does not prevent additional matters being specified in regulation for requirements in relation to the environment strategy. But, more broadly, the nature of the process that is being put forward—

Senator MARGETTS—No, it says, ‘The regulations may match standards in relation to those things.’ If it does not say the regulations may make standards in relation to endangered species, how would this bill allow regulations to be made?

Mr Harris—Section 107(h)—this is page 91 which my colleague was quoting from earlier—says:

. . . such other matters (if any) as are specified in the regulations.

That would only be—

Senator MARGETTS—Hang on, no. You say, ‘in the regulations’. The regulations could be made on this, and you say: other things ‘as are specified in the regulations’. This whole issue of species and habitat does not get a guernsey.

Mr White—I think that the other way of approaching those matters that you are raising—species and habitat and those matters—are ones that, within the structure of what is proposed, are better dealt with under the—

Senator MARGETTS—That is not what I asked though, is it?

Mr Harris—What I was trying to allude to was the fact that the broader requirement to go to public consultation in developing an environment strategy is far more significant an opportunity than exists now, and will exist into the future, to enable public consultation, not just to influence the development of an environment strategy by an airport operator, but also to require that to be drawn to the minister’s attention. The minister will have to approve, or not approve, the environment strategy, having taken those matters on board.

In that sense, therefore, the attempt has been made under the bill to provide a very substantial opportunity for people to address habitat considerations, if they have those at an airport. And in effect—

Senator MARGETTS—And can you tell me how a minister would rule against a proposal on an issue that is not in the legislation? Would the minister not be subject to court challenge if he or she did so?

Mr Harris—I am afraid that I cannot answer that question off the top of my head. But the purpose of the—

Senator MARGETTS—Can you take that on notice? If the minister was to take advice that a person objects on the basis of impact on habitat yet there was no specific mention of it in the legislation, and there were no regulations, how would he base his objection?

Mr Wolfe—The minister has to have regard to public consultation.

Senator MARGETTS—I do know what that means in Australia.

Mr Wolfe—Let us say a group was objecting to the proposed environment strategy on the basis that it did not have a habitat or species plan, or requirements or standards that could be

a factor that the minister would have to have regard to. The airport lessee has to advise the minister on the consultations and he would have to respond as to why he did not have those particular standards.

Senator MARGETTS—Where is the requirement in here about those standards having to be in their plans?

CHAIR—In terms of the particular issue that Senator Margetts raised, and that is specifically with regard to endangered species, I think Mr Harris said he will take that on notice and get back to the committee with further information as to how that would be handled.

Mr Harris—Yes. I would be happy to take that as soon as we have the transcript available to us.

CHAIR—If you could do that, it would deal with that particular matter.

Senator MARGETTS—If I put these other questions on notice, can I have an indication of when the answers will be supplied?

CHAIR—Senator Conroy has some questions to ask. I do not know how many and I do not know whether Senator McGauran has any. We may be able to come back to you.

Senator MARGETTS—Thank you.

CHAIR—I am not trying to cut anybody off but we must have some semblance of fairness.

Senator CONROY—In an article in the *Financial Review* of 30 May, Mr Sharp is quoted as stating:

We also believe that the bill has quite discretionary powers for the Minister to determine, in the national interest, who an airport could be sold to—price alone is not the only determinant.

Could you give an indication of what the other determinants would be.

Mr Harris—The nature of the sales process is probably more for Mr Hardham from the Airport Sales Task Force.

Mr Hardham—I think it would be too early for me to be able to give a clear answer to that question. But due regard would have to be given to such things as ownership and financial capability of an organisation or consortium. There would be more factors than just price. I am talking off the top of my head at the moment because we have not thought through the exact terms of the tender, but we would have to have regard to the strength of the organisation that was making the tender. It is very important that whoever runs the airport has the financial viability to maintain the operation over quite a number of years.

If it is a consortium operating the airport, we have to have regard to the ability of that consortium as to whether they are bringing something to those operations from past experience or whether they are developing a consortium which would use local management, in a sense, the operational arm of an airport. Airports are a mixed business enterprise with many arms. They have airport operations in the true sense that we know it and they have other arms such as shopping centre or retail type activities, and that is another factor that needs to be looked at. These two factors are just part of a larger enterprise that operates on an airport site.

Another factor is, of course, price. I think we would be looking at a string of others in terms of Commonwealth policy arms. In order to determine whether an organisation is a good corporate citizen—this is in the same sense that we would do an examination of people who operate casinos—we look to make sure that we have not got an entity which is employing nefarious practices or has some past connection in that regard which could be considered adversarial to the Commonwealth's interests. Do you want me to go into further detail?

Senator CONROY—Thank you, Mr Hardham. The context in which the minister made those comments was in relation to the question as to whether he would be prepared to use those ‘discretionary powers’ to ensure plurality of ownership. Mr Sharp replied:

Certainly the powers are there to enable us to do that [and] we don’t want to hand over a government monopoly to a private monopoly.

I am not sure if it is a question for Senator Tambling question or for you. I am interested in knowing what the determinants are and whether you deem this sale to a company to be a monopoly sale?

Is it going to create a monopoly by selling it to X? The indication in the context of the minister’s comments is that there are powers to deal with that. What are those determinants? What would trigger the government to want to do something to avoid that monopoly?

Mr Harris—There are powers in the bill under which an airport lease can only be transferred with the minister’s approval. I can only presume that that is in practice what is being referred to here. I am not quite sure that I would make the connection—

Senator CONROY—But there is nothing at the moment stopping the same company buying all four of the majors. The transfer part is relevant if there is a potential further concentration, but in the initial position there is nothing to stop a complete concentration at the beginning, forgetting the on-sale. What would be the determinants that the minister has indicated in the newspaper that would lead the government to act?

Senator Tambling—I think you are reacting to a comment there that is posing that. I would be happy to take it to the minister for you.

Senator CONROY—Mr Harris, you indicated that if all that was happening was the transfer of a public monopoly to a private monopoly and without other things—I am not quoting you exactly—then that, in your view, would not necessarily be a great outcome.

Mr Harris—I think I confirmed to Senator Margetts that I had seen claims to that effect. I went on to say how, as I believe it, under the nature of the legislation that has been proposed here, we are doing a substantial amount to encourage efficiency at airports under this proposition.

Senator CONROY—I am not sure if this was in your initial presentation. Are you looking at a regulatory framework as a next stage of information to be released?

Mr Harris—There will be regulations developed subsequent to legislation.

Senator CONROY—Yes. Is there some indication that they would satisfy some of those potential concerns? Is there work being done that you are able to tell us about yet?

Mr Harris—I think the matters that I was referring to earlier are matters that I believe would address the question of the efficient provision of airport services under private ownership. Those provisions are the CPI minus X pricing regime, the quality of service indicators scrutinised by the Australian Competition and Consumer Commission, and the incentive that is created by the requirement for a private airport operator to get along well with their customers and develop cooperative working relationships, which certainly seems to have been the case in the nature of some European airports that have come under private ownership. I should mention too, since we spent quite a lot of time on it, the access provisions under the Australian Competition and Consumer Commission’s access regime.

Those matters taken together create quite powerful incentives for private airport operators to provide services efficiently at airports. I referred earlier to the X factor in CPI minus X tends to be set around an expectation of productivity gains that can be achieved by an airport

operator. If that is the way the government applies CPI minus X then you would tend to see a substantial incentive created by that alone for efficient provision of services at airports. But there are other factors that I referred to as well. The quality of service indicators is one of them that people would take a lot of interest in. And the quality of service indicators also falls under this bill.

CHAIR—Could we get a clear understanding, for the benefit of the committee, of what sort of program there is as far as the operations of this act is concerned? In the first tranche of sales or leasing there is Brisbane, Melbourne, Adelaide and Perth. Can you explain how it operates with Sydney and Hobart and then airports outside of that range such as Essendon and Jandakot, just to pick a couple, or whether they come in under the umbrella.

Mr Harris—The four airports that you refer to—Brisbane, Melbourne, Adelaide and Perth—are the first tranche airports, as stated by the government. To my knowledge, there have been no decisions taken on which airports would follow the first tranche airports. In relation to Sydney, I am aware of statements by the minister to the effect that he had an expectation that Sydney would be off the table for some little time. As I recall, but subject to correction, he referred to a period of two or perhaps four years. I must say that, beyond that, I am not aware of any other decisions which can give the committee complete guidance on what might happen with the other airports that you mentioned. Perhaps my colleagues have something to add.

Mr White—I could add one clarification. At the moment, the airports are owned and operated by the FAC. They are covered by the FAC Act. It will be the case that, as long as they continue to be under the FAC's ownership, they will not be subject to the provisions of this particular legislation. The two pieces of legislation provide the ability for regulatory control of the activities of airports from the time they are leased. For example, once Melbourne, Brisbane and Perth are leased, they will be subject to these provisions and the other airports would remain under the FAC Act.

CHAIR—What is the trigger? If there is a first tranche, I guess that at some stage there will be a second tranche. Is that how it works? What is the actual trigger that would bring on Sydney and Hobart or Darwin, which I would put together? The next trigger has to be for places such as Launceston and maybe Kalgoorlie. Does this require more legislation, or can it be done by regulation?

Mr Harris—It is a policy decision by the government.

Senator MARGETTS—Would it be disallowable regulation?

Mr Harris—It would be a policy decision of the government.

Senator MARGETTS—So it will not even go in by regulation. Doesn't it say the others will be by regulation?

Mr Harris—You can add more airports to the nature of this regulatory regime but, when we are talking about the terms of the Airports Bill, this is the regulatory regime to cover private airports. Yes, you can add more airports than those actually specified, by regulation, but the nature of which airports the government proposes to sell is a policy decision.

Mr White—That is the point that I was trying to get to. Melbourne airport would be covered in terms of the provisions of this bill from the moment that it is leased. Prior to its leasing, it is covered by the FAC Act, and that applies to each of the other airports. The provisions apply from the time that the airport is leased.

CHAIR—The reality is that, if there were additional regulations required for any of the other airports, regardless of what they were, then they would become a disallowable instrument. If

they were done under the regulations that exist, they would not be. That would be correct, wouldn't it?

Mr White—To expand on that point, the Airports Bill specifies a certain number of what are called 'core regulated airports'—there is a list of 12, plus Sydney west—and there is an ability to add to those by regulations. If there were to be a decision that another airport that is not in that list be covered by the provisions from the time that it is leased, then there would be a regulation required that would be disallowable.

CHAIR—Thank you. The answer to your question is yes, Senator Margetts. There would have to be a disallowable instrument for further regulation.

Mr Harris—For the additional ones. The additional airports are done through that regulatory regime.

Senator MARGETTS—Let me just clarify this. Will any of those airports that are in that list on page 10 need a separate regulation that is a disallowable instrument, or will they not need one?

Mr Harris—They will not. Additional airports beyond that—

Senator MARGETTS—So, although Sydney (Kingsford Smith) Airport is not in this actual legislation, it can go through without any parliamentary scrutiny. And it is the same with all of those airports that are not on the initial tranche: all of them on that list can go through without even any parliamentary scrutiny.

Mr Harris—Any 'further' parliamentary scrutiny.

Senator MARGETTS—Is that the same as the 1995 bill?

Mr Harris—Yes, it is.

CHAIR—In essence, what you are saying is that if, under the existing regulations, it could be done—and let us take Coolangatta airport as an example—then that could go ahead. If there were additional special regulations required for Coolangatta, then they would become subject to a disallowable instrument.

Mr Hardham—Under the Airports (Transitional) Bill there is a clause 20, part 3. I think where there might be some confusion here is that the initial leases that are to be granted to the private sector airport companies in a sense are granted under the Airports (Transitional) Bill. The provisions of the regulations which apply to those companies post that granting of the lease are contained within the Airports Bill. Within clause 20 we have the definition of the airports to which the initial grants apply.

Mr Harris—That was the purpose of my saying, 'To which the regulatory regime applies.' In other words, if you are under the Airports Bill, if you wish to apply this regulatory regime to another airport you specify it in the regulations. Broadly, the Airports (Transitional) Bill is the vehicle for actually determining sale.

Senator MARGETTS—I think if the average person in Australia knew how little scrutiny there will be subsequent to this bill they would be horrified.

CHAIR—I am confident that it clears it up in my mind. If there are new regulations that come forward they are subject. If there are no new regulations, then when they are dealt with once only in the parliament that is it.

Senator MARGETTS—What environmental controls are in place now to regulate aircraft movement, noise and fuel dumping over residential and environmentally sensitive areas?

Senator Tambling—Are you referring to these specific airports that have been stipulated by this legislation, or are you talking about that generally?

Senator MARGETTS—As we are talking about the implications for change to the FAC airports, I think you could take it that the question relates to the airports that are in the bill—which, as we have just found out, are just about every one of them, in reality.

Mr Harris—Your question related to aircraft and this bill regulates airports. We can provide some information on noise regulation in relation to aircraft and Mr Merner carries responsibility for that.

Senator MARGETTS—Movements of aircraft certainly come under the ambit of the management of airports, do they not, and the implications for that?

Mr Harris—I cannot give you a clear answer to that beyond saying that the purpose of this is to regulate airports rather than aircraft, so by definition it would tend to rule out what you are suggesting, and that aircraft regulation is covered by quite separate legislation, which Mr Merner has responsibility for.

Mr Merner—There are, as Mr Harris refers to, separate regulations under the Air Navigation Act covering both aircraft noise standards and engine emissions from aircraft. The operations of aircraft are effectively controlled by the air traffic control element of Airservices Australia. They are not controlled by the airport operator as such. Where the planes move in taking off from and approaching airports is effectively regulated by Airservices Australia, not by the Federal Airports Corporation, who are the current operators of the airports. That arrangement will be maintained when the airports move into a leasing phase. So it is a separate regulatory regime from what we are addressing here.

Senator MARGETTS—You can see why communities might see those as intricately mixed. Whatever expansions or changes there are made to airport operations, it means that aircraft movements, noise, and fuel dumping over residential and environmentally sensitive areas shift depending on what the plans are. Effectively, the community is saying there are not any controls over those things over residential or other environmentally sensitive areas.

Mr Merner—Well, as I have said, that is a separate set of issues.

Senator MARGETTS—So you will not be able to address those fully in any plans that you are putting up or that are being addressed under this legislation. Will they not be able to deal with such issues as aircraft movements and noise—or fuel dumping, where they know that it has occurred and continues to occur under the current situation—when they put in their submissions?

Mr Merner—There are a couple of elements of this. My colleagues who are closer to the bill than I will correct me on this: the first element of it is that if there were infrastructure proposals—for example, to develop a new runway at an airport—they would be caught by this legislation.

Senator MARGETTS—Yes; that is why I am asking these questions. I was expecting some sort of indication that you understood that people do not see those as separate issues.

Mr Merner—That would be caught separately. If you are talking about an arrangement whereby there are changes in operating patterns and the usage of a particular runway—changes to flight paths or something of that nature—that is not specifically picked up by this legislation. But it is caught by the Environment Protection (Impact of Proposals) Act, quite separately.

Senator MARGETTS—So it is caught by the Environment Protection (Impact of Proposals) Act. But this airport is not necessarily subject to that Environment Protection (Impact of Proposals) Act, is it?

Mr Merner—Yes, it is.

Senator MARGETTS—In what specific ways?

Mr Harris—There is a Commonwealth decision required, under the airport master plans. There is a decision in relation to major developments. In each of those cases—the master plans and the major developments—which are specific provisions of the bill, in putting forward a proposal an airport lessee company must, inter alia, provide forecasts relating to noise exposure levels.

Senator MARGETTS—Where is it stated in the act that it specifically relates to the Commonwealth impact of proposals act?

Mr Harris—It does not. Under the Environment Protection (Impact of Proposals) Act, effectively, if there is a Commonwealth decision an assessment must be made in relation to its environmental impact.

Senator MARGETTS—Who makes the decision?

Mr Harris—There is a decision for the minister in endorsing each of these plans.

Senator MARGETTS—Which minister?

Mr Harris—The Minister for Transport and Regional Development.

Senator MARGETTS—So the Minister for Transport and Regional Development will decide what level of environmental assessment is undertaken.

Mr Harris—That is effectively the way that it applies right now, under the relevant minister.

CHAIR—Are you saying that the current situation will continue?

Mr Harris—What I am certainly saying is that, in fact, the nature of the environmental regime that is provided for here is potentially an improvement on the current situation.

Senator MARGETTS—Let me get this right. Currently, while we still have a government business enterprise, there is no specific mention of the impact of proposals act. I know we have asked for some assessments to be made under that act. Is there or is there not any specific mention of the Commonwealth government impact of proposals act?

Mr White—There is not any specific mention of the impact of proposals act in this legislation—

Senator MARGETTS—I do not mean in this one, but as we are at the moment.

Mr Wolfe—I would like to just clarify that. The Environment Protection (Impact of Proposals) Act actually applies to actions made by, or on behalf of, the Commonwealth government and its authorities. In this case, the authority is the FAC.

Senator MARGETTS—So we are still operating under the impact of proposals act, but we will not be once this act goes through.

Mr White—No, there is no change in that respect.

Senator MARGETTS—There is no reference to it in the bill.

Mr White—But there does not need to be reference to it in the bill. There are provisions which involve decisions by the minister, and that is what is required to allow the Environment

Protection (Impact of Proposals) Act to be brought to bear on the matters that are under consideration by the minister. So there is no need for a reference; the act stands.

Senator MARGETTS—So it is sufficient that the transport minister is referred to for a decision to suggest that the act is subject to the federal environment act?

Mr White—To require that the proposals that are being put forward are subject to the EPIP Act.

CHAIR—The old provisions continue to apply.

Mr Wolfe—Senator, if I might refer you to the explanatory memorandum on page 28 in relation to major development plans. There is quite an explicit statement that this will allow requirements for EISs to be undertaken as input to the minister's consideration of any draft major development plan.

Senator MARGETTS—But it is still the transport minister that you are appealing to?

Mr Harris—Which is the case now as well, in practice.

CHAIR—Could I just say now that I will let this run through until a quarter to 10, which allows another seven minutes. Any other questions can be taken on notice and if there is anything further then we can deal with it when the department comes back.

Senator MARGETTS—Is there any intention to regulate for capacity at any FAC airport prior to privatisation?

Mr Harris—At an FAC airport?

Senator MARGETTS—Sorry, at one of the airports that is under—

Mr Harris—There are two answers to that, in terms of an intention. The government has in place a capacity cap on operations at Sydney airport of 80 per hour. That is not being implemented under this bill because, of course, it is still a bill and it would apply to a airport lease when sold; therefore, given that Sydney is not in the first tranche, it would not necessarily apply. But the capacity cap is being applied effectively through Airservices Australia. I will just look to my colleague, Mr Merner, for confirmation that there was, as I recall, a letter to Airservices to require the 80 per hour cap.

Mr Merner—Perhaps I could clarify that. When the minister gave a direction in March to Airservices Australia to develop a long-term operating plan for Sydney airport, that direction asked Airservices to take a number of factors into consideration in developing the plan. One of the factors to be taken into consideration was the fact that the government had a policy of a limit of 80 movements per hour at Sydney airport.

Senator MARGETTS—Can I ask when remaining questions will be answered?

Mr Harris—Much will depend on the nature of what is being sought, but I would have thought we could turn around questions of an expected nature within a week without any trouble.

Senator MARGETTS—Thank you. I will put the rest on notice.

CHAIR—Have you got them there? Do you want to read them into the *Hansard* or hand them to the secretary?

Senator MARGETTS—It might be nicer if I removed the sources of the questions before I handed them on.

Mr Harris—We are happy to take them in any form at all.

CHAIR—If they are official questions of the committee they have to come through the committee, so can the committee agree to have Senator Margetts give these questions to the secretary to hand on to the relevant parliamentary secretary. All agreed? Thank you.

Senator Tambling—Mr Chair, if Senator Margetts is proposing to ask as many questions as I see sheets of paper coming out, I just want to indicate that the previous commitment of a week might be a little bit fast. I do not know how many questions there are, but Senator Margetts was turning three or four pages there.

Senator MARGETTS—I have asked half a page of them already. I have asked two of seven, and one of four. We are not talking pages and pages.

Senator Tambling—I am sorry, I just saw pages coming and I thought it might have been a few too many to make a commitment to answering in a week.

CHAIR—All right. Senator Margetts, if you get those to the secretary, that will be great. I would like to thank Senator Tambling, the parliamentary secretary, and the various officers at the table and other people who have come along tonight. We look forward to the hearing as it continues.

Committee adjourned at 9.42 p.m.

