



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
LEGISLATION COMMITTEE

**Consideration of Budget Estimates**

WEDNESDAY, 30 MAY 2001

CANBERRA

BY AUTHORITY OF THE SENATE



**SENATE**  
**RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION**  
**COMMITTEE**  
**Wednesday, 30 May 2001**

**Members:** Senator Crane (*Chair*), Senator Forshaw (*Deputy Chair*), Senators Ferris, McGauran, Mackay and Woodley

**Senators in attendance:** Senators Calvert, Ferris, Forshaw, McGauran and O'Brien

**Committee met at 9.02 a.m.**

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT PORTFOLIO**

**In Attendance**

Senator Ian Macdonald, Minister for Regional Services, Territories and Local Government

**Transport and Regional Services**

**Executive & Corporate Management**

Mr Ken Matthews, Secretary

Mr Peter Yuile, Deputy Secretary

Ms Rosanne Kava, General Manager, Business Services and Strategies

Mr Jeremy Chandler, Chief Finance Officer

Ms Faye Powell, General Manager, Information Services

**Air Transport**

Civil Aviation Safety Authority

Mr Mick Toller, Director of Aviation Safety

Mr Bruce Gemmell, Deputy Director of Aviation Safety

Mr Terry Farquharson, Acting Assistant Director, Aviation Safety Compliance

Mr Richard Yates, Assistant Director, Aviation Safety Standards

Mr Mike Smith, Assistant Director, Aviation Safety Promotion

Mr Peter Ilyk, General Counsel, Office of Legal Counsel

Mr Rob Collins, Executive Manager, Regulatory Services

Mr Ray Comer, Executive Manager, Corporate Services

Mr Rob Elder, Executive Manager, Government, Industry and International Relations

Ms Karen Nagle, Executive Manager, Risk

Ms Sue-Ellen Bickford, Executive Manager, Strategy and Development Unit

Mr John Leaversuch, General Manager, Airline Operations

Mr Peter Boys, Manager, Investigations and Enforcement

Aviation Division

Ms Robyn Beetham, Acting First Assistant Secretary

Mr Jim Wolfe, Assistant Secretary, Aviation Security

Mr Jim Manning, Acting Assistant Secretary, Aviation Industry

Mr Rick Wade, Director, Aviation Trade and Operations

Mr Mike Frazer, Director, Aviation Safety and Regulatory Policy  
Mr Iain Lumsden, Director, Aviation Reform Group  
Mr Ross Gough, Director, ASEAN, Europe  
Mr Andrew Parle, Director, Africa, the Middle East, America, Pacific and Indian Oceans  
Mr Chris Stamford, Director, North Asia, Multilateral and Regulatory Reform

**Airports Division**

Mr Martin Dolan, First Assistant Secretary, Airports Division  
Mr John Elliott, Assistant Secretary, Planning Branch  
Mr John McLucas, Assistant Secretary, Operations & Infrastructure

**Airservices Australia**

Mr Bernie Smith, Chief Executive Officer  
Mr Andrew Fleming, General Manager, Air Traffic Management  
Mr Daryl Cathro, General Manager, Airport Services  
Mr Phillip Faulkner, Head Air Traffic Controller  
Mr Robert Deavin, Manager, Aeronautical Information Service  
Mr Chris Howell, Manager, Aviation Systems Engineering  
Mr Brian Predergast, General Manager, Infrastructure Support Services  
Mr Tom Grant, General Manager, Organisation Development and Company Secretary  
Mr Hisham El-Ansary, Chief Finance Officer and General Manager, Corporate Services

**Australian Transport Safety Bureau**

Mr Kym Bills, Executive Director  
Mr Alan Stray, Acting Director, Safety Investigations  
Mr Adrian Beresford Wylie, Director, Safety Programs and Support

**Integrated and Cross Modal Transport and Infrastructure**

Dr Greg Feeney, First Assistant Secretary  
Ms Joanne Blackburn, Assistant Secretary  
Ms Sue Elderton, Assistant Secretary  
Ms Sarah Brasch, Assistant Secretary  
Mr Winton Brocklebank, Team Leader

**Maritime Transport**

Dr Greg Feeney, First Assistant Secretary  
Ms Joanne Blackburn, Senior Executive Team  
Ms Sue Elderton, Senior Executive Team  
Ms Sarah Brasch, Senior Executive Team  
Mr Winton Brocklebank, Team Leader

**Australian Maritime Safety Authority**

Mr Clive Davidson, Chief Executive Officer  
Mr Brian Munro, General Manager, Corporate Support

**Road and Rail Transport**

Mr Bill Ellis, First Assistant Secretary, Land Transport Division  
Mr Robert Hogan, Assistant Secretary, Land Policy Branch  
Ms Trudi Meakins, Assistant Secretary, Roads Investment  
Mr Daniel Owen, Assistant Secretary, Rail Industry Branch  
Mr Peter Robertson, Assistant Secretary, Vehicle Safety Standards Branch

Dr Judy Winternitz, Assistant Secretary, High Speed Train

**Regional Services, Development and Local Government**

Ms Sema Varova, First Assistant Secretary, Regional Services, Development and Local Government Division

Ms Linda Addison, Acting Assistant Secretary, Regional Development Branch

Ms Linda Holub, Acting Assistant Secretary, Regional Services & Local Government Branch

Mr Nick Bogiatzis, Assistant Secretary, Regional Communities Branch

Ms Jane Harriss, Director, Communications Branch

**Territories and Regional Support**

Mr Mike Mrdak, Acting First Assistant Secretary, Territories and Regional Support Division

Dr Andy Turner, Assistant Secretary, Non Self-Governing Territories Branch

Ms Dianne Gayler, Assistant Secretary, Regional Support and Self-Governing Territories Branch

**CHAIR**—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee will continue its consideration of the budget estimates and will continue to hear from the Department of Transport and Regional Services. As I said yesterday, answers to questions on notice and additional information should be received by the committee no later than Friday, 13 July 2001.

**Senator O'BRIEN**—I wanted to ask now about the Essendon Airport sale process. Could you update the committee on what is happening there.

**Mr Elliott**—As you know, Essendon Airport was determined by the government to be offered for sale, and I think that was towards the end of last year. Subsequently, expressions of interest were invited. The present stage is that non-binding offers or indicative offers have been sought and received and are presently being evaluated and considered eventually for ministerial decision.

**Senator O'BRIEN**—Has the closing date for the non-binding, indicative offers come and gone?

**Mr Elliott**—Yes, that was 18 May.

**Senator O'BRIEN**—How will the government ensure that the airport continues to operate as an airport after the sale?

**Mr Elliott**—The existing airport lease requires that the airport lessee maintain the airport as an airport. That is part and parcel of the lease.

**Senator O'BRIEN**—Is that a condition of the lease for the term of the lease?

**Mr Elliott**—Yes, it is part of the lease. It will also be part of the sale in the sense that evaluation of the offers for the airport would take into account things like airport management experience.

**Senator O'BRIEN**—Just to clarify it in my mind, are the tenderers buying a leasehold or a freehold?

**Mr Elliott**—They are buying a leasehold.

**Senator O'BRIEN**—With the confusion of 'sale' and 'lease' in the language up to this point, I just wanted to be absolutely sure.

**Mr Elliott**—What is actually being sold is a long-term lease. It is not that different to freehold, I suppose.

**Mr Dolan**—It is one step from that. What is being sold is Essendon Airport Ltd, which has property which includes the long-term leases on Essendon Airport, but the land itself remains Commonwealth land and is leased to the airport company.

**Senator O'BRIEN**—So the company is being sold and the company holds the lease?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—Will the period of the lease be 99 years?

**Mr Dolan**—A 50-year lease with an option to renew for a further 49.

**Mr Elliott**—That is an existing lease, so it has already begun.

**Senator O'BRIEN**—So it is less than 50 now.

**Mr Elliott**—Yes, a year or two less than 50.

**Senator O'BRIEN**—But who's counting! We will not be around to see it renewed. Well, I won't; I am not sure about anyone else here.

**Senator Ian Macdonald**—We are always hopeful.

**Senator O'BRIEN**—Can the committee receive an update on the Sydney noise amelioration program?

**Mr Elliott**—I am not quite sure how much information you want. I will kick off with some and perhaps you can stop me if it is too much.

**Senator O'BRIEN**—Sure.

**Mr Elliott**—There are currently some 4,300 residences eligible for insulation under the program, of which about 3,500 have been insulated. Works have been completed in 25 schools, 29 preschools, six nursing homes and 24 churches. Earlier in the program, 146 of the 150 properties that were eligible for voluntary acquisition were acquired and the owners bought out. A replacement church has been constructed for a church that at the time was in the 40 ANEF—the Coptic church was relocated. In the current financial year, insulation has been completed in about 400 houses and in five public buildings, mostly churches. There is what you might call a slower than anticipated rate of completion, mostly due to the slower take-up rate of home owners who are tending to become, dare I say, a little more fussy about the particular products that they want in their houses because there is a wider choice now and they want to look at the various options, basically to maximise the opportunity that they have to, I guess, improve their property at the same time as it is being insulated for aircraft noise.

As far as our own objectives are concerned, they are mainly to achieve a high degree of client satisfaction with the program and, of course, noise reduction. On that score we achieve about 83 per cent good to excellent results from our post-insulation surveys. As far as the noise insulation is concerned, our objective in brick houses is to achieve an average of a 10 dBA reduction, with about 90 per cent achieving a reduction of at least five dBA, and we are still achieving that. So we are comfortable with what we are achieving in residential homes. In public buildings, with the exception of churches, we try to achieve the noise standards set in AS2021, which often means that you have to go to thicker glass.

**Senator O'BRIEN**—How much has the program cost to date?

**Mr Elliott**—\$357 million to date.

**Senator O'BRIEN**—What is the estimated final cost of the program, assuming full take-up?

**Mr Elliott**—A little over \$400 million.

**Senator O'BRIEN**—How long will the levy that applies to Sydney airport passenger flights to pay that off continue?

**Mr Elliott**—That is a little more difficult to estimate. I am sorry, I do not have a figure with me, Senator. I will have to take that one on notice.

**Senator O'BRIEN**—What is happening with the Adelaide noise amelioration program?

**Mr Dolan**—At this stage we are still in the start-up stage. At the moment, of nearly 600 eligible properties, 565 owners have registered an interest in participating in the program. We are processing the applications. There has been a range of briefing sessions, 86 property owners have attended those sessions and all of those owners have signed up for the program, so the scope of work is being done for them. The expectation is that over the course of next financial year there will be approximately 250 homes insulated out of that estimated total of towards 600.

**Senator O'BRIEN**—The actual amount of money appropriated last year for the Adelaide program was \$10.3 million—that was on page 47 of last year's PBS—but the actual expenditure was \$1.5 million. The appropriation for this year is \$15 million. Does that mean that there has been a carryover of funds?

**Mr Elliott**—Yes, effectively, Senator. It took us a little longer to get the program up and running than originally anticipated. We were quite keen to make sure that the arrangements that we put in place were robust, so we went through a process of choosing a project manager that met our standard. We then had to go through a process of engaging a number of builders. We are quite picky about the builders that we take on, because if we do not take care then we have a number of dissatisfied home owners.

We also have to make sure that all of the products that are being supplied in the program are products that carry a reasonable warranty, products that we can be reasonably satisfied are not going to have people complaining. Occasionally we do get complaints, clearly, but we do our best to make sure that the products are good quality products, that they can be sourced. Adelaide was not a market that was used to supplying some of those products so we have had to sort of help things along a little there by encouraging manufacturers to get their windows made and so on. So it took a bit longer than expected and then there was the process of actually, as Mr Dolan was just describing, scoping out those houses. All in all, the expenditure for this year has been rather slower than expected.

**Senator O'BRIEN**—Sydney appropriation for last year was \$64 million and actual expenditure is \$35.2 million so it is a bit of a go slow in both programs.

**Mr Dolan**—The start up explains what happened in Adelaide. In Sydney, the issue at the moment is—as I think Mr Elliott alluded to—since this is a voluntary program, getting to the stage where we have home owners signed up to have the work done is the real constraint on the implementation. That may well be a constraint over time in Adelaide as well.

**Senator O'BRIEN**—So in Adelaide you are looking to do 600 residences this year?

**Mr Dolan**—No, 250. But, again, that is dependent on the take-up rate—the agreement to have the work done by the owners.

**Mr Elliott**—On the basis of experience in Sydney, we will find a large number of people at the beginning of the program who are keen to take it up but, as we get towards the end of the program, as we are in Sydney, the tail enders, if I can describe them that way, will not be that keen and we will have to go through a process of chasing them and, ultimately, possibly even have to enforce some deadlines to get them through the process.

**Senator O'BRIEN**—In relation to the government's policy for the Sydney basin and the planned sale of Kingsford Smith airport, according to Mr Anderson, KSA, Bankstown, Camden and Hoxton Park airports are to be sold through a 100 per cent trade sale in the second half of this year, that is in the next six months. Is all of that on track as far as the department is aware?

**Mr Dolan**—The other Sydney basin airports are due for sale in the second half of 2002.

**Senator O'BRIEN**—So only KSA this year?

**Mr Dolan**—KSA is for this calendar year.

**Senator O'BRIEN**—And Bankstown, Camden and Hoxton Park?

**Mr Dolan**—Second half of 2002.

**Senator O'BRIEN**—So getting back to the Kingsford Smith sale, is that process proceeding.

**Mr Dolan**—Yes. Expressions of interest were sought and have been received. They have been evaluated and the results of that evaluation are currently with the Minister for Finance and Administration for his consideration.

**Senator O'BRIEN**—What is the government's financial expectation from the sale?

**Mr Dolan**—I do not know. OASITO is the sale manager and they are the ones who are arriving at those sorts of valuations and expectations.

**Senator O'BRIEN**—What role does the department have in the sale process?

**Mr Dolan**—Our role is to ensure that the Airports Act is fully met and complied with in the sale process and that the sorts of objectives which are associated with the act are taken into account in the sale process. We are the regulators, if you like, in this process.

**Senator O'BRIEN**—So the department does not have any preparatory work to do in relation to the sale?

**Mr Dolan**—We had a lot of preparatory work to do in relation to the sale in terms of the information memorandum that is currently being finalised for potential bidders and in terms of a range of other sale documentation to ensure that matters covered by the airports legislation are appropriately reflected so that owners—I am sorry, bidders—make fully informed bids.

**Senator O'BRIEN**—I would have hoped the owners already knew. In his media release dated 29 March, Mr Anderson said:

Additional work will be undertaken by relevant agencies to determine the nature of airspace re-design, and terminal and runway developments required at Bankstown Airport to ensure that it operates as an overflow for Sydney Airport ...

He says in that statement that these changes will be 'subject to the completion of environmental assessments'. Firstly, which agencies are doing that work?



**Mr Dolan**—Over time, a range of agencies will be doing work. The key work being done at the moment relates to the air traffic arrangements and will be done largely by Airservices. The other work, which is to do with what we would hope to see from potential bidders for Bankstown in terms of developments in Bankstown airport, will probably be done in the second half of this year, after the bulk of the work on the Kingsford Smith sale has been completed.

**Senator O'BRIEN**—Who did you say was doing the work?

**Mr Dolan**—There will be work on the air traffic arrangements by Airservices Australia. We will work with OASITO and the Department of Finance and Administration, as the owners are exercising the ownership responsibilities of government for the current companies to look at the sorts of requirements or expectations we would have for potential bidders for Bankstown, Hoxton Park and Camden.

**Senator O'BRIEN**—In relation to the airspace rezone, when will that work commence, or has it commenced?

**Mr McLucas**—We understand that it has already been commenced by Airservices Australia.

**Senator O'BRIEN**—When did it commence?

**Mr McLucas**—I do not know exactly.

**Senator O'BRIEN**—When is it scheduled for completion?

**Mr McLucas**—I am not clear on that. That may be a question you could ask Airservices.

**Senator O'BRIEN**—Does that work have to be completed prior to the sale proceeding?

**Mr McLucas**—I would expect that the airspace redesign would be a factor in setting the parameters of the sale documents. I would certainly expect the substantial bulk of it would need to be complete.

**Senator O'BRIEN**—What is happening in relation to the environmental assessments? My assumption is that they will have to be completed before the sale can be proceeded with.

**Mr Dolan**—The expectation is that potential bidders for the airports will include in their bids proposals for the future development of the airport and that, as part of the overall planning processes after the sale, that will be completed. So the major bulk of the environmental work will take place after the sale, not prior to it. The aim is to sell it in the current form with expectations of future development.

**Senator O'BRIEN**—So the risk of future development will devolve to the purchaser?

**Mr Dolan**—Correct.

**Senator O'BRIEN**—It is pretty obvious that the airspace redesign is going to affect the noise corridors. I think it is going to be the biggest issue in any of those airports.

**Mr Dolan**—Yes.

**Senator O'BRIEN**—Would the environmental assessments for those airports have to be done in accordance with the Environment Protection and Biodiversity Conservation Act and the Airports Act?

**Mr Dolan**—It depends on the nature of the development. There is a range of thresholds in the Airports Act itself in terms of environmental impact and various proposals. Past a certain

point, clearly the environment minister would need to come to a view as to whether the provisions of the Environment Protection and Biodiversity Conservation Act applied for particular developments. So those two would have to interact.

**Mr McLucas**—In relation to major development projects that are covered under section 160 of the Environment Protection and Biodiversity Conservation Act—that is, major projects on airports where the minister for transport has certain powers—he is nevertheless required to take into consideration advice from the minister for the environment.

**Mr Elliott**—One extra point: the Deputy Prime Minister has indicated that he will be seeking the inclusion of a full EIS on any proposal to extend the Bankstown runway.

**Senator O'BRIEN**—What about the other airports?

**Mr Elliott**—You are talking about Camden and Hoxton Park?

**Senator O'BRIEN**—Yes.

**Mr Elliott**—As Mr Dolan said, that would depend on the thresholds that are triggered.

**Senator O'BRIEN**—So this will all be set out in the sale documentation, I take it?

**Mr Dolan**—Yes. The overall requirements and expectations, and also the government's expectation that over time Bankstown will be developed as the overflow airport for Kingsford Smith.

**Senator O'BRIEN**—So any plan to significantly expand terminal or runway facilities at any of the airports will, I take it, trigger the major development plan requirements of the Airports Act?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—And require a 90-day public consultation?

**Mr Dolan**—Correct.

**Senator O'BRIEN**—How then does the Environment Protection and Biodiversity Conservation Act operate in requiring—

**Mr McLucas**—The Environment Protection and Biodiversity Conservation Act is almost an umbrella act, if you like. The way it links in to the requirements of the Airports Act is that the minister administering the Airports Act, our minister, is required to consider the advice of the environment minister.

**Senator O'BRIEN**—You say that Minister Anderson has indicated there will be a requirement that there be an environmental assessment in any major development vis-à-vis airports?

**Mr Elliott**—He has indicated that, in a sense, he will be advocating a full EIS. It is a matter for the judgment of the environment minister whether there is a full EIS requirement. He simply indicated that that would be his preferred position.

**Senator O'BRIEN**—What is the current capacity at Bankstown? As I recall it, the EIS for the second Sydney airport described Bankstown's 450,000 annual movements as about the full capacity of the airport. Was that number consistent with the current annual average or was it just the maximum experience at the time of the preparation of the report?

**Mr Elliott**—It will depend a little bit on how the development of the airport takes place. A large number of those movements currently are GA movements undertaking circuit training,

that kind of thing. If the airport is developed and takes a greater role in RTP—or regular public transport—services, then clearly some of those GA activities may be displaced to other airports such as Hoxton Park and Camden.

**Senator O'BRIEN**—So they would become the go-around type airports.

**Mr Elliott**—That is right. They would end up with more of the circuit training type activity at those airports.

**Senator O'BRIEN**—What are the ramifications for the operators and businesses who currently operate at Bankstown under that plan?

**Mr Dolan**—Until we know the full nature of the proposals developed, I could not give you anything more than a general answer. There clearly would be, given the current use and the subleases at Bankstown airport, potentially some fairly major implications for existing sublease holders.

**Mr Elliott**—Again, that would depend a little bit on how the development takes place. Just by way of example, there are circumstances that exist at other airports in Australia where a business operates from one airport—Essendon would be a case in point—and then the touch-and-go circuit training is undertaken somewhere else. So they take off, fly elsewhere and do the circuit training somewhere else. It is not necessarily the case that the business would have to move. It may simply stay at Bankstown airport, but that would be a choice that individual operators would make.

**Senator O'BRIEN**—What about the maintenance operations?

**Mr Elliott**—They could stay at Bankstown. As I say, that is pretty much a commercial choice that people would make—balancing various factors, I would imagine.

**Senator O'BRIEN**—I suppose it depends on the business that they service. If they are servicing GA and GA has gone to Hoxton Park or Camden, it is going to be pretty hard for them to run their business that remotely, isn't it?

**Mr Elliott**—It may be. It is a judgment that they would make and it occurs, as I say, at Essendon. Aircraft take off from Essendon, fly to Point Cook, do their training and return.

**Senator O'BRIEN**—I was thinking more of the maintenance operations.

**Mr Elliott**—The maintenance is done at Essendon, as I understand it.

**Senator O'BRIEN**—What is the distance between Bankstown and KSA? Is it 12 or 13 kilometres?

**Mr Elliott**—Of that order. I am not quite sure of the exact distance. I am told that it is 18 kilometres.

**Senator O'BRIEN**—Is that in a straight line?

**Mr Elliott**—Yes, between the reference points.

**Senator O'BRIEN**—Is it almost due west?

**Mr Elliott**—Basically, yes, that is about right.

**Senator O'BRIEN**—What implications will that have for the runway configuration at KSA?

**Mr Dolan**—Those are the sorts of issues that will have to be looked at in terms of airspace and design. Obviously, there is an interaction between the airspace design and potential future configurations of runways. There is an issue that needs to be addressed there.

**Mr McLucas**—I think your question was about the runways at KSA rather than at Bankstown, wasn't it?

**Senator O'BRIEN**—Yes, it was.

**Mr McLucas**—Our understanding is that obviously the long-term operating plan is in place at KSA and that will stay as is. Our advice from Airservices Australia is that the redesign of the airspace for Bankstown can be undertaken and will be undertaken in a way that does not impact on the long-term operating plan for KSA.

**Senator O'BRIEN**—It would be interesting to talk to them about that. What are the limits on aircraft operating at Hoxton Park? Are there weight limits?

**Mr Elliott**—We do not know the exact weight limits. They would be the typical weight limits that apply to a small GA airport. We could find out that information for you.

**Senator O'BRIEN**—Yes. I am just wondering if it would be in a position to take spill-over from Bankstown?

**Mr Elliott**—It should be able to take the small aircraft. Obviously, the larger the aircraft, the more pavement strength you need. But we do not have the information with us to give you an exact answer on that.

**Senator O'BRIEN**—Will the construction of the Western Sydney orbital road have any impact on the Hoxton Park facility? I understand the corridor for the orbital encroachment is on that airport's land area.

**Mr Dolan**—The corridor encroachment is on the south-west corner of the airport. So yes, there will be an implication there that we will have to take account of in the longer term planning.

**Senator O'BRIEN**—How limiting would that be on the operation of the airport for its future expansion?

**Mr Dolan**—I am not sufficiently informed to give an answer on that. I am happy to take it on notice.

**Senator O'BRIEN**—A media release Mr Anderson put out on 13 December states:

He said the new owner of Bankstown would be encouraged to develop it as an "overflow" airport to take excess traffic from Kingsford Smith, with an extended runway and new terminal facilities.

I take that to mean that it would be encouraged to equip itself to handle some of the jet services that come into KSA.

**Mr Dolan**—Yes, that is the expectation.

**Senator O'BRIEN**—Obviously not 747s. What size aircraft would, theoretically at least, be able to operate into an upgraded Bankstown airport with a runway of about two kilometres? Are we talking 767s, 737s or BAe146s?

**Mr Elliott**—The maximum that the government has indicated it would anticipate being able to use at Bankstown is 737s. That would require an extension to the runway, of course.

**Senator O'BRIEN**—Yes.

**Mr Elliott**—Could I just go back to your earlier question. We have managed to find some information. Hoxton Park is currently available for use by aircraft weighing up to 5,700 kilograms. So that takes a large number of the smaller twin engine props.

**Senator O'BRIEN**—When you say smaller, do you mean eight-seaters, metros or 19 seaters?

**Mr Elliott**—It does not take anything like 19 seaters.

**Senator O'BRIEN**—No, not now. I just wonder what the capacity is. I am not familiar with the MTOW of—

**Mr Elliott**—They are the smaller ones. They are the single engine and some twin engine aircraft, with maybe four or five seats or that type of thing. You also asked a question about the Western Sydney orbital road. The EIS for the proposed Western Sydney orbital identified an area of six hectares on the western side of Hoxton Park airport—that is about seven per cent of the total area at the airport side—which has been within the corridor boundary for the Western Sydney orbital. The location of the orbital is not expected to be a significant factor in determining the future aircraft operations at Hoxton Park airport.

**Senator O'BRIEN**—In relation to the sale process, how will the government deal with a situation where an airline is a shareholder of a particular bidder? How do the rules treat a bid from an entity in which there is some airline interest as opposed to a direct bid from an airline as part of a consortium?

**Mr Dolan**—It would be treated in the same way as a direct bid. The act limits the overall airline ownership to five per cent.

**Senator O'BRIEN**—In relation to forecast capacity of KSA, in a media release of 30 March this year, Mr Anderson said that Sydney airport would cope with increased traffic until the end of the decade. Could you take me through the assumptions that led to that conclusion?

**Mr Dolan**—The basic assumptions are that, because Sydney airport is attractive to operators, they will make appropriate efforts, either in terms of using larger planes or by other means, to retain access to Sydney at appropriate levels and that, combined with the use of Bankstown as an overflow airport, the government envisaged, would mean that the construction of a second Sydney airport could be deferred. That will be reviewed in 2005.

**Senator O'BRIEN**—So are you saying that the capacity issue is conditional on Bankstown being available as an overflow airport?

**Mr Dolan**—I would not necessarily say that it is conditional. As I understand it, that was a major consideration in arriving at that assessment. I was not involved in the discussions.

**Senator O'BRIEN**—So is the first assumption that the operators will bring in larger aircraft?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—Is the second assumption that there will be overflow available for smaller jets into Bankstown?

**Mr Dolan**—Yes, and there is also an assumption about flights which currently transit Sydney being turned into direct flights, such as direct Canberra-Brisbane flights.

**Senator O'BRIEN**—They already occur, don't they?

**Mr Dolan**—In some cases, yes.

**Senator O'BRIEN**—But not all the time. There are no direct Canberra-Launceston flights, I can assure you, and I do not expect any for a while.

**Mr Elliott**—You never know.

**Senator O'BRIEN**—That is true; you never do. So is the third assumption that direct flights will avoid using Sydney as a transit point?

**Mr Dolan**—Yes.

**Mr Elliott**—I suppose the addendum to direct flights is that some localised hubs could develop. Obviously, I was being a bit flippant when I said you never know in terms of direct flights to Launceston, but—

**Senator O'BRIEN**—From Canberra.

**Mr Elliott**—Yes, from Canberra, but you might hub through a different port to Sydney.

**Senator O'BRIEN**—Mind you, there has been an increase in the number of direct flights from Launceston to Sydney, so those that are overflying might be replaced by those coming in from more remote ports, directly into Sydney.

**Mr Elliott**—Essentially, what is underlying all of that is that there is a fair bit of flexibility in the system which has yet to be exploited.

**Mr Dolan**—That is the key issue here, Senator. We have given you a range of examples of possible strategies or decisions that would be made by operators. The key assumption is that operators will adjust commercially in other ways to the attractiveness of Sydney and that will mean that the capacity is adjusted appropriately.

**Senator O'BRIEN**—Has a prediction on the annual rate of growth in aircraft movements been factored into Mr Anderson's assumption?

**Mr Elliott**—They were contained in the EIS for the second Sydney airport. I do not think we have had sufficient time—

**Senator O'BRIEN**—How old is that?

**Mr Elliott**—I think that was completed last year. It was completed in 1999.

**Senator O'BRIEN**—What is the predicted annual growth rate?

**Mr Elliott**—We will find the information for you, Senator.

**Senator O'BRIEN**—Who did the work on the growth rate for airline movements?

**Mr Elliott**—I do not know. We will find that out for you as well. The department did that work.

**Senator O'BRIEN**—You might recall comments about the capacity of KSA by the chief executive of the airport coordination committee, Mr Krolke, reported in the *Sydney Morning Herald* on 13 December. Mr Krolke stated that there would be an average of 960 flights a day in and out of the airport by October, at that stage generated by Impulse and Virgin Blue. Impulse is out of the game significantly, but does that particular figure fit with the view of the department about aircraft movements by the end of the year?

**Mr Elliott**—We would take a longer view. We would be looking for a good statistical basis to make forecasts. I am not sure of the context in which Mr Krolke made those predictions, but if we were making forecasts as a department we would want to have a good statistical base and be reasonably sure that the increase in figures was not simply a blip in the series.

**Senator O'BRIEN**—Mr Krolke referred to the environmental impact statement for Badgerys Creek predicting growth of about four per cent a year, with KSA reaching capacity in around 2006-07.

**Mr Elliott**—I think that remark would have been based on the assumption of existing aircraft use. So passenger numbers may not be disagreed with, as it were, but if we go back to the assumption that the airlines will adopt a number of coping strategies, the government's expectation is that they will carry those passengers by using larger aircraft.

**Senator O'BRIEN**—We took some evidence in Sydney recently in relation to the slot system at KSA. The Board of Airline Representatives suggested that there could be a trend the other way and that more flexibility was needed in the slot system because of the opening up of newer routes with small to medium aircraft—737 to 767 range aircraft—for international routes rather than the wide-bodied variety for all routes. That seems to fly in the face of the assumption that the department makes that there will be an increase in the size of aircraft. I can understand it at the bottom end and I can understand the hubbing concept at the bottom end. We are already seeing hubbing in places like Dubbo, and I expect Wagga may be another of the hubs in southern New South Wales. But in terms of jet use of KSA, what we are actually seeing is smaller jets on a number of routes.

**Mr Elliott**—We are certainly seeing that in the short to medium term. Whether that is sustainable in the longer term becomes another issue. While I can appreciate that there would be a desire to have some smaller aircraft flying, possibly even direct from overseas destinations, the reality is more likely to be that larger aircraft will eventually become dominant.

**Senator O'BRIEN**—The proposition then is based substantially on that supposition because the other predictions are going in a different direction. What will direct the smaller jets into Bankstown?

**Mr Elliott**—There could be various ways that that could occur. If there is eventually a preference for larger aircraft at KSA in terms of flight allocations, then smaller jets may find that they—

**Senator O'BRIEN**—Within the decade?

**Mr Elliott**—Yes, within the decade.

**Senator O'BRIEN**—We are talking about the preference for slots?

**Mr Elliott**—Yes, partly the preference for slots. There could be some pricing mechanisms employed there as well.

**Senator O'BRIEN**—It has not worked at Heathrow.

**Mr Elliott**—No, and I would emphasise that they would not be applied to regional aircraft as well.

**Senator O'BRIEN**—To achieve this you would need to price the regionals out of KSA?

**Mr Elliott**—No. I am saying that the pricing out, as you have just described it, would not be applied to regionals.

**Senator O'BRIEN**—It would be pricing out the smaller jets?

**Mr Elliott**—That would be the idea, yes.

**Senator O'BRIEN**—So you would leave the regionals going in with a 20 seater but you would price out the 120-seat 737?

**Mr Elliott**—I am saying that that is a possibility. It has not really been canvassed, to my knowledge, but it is a possibility. It is more likely that principles, via the slot scheme, could be employed to provide larger aircraft.

**Senator O'BRIEN**—There is in process a review of the slot scheme. Your scenario does not seem to fit with, firstly, the scheme that is proposed and, secondly, the announced intention of the minister to review what was proposed in the light of the evidence that was presented by major airlines. I am talking about Ansett, Qantas and the internationals as represented by the Board of Airline Representatives, without even considering the regionals.

**Senator Ian Macdonald**—This is an interesting debate about what might and might not happen in the future but it is straying a bit from the estimates.

**Senator O'BRIEN**—I don't think so. It is the work of the department.

**Senator Ian Macdonald**—Government policy on these things is quite clear. All of this is supposition as to what might and might not happen and what might go forward. Perhaps if we could go to the estimates, that would help the committee.

**Senator O'BRIEN**—We are on the estimates. This is the work of the department and government policy around the expenditure of money on Kingsford Smith Airport, the sale of the airport, et cetera. Media reports on the AAP wire on 4 January state:

New figures show 9.93 million international passengers used KSA in 2000, up 7.5 per cent on the previous year. 970,000 passengers used the airport in December, a jump of 21 per cent on the December 1999 figure and more than the number of passengers during the Olympics.

Has the department done any work on the percentage of intrastate traffic you have to factor in for a shift to Bankstown to get life out of KSA out to 2010?

**Mr Elliott**—I do not know, Senator. We will have to take that on notice.

**Senator O'BRIEN**—The Salomon Smith Barney and Freehill scoping study on the airport sale—is that completed?

**Mr Dolan**—Yes, Senator.

**Senator O'BRIEN**—Mr Anderson said that Sydney Airports Corporation was to be broken up and privatised as two separate and competing companies, one holding KSA and the other small airports. Is that still the case?

**Mr Dolan**—That is still the case. That is the way that the two sales are being organised.

**Senator O'BRIEN**—What action is being taken in relation to the second company? Is that all done?

**Mr Dolan**—Work in progress is being undertaken by the Department of Finance and Administration in their responsibility for the government's ownership of SACL.

**Senator O'BRIEN**—In the media release of 13 December, Mr Anderson said that the government will retain ownership of the Badgerys Creek site. He said that the government would legislate to protect the site from an incompatible development in surrounding areas. What work has been done on that legislation?



**Mr Dolan**—We are currently in the initial stages of trying to understand the best legislative intervention to protect those areas. I do not think we are really at the stage where we could give you any detailed proposals.

**Senator O'BRIEN**—You said the best legislative intervention that would—

**Mr Dolan**—That could be put into place to achieve these policy purposes. We have not yet got it to the stage where we could give you an informed view on the best approach. It is work in progress, Senator.

**Senator O'BRIEN**—Has the department any idea of the sorts of development that would be allowed in this restricted area—the size of the buffer zone and how you would deal with development already in that buffer zone?

**Mr Dolan**—They are the sorts of issues that we are working our way through at the moment.

**Senator O'BRIEN**—And you are not in a position to indicate that the department has any views on that at the moment.

**Mr Dolan**—I do not think so. I think that would be premature.

**Senator O'BRIEN**—Has the department had a look to see whether there is any development in place in what might be the buffer zone that would have been blocked if the proposed legislation were in place? Obviously if you are looking at a measure you are looking at a buffer zone that theoretically might be X. These are the things that are there now so the legislation would have to deal with those sorts of things, for example.

**Mr Elliott**—Let me try to answer that by saying that the Badgerys Creek site is a greenfield site. Some properties that were judged to be either in the site or close to the site have been acquired by the department and offers are, in fact, still outstanding to some of those properties. But, as a greenfield site, it is not anticipated that there would be significant urban development within the applicable noise contours, for example.

**Senator O'BRIEN**—In relation to security requirements at Sydney airport for smaller regional operators, do you know what X-ray units are made available to regional operators operating at KSA?

**Mr Dolan**—That matter is actually handled within the Aviation Division, in Aviation Security.

**Mr Wolfe**—The screening at Sydney airport is done at the Qantas and Ansett terminals. They both have their own screening units. The operators of those particular airlines or their subsidiaries go through their screen points. The smaller operators are not required to go through screen points, given the size of their aircraft.

**Senator O'BRIEN**—What is the benchmark size?

**Mr Wolfe**—One hundred seats.

**Senator Ian Macdonald**—Regional life is not worth as much as city life!

**Senator O'BRIEN**—Apparently, yet I am screened every time I go through the lounge at Launceston, and both airlines flying out of Launceston—Kendall-Ansett and Qantas Link—operate aircraft with fewer than 100 seats.

**Senator Ian Macdonald**—Yes, but they see you coming. They know the bad people when they see them!

**Senator O'BRIEN**—They must do. I was thinking about some of my colleagues from your side of the fence that go through as well and wondering whether there is some problem there.

**Senator Ian Macdonald**—More of yours, unfortunately.

**Senator O'BRIEN**—More of mine; that is certainly true at the moment. No regional operators would operate aircraft with more than 100 seats, but some of the larger companies obviously do, and do require screening.

**Mr Wolfe**—Yes. That is the mandatory requirement. You have correctly noted that at several airports, for their facilitation reasons, both Qantas and Ansett do screening for aircraft smaller than that. That obviously is done when the passengers arrive, for example, at the major airports of Sydney and Melbourne and they can then walk straight into the main part of the terminal. So they are doing it for their own commercial reasons. There are other situations. Canberra is a classic example where you have a common screening point in the middle, so it makes sense for passengers to be screened through that point even though they are going on a smaller aircraft.

**Senator O'BRIEN**—They used to have a common screening point.

**Mr Wolfe**—They used to have a common screening point; that is correct. Again, it is convenient for them to screen all the passengers even though they are going on to a Dash 8 or a Saab 340, which are 36-seat aircraft.

**Senator Ian Macdonald**—At a lot of regional airports that I travel through, sometimes you are screened and sometimes you are not. That would be your experience. It might be better to leave it there and if you wanted any other information you could talk privately—or the committee could talk privately—to the relevant officers.

**Senator O'BRIEN**—So the regional operators do not have a requirement to screen; Qantas and Ansett supply their own X-ray units and it is not a government matter. Has there been any consideration given to screening regional airline passengers at KSA? It is the work of the department, Minister.

**Senator Ian Macdonald**—I hope you are understanding what I am saying. Perhaps we could get this information for you in a different way.

**Senator O'BRIEN**—Perhaps you could. If the officer has to take it on notice, that is fine.

**Senator Ian Macdonald**—If that is your understanding, we will take it on notice.

**Senator O'BRIEN**—If no consideration has been given—I will fit this into the question taken on notice—will the department discuss possible cheaper options for managing screening for regional operators?

**Senator Ian Macdonald**—Yes, and we will take that on notice.

**Senator O'BRIEN**—In relation to the Sydney KSA sale, in the joint press release of Minister Anderson and Senator Kemp, then acting minister for finance—I think it is 29 March—it says:

The proceeds of the sale of Sydney Airport will be applied to reduce Commonwealth debt and the sale of the airport will be managed by the Office of Asset Sales and IT Outsourcing, in consultation with the Department of Transport and Regional Services.

Can the department confirm that the government has made a commitment that 100 per cent of the proceeds will be applied to reduction of debt?

**Mr Dolan**—The only information I have is what is in the government's statement. It is really a matter for the finance portfolio because they are organising the sale.

**Senator O'BRIEN**—So it is a decision of government?

**Mr Dolan**—Yes.

**Senator O'BRIEN**—Thank you for that. I think we are probably ready for CASA.

**CHAIR**—Thank you. That completes questions on the Airports Division.

**Proceedings suspended from 10.07 a.m. to 10.25 a.m.**

#### **Civil Aviation Safety Authority**

**CHAIR**—Welcome, Mr Toller. We are now ready to start with CASA and we will move straight to questions from Senator O'Brien.

**Senator O'BRIEN**—Mr Toller, what is happening with your reappointment?

**Mr Toller**—I do not know, Senator.

**CHAIR**—I am sure Senator O'Brien meant: 'Good morning'!

**Mr Toller**—I am sure. Good morning, Senator. Senator, I do not know. Can I take that one on notice?

**Senator O'BRIEN**—You do not know!

**Senator Ian Macdonald**—Perhaps I had better take it on notice. I do not think Mr Toller decides that.

**Senator O'BRIEN**—I know that he does not. Mr Toller, you were guardedly optimistic, I think is the best way of putting it, when we discussed this matter last time. I am taken aback—I was expecting you to tell me that it was all cut and dried and there was a date. What is the date that the current contract ends?

**Mr Toller**—My current contract expires on 30 June.

**Senator O'BRIEN**—When does the board next meet?

**Mr Toller**—The board next meets on 14 June.

**Senator O'BRIEN**—Dr Scully-Power had something to say about your performance when he appeared before the committee on 4 May and in particular addressed the issue of the regulatory concerns arising from your activities as a private pilot. He did say that the board took the matter very seriously and that in relation to the Horn Island matter there was found to be a technical breach but that it was determined that it was not a matter that should be referred outside CASA. He said that the review of the Horn Island issue was then reviewed by two eminent lawyers, and I understand one of the lawyers was Mr Skehill. Can someone tell me who the other lawyer was?

**Mr Gemmell**—I understand the other lawyer was Tom Sherman.

**Senator O'BRIEN**—He said the cost of that exercise, the external legal opinions, was met by the Crown. How much did that advice cost?

**Mr Gemmell**—If I can take that on notice we will find out for you.

**Senator O'BRIEN**—Could someone remind me when the Horn Island incident occurred?

**Mr Gemmell**—8 June 1999.

**Senator O'BRIEN**—Mr Toller, can you confirm there was a passenger on board that aircraft when it was under your command?

**Mr Toller**—I think you may be mixing up incidents. The aircraft was not under my command at Horn Island.

**Senator O'BRIEN**—It was not under your command at all?

**Mr Toller**—No.

**Senator O'BRIEN**—You took the controls at some stage.

**Mr Toller**—I handled the controls of the aircraft, but there was a pilot in command on board.

**Senator O'BRIEN**—I think you have already told this committee that you had what was described as a difficult land and the weather was adverse at the time.

**Mr Toller**—I do not recall the weather being adverse at all, no.

**Senator O'BRIEN**—Have you operated a GA8 air van?

**Mr Toller**—Yes, Senator.

**Senator O'BRIEN**—Do you need any special qualification to operate that aircraft type?

**Mr Toller**—I am qualified to operate all single engine piston aircraft under and below 5,700 kilograms. That is what is known as a class endorsement.

**Senator O'BRIEN**—And that aircraft falls within that?

**Mr Toller**—It does.

**Senator O'BRIEN**—In the Horn Island case, there was a finding of technical breach, we have been told, but when tested against Commonwealth prosecution policy, it was determined that it was not a matter that should be referred outside of CASA. That is what I think Dr Scully-Power told us on 4 May. When was that breach brought to the attention of CASA?

**Mr Gemmell**—I understand it was in November 2000.

**Senator O'BRIEN**—The incident was reported in the media on 4 November last year. Are you saying that is when it came to the attention of CASA?

**Mr Gemmell**—Yes, to the best of our knowledge.

**Senator O'BRIEN**—I understand there was a meeting between Mr Ilyk, Mr Skehill and Mr Toller on 6 November and that a subject discussed at that meeting was the Horn Island incident.

**Mr Ilyk**—I do not recall a particular meeting on that date. Certainly, there was a meeting with me, Mr Toller, Mr Skehill and Mr Harris from the department, as I recall.

**Senator O'BRIEN**—On or around that date?

**Mr Ilyk**—Roughly that date. It was around the time that the matter was reported in the media, I think.

**Senator O'BRIEN**—How did Mr Skehill become involved at the time?

**Mr Ilyk**—If I recall correctly, it was in relation to getting advice on whether there had been a breach or not of the particular regulations that had been reported on.

**Senator O'BRIEN**—Did you call him into the meeting or did someone else?

**Mr Ilyk**—I discussed the matter with Mr Skehill.

**Senator O'BRIEN**—You asked him to attend that meeting?

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—Did you discuss that with anyone else?

**Mr Ilyk**—Did I discuss—

**Senator O'BRIEN**—Did you discuss inviting Mr Skehill into a meeting to discuss the matter?

**Mr Ilyk**—I would have discussed it with Mr Toller to let him know that Mr Skehill would be there.

**Senator O'BRIEN**—Who in the organisation at that time was tasked with the responsibility of investigating breaches of the regulations?

**Mr Ilyk**—I am not sure who the relevant individual was, but it would have been under compliance who were responsible for doing an investigation. At around that time there was a change in the reporting arrangements for enforcement investigations, and that then fell within my area of responsibility.

**Senator O'BRIEN**—Who had it before that?

**Mr Ilyk**—It would have been under Mr Foley.

**Senator O'BRIEN**—I had in mind that at one point Mr Boys, as manager of compliance and enforcement, was reporting to Mr Foley as assistant director, compliance.

**Mr Ilyk**—I cannot hear you.

**Senator O'BRIEN**—I am sorry. I had it in my mind that around that time Mr Boys, as manager of compliance and enforcement, was reporting to Mr Foley as assistant director, compliance.

**Mr Ilyk**—As I said, I cannot remember the exact date. It was around that time that there was a change in reporting arrangements and responsibility for enforcement and investigations became my responsibility.

**Senator O'BRIEN**—Mr Boys would have been reporting to you?

**Mr Ilyk**—If I recall correctly, it was at around that time the change occurred, yes.

**Senator O'BRIEN**—Yes, my notes indicate it was around the time of 8 or 9 November.

**Mr Ilyk**—I do not have the exact date. I can take that on notice.

**Senator O'BRIEN**—Yes. It might have even been linked with the air facilities matter at the time.

**Mr Ilyk**—It could have been. I just cannot remember off the top of my head. I can get the exact date when the change occurred because it was announced through the CASA email system.

**Senator O'BRIEN**—At about the time that this issue arose there was a change in the reporting arrangements?

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—I take it Mr Boys would have been a consistent link in the process before and after that change.

**Mr Ilyk**—In terms of the investigation work, yes. The reporting arrangement did not change the function or responsibility of enforcement investigations.

**Senator O'BRIEN**—Could Mr Boys tell us when the investigation of the matter actually commenced?

**Mr Ilyk**—He would be in a better position than I am.

**Senator O'BRIEN**—Is he here today?

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—Perhaps he can tell us now, to save mucking around with questions on notice.

**Mr Ilyk**—Sure.

**Senator O'BRIEN**—What I want to know, Mr Boys, is: when was the Horn Island incident involving Mr Toller brought to the attention of CASA?

**Mr Boys**—Through information circulating at the time, I am aware that there was a hotline call received in CASA on or about the weekend of 4 and 5 November.

**Senator Ian Macdonald**—I am not going to ask you who it is, but is the identity of the caller known?

**Mr Boys**—I do not receive the hotline calls. They are taken by Mr Elder.

**Senator Ian Macdonald**—Do you know if they take a name? I am not interested in who it is, and the name should not be said.

**Mr Boys**—I am unaware of that.

**Senator O'BRIEN**—Can you tell me when the investigation of the matter commenced?

**Mr Boys**—I am unaware of that because I have no involvement in that matter.

**Senator O'BRIEN**—You were not involved in the commencement of the investigation of that matter?

**Mr Boys**—No, I was not.

**Senator O'BRIEN**—Would that have been a matter normally referred to you?

**Mr Boys**—Yes, it would have been.

**Senator O'BRIEN**—When you became aware of the matter, did you refer it to someone or was it simply taken from your charge?

**Mr Boys**—I believe that it was taken on board by Mr Farquharson at the time as a result of a direction from the board.

**Senator O'BRIEN**—The particular incident—someone operating an aircraft without proper legal authority—is not an example of an unusual breach. Such a breach would have occurred on a number of occasions and it would be a fairly straightforward thing as a matter of law, wouldn't it?

**Mr Boys**—As far as I believe, yes.

**Senator O'BRIEN**—In such cases, would it be your job to make recommendations on referral of these matters to the DPP?

**Mr Boys**—Following a thorough investigation, if there was evidence to substantiate the truth of the allegations, if those allegations could withstand scrutiny, if there was a prima facie breach and if there were issues relating to the matter that satisfied me in accordance with the guidelines of the Commonwealth Director of Public Prosecutions, then I would make a judgment. If I was satisfied, depending on the outcome, I would either refer it or not refer it.

**Senator O'BRIEN**—Did you have any role in relation to this particular matter?

**Mr Boys**—Not initially. Following the investigation, Mr Farquharson asked my views in relation to the investigation report.

**Senator O'BRIEN**—What did you tell him?

**Mr Boys**—He asked me to review the investigation report, which I did, and I disagreed with the initial findings.

**Senator O'BRIEN**—Did you suggest to him that certain other actions should have been taken?

**Mr Boys**—I did.

**Senator O'BRIEN**—What would your recommendation have been?

**Mr Boys**—That, for scrutiny and for consistency in accordance with the procedures that have been in place, the matter should be considered for referral to the DPP.

**Senator O'BRIEN**—What happened to that recommendation?

**Mr Farquharson**—Mr Boys's recommendation is one of many issues that were taken into account. I considered that it was necessary to take into account all the opinions and, in reaching my conclusion, the matter was initially referred to two external individuals for a summation as to whether or not they agreed with Mr Boys's opinion. In both cases they did not. The matter, according to those individuals, failed to meet the tests of the DPP requirements and of the Commonwealth prosecution, and it should have been dealt with internally by measures referred to in the DPP procedures and in CASA's enforcement manual.

**Senator O'BRIEN**—Was it you who referred the matter to Mr Skehill?

**Mr Farquharson**—No.

**Senator O'BRIEN**—Who were the two outside legal people you referred to?

**Mr Farquharson**—I asked that the file be reviewed through Mr Ilyk's division, that the files—and this particular file—be reviewed externally. Mr Ilyk made those arrangements.

**Senator O'BRIEN**—How many files have you had reviewed externally?

**Mr Farquharson**—Two.

**Senator O'BRIEN**—This one and one other?

**Mr Farquharson**—The Brindabella matter.

**Senator O'BRIEN**—So the only matters that you have referred for an external view have been Mr Toller's matters?

**Mr Farquharson**—Ever? Or just in relation to Mr Toller?

**Senator O'BRIEN**—Perhaps we will go back to the first question, because you interpreted my question in a narrower sense than I asked it. How many matters have you referred to legal sources outside of CASA for an opinion, where prior to—no, I will withdraw that and phrase the question differently. Is it unusual to seek a legal view on whether you should refer matters to the DPP prior to such referral?

**Mr Gemmell**—It might be best if I got Peter Ilyk to try and answer the question because that is actually his role.

**Mr Ilyk**—The referral of the matter to Mr Skehill was actually my decision, not Mr Farquharson's. That was based on the fact that I had come to a particular conclusion as to what the law required. There was a different view taken by Mr Boys. In order to try to get to an independent view of that, I referred that issue to Mr Skehill and he provided advice on that matter.

**Senator O'BRIEN**—And the second advice you have already told us about.

**Mr Ilyk**—The second advice in relation to Mr Sherman?

**Senator O'BRIEN**—Yes.

**Mr Ilyk**—I was not even aware that that was happening.

**Senator O'BRIEN**—That was the board.

**Mr Ilyk**—That was a matter for the board.

**Senator O'BRIEN**—Mr Boys obviously was of the view that this was reasonably straightforward and, if the facts were met, it was the sort of case that would normally have gone to the DPP for consideration as to whether a prosecution should be launched.

**Mr Ilyk**—No, I do not think Mr Boys reached that conclusion. He reached a conclusion, or the investigation report reached a conclusion, that there appeared to have been a prima-facie case of a breach of a particular regulation. My view was that that finding was legally unsustainable because the regulation that they were trying to rely upon a breach of had no application in this particular case. My view was in fact corroborated by Mr Skehill and—quite independently of me knowing it was being looked at by someone else—by Mr Sherman.

**Senator O'BRIEN**—The DPP would have come to that view that it was wrongly referred, wouldn't they?

**Mr Ilyk**—They may have. I have no idea.

**Senator O'BRIEN**—Is there a written report from Mr Boys on the matter upon which you made a judgment?

**Mr Ilyk**—A report?

**Senator O'BRIEN**—Yes.

**Mr Ilyk**—I am not aware of any report. There was a difference of opinion between Mr Boys and myself as to the application of the law.

**Senator O'BRIEN**—How was that communicated to you?

**Mr Ilyk**—If I recall correctly, the whole file was referred to me for review. I looked at the investigation report and came to those conclusions as to the application of the law. That then went to Mr Farquharson. As I understand from the file, Mr Farquharson subsequently referred the matter to Mr Boys to consider. Mr Boys disagreed with my views and I then obtained the



file which said, ‘There’s a difference. What’s the situation?’ I said I had looked at it and I asked Mr Boys to provide me with detailed reasons why he believed my view was wrong. He provided those reasons and I wrote back to him saying that those reasons were legally unsustainable and my view was the correct view of the law. But in order to ensure that that matter was resolved independently, I referred it to Mr Skehill.

**Senator O’BRIEN**—So when did this interchange with Mr Boys occur?

**Mr Ilyk**—There were two interchanges. There was one in relation to Brindabella and one in relation to Horn Island.

**Senator O’BRIEN**—I am talking about Horn Island.

**Mr Ilyk**—If I recall correctly, it probably would have been early this year. In fact, I think I have got the sequence wrong. I have just realised that the Horn Island incident was not referred to Mr Skehill at all; in relation to my advice, it was actually referred to Phillips Fox, another member of CASA’s legal panel. Mr Skehill provided advice on the Brindabella incident and Phillips Fox provided advice in relation to Horn Island, and Mr Sherman provided advice on both those issues, unbeknownst to me.

**Senator O’BRIEN**—So Mr Skehill was involved in a meeting with you and Mr Toller on or around 6 November about the Horn Island incident. I think you already told us that.

**Mr Ilyk**—Yes.

**Senator O’BRIEN**—So he was providing advice then about that, was he?

**Mr Ilyk**—I think it was just a general discussion about the issue. I think the matter came up as a result of the hotline report, and as a result of that we got together to have a look at what the legal issues were. But the matter was not actually referred for investigation until about 15 November, and that went through the normal process. It went to one of the area managers—Mr Ivory, if I recall it correctly.

**Senator O’BRIEN**—Is it a common occurrence to seek external legal advice in relation to alleged breaches of regulations that CASA is investigating?

**Mr Ilyk**—I am not sure. I have only had the responsibility for investigations since about mid-November and they were the first two matters that came to me. Because of the difference of opinion, I had no problem with sending the matter for an external objective adjudication.

**Senator O’BRIEN**—Have you had occasion to do that since then?

**Mr Ilyk**—I have had no other matters referred to me directly for that purpose.

**Senator O’BRIEN**—For that purpose?

**Mr Ilyk**—Senator, the matters were referred to me specifically for review and advice. I was asked to review the files, in relation to the legal issues, by the relevant compliance manager at the time.

**Senator O’BRIEN**—So normally the compliance manager might simply be dealing with a matter. Let us take this example: Mr Boys sends a recommendation to Mr Farquharson and it does not go to you unless Mr Farquharson has a problem with it. Is that how it works?

**Mr Ilyk**—Generally, that would normally be the case. Under the enforcement manual, the person in charge of enforcement and investigation is, under general counsel, responsible for that responsibility. Ultimately, it is my responsibility.

**Senator O’BRIEN**—But it does not come to you unless—

**Mr Ilyk**—No, not in day-to-day working.

**Senator O'BRIEN**—Operationally, it does not come to you, normally?

**Mr Ilyk**—No. Several issues have come to me from Mr Boys which I have had looked at and they have expressed opinions in relation to particular matters, yes—not just with Mr Toller but with other matters as well. That is just the normal course, because it is now my responsibility.

**Senator O'BRIEN**—But none of those has been referred for external legal advice?

**Mr Ilyk**—They have not had to at this stage, but I would have no objection to referring them to external legal advice if we needed to.

**Senator O'BRIEN**—What are the criteria you would use to determine whether you needed to?

**Mr Ilyk**—If there is a substantial disagreement between the relevant players.

**Senator O'BRIEN**—Meaning between Mr Farquharson, Mr Boys and yourself, I take it? They are the relevant players in this—

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—Presumably, if Mr Boys made a recommendation to Mr Farquharson that a matter should be referred to the DPP, on most occasions that would be acted upon?

**Mr Ilyk**—In relation to this issue, I was not aware that there had been any recommendation made to refer the matter to the DPP.

**Senator O'BRIEN**—But you have reviewed the file?

**Mr Ilyk**—Yes. As far as I recall, there was no such recommendation from the investigation. The investigation recommendation, I understood, if I recall correctly, was that there appeared to have been a technical breach, but that did not warrant the matter being referred to the DPP, and there should be some counselling undertaken.

**Senator O'BRIEN**—Can that file be made available to the committee?

**Mr Ilyk**—It is not up to me to make that decision, Senator; it is a matter that the chairman would have to decide.

**Mr Gemmell**—We would have to refer that question to the chairman, Senator, who had general oversight of the review of all these matters.

**Senator O'BRIEN**—Let me understand: Mr Boys is a lawyer with some considerable experience in this area of the law, just as you are, Mr Ilyk.

**Mr Ilyk**—I am not aware of Mr Boys's experience, Senator, and this was an issue dealing with legal interpretation and the interpretation of Commonwealth laws. I am not aware of Mr Boys's experience in that. In my view, this was not a question in relation to the investigation; it was a question about the interpretation and application of the law.

**Senator O'BRIEN**—There were effectively three external lawyers involved in the Horn Island matter: Mr Skehill's consultation on 6 November, Phillips Fox—

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—and Mr Tom Sherman?

**Mr Ilyk**—Yes. Mr Sherman was the Chairman of the National Crime Authority. He used to be Deputy Secretary of the Attorney-General's Department and the Australian Government Solicitor—very well qualified to deal with all of those issues.

**Senator O'BRIEN**—Was he representing Air Facilities at one stage?

**Mr Ilyk**—I have no idea, Senator. I do not know.

**Senator O'BRIEN**—That was an aside; I thought I recognised the name from that matter as well. Do you know whether Mr Skehill's role was a paid role in the matter?

**Mr Ilyk**—Was a paid role?

**Senator O'BRIEN**—Did he submit a bill for coming in and having a meeting with—

**Mr Ilyk**—Mr Skehill does not get paid by CASA; the firm that he represents gets paid by CASA. There is a substantial difference, Senator; he is not retained by CASA.

**Senator O'BRIEN**—Did his firm submit a bill?

**Mr Ilyk**—Mallesons gets paid for Mr Skehill's services.

**Senator O'BRIEN**—So his attendance was part of an arrangement—is it a fee for service, paid by the hour arrangement, or was there a—

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—Do you know whether Mallesons submitted a bill for that consultation?

**Mr Ilyk**—If I recall correctly, I think they have. Off the top of my head, I cannot tell you what it was. If they have not, that would be great.

**Senator O'BRIEN**—I have reminded them, you are assuring me, if they haven't already?

**Mr Gemmell**—They are a law firm, so we are pretty sure they will submit a bill to us.

**Mr Ilyk**—If they have not already, they certainly will.

**Senator O'BRIEN**—You will probably need to take this on notice: what was the charge for that?

**Mr Ilyk**—I will have to take that on notice.

**Senator O'BRIEN**—What was the cost of the involvement of Phillips Fox?

**Mr Ilyk**—I will take that on notice as well.

**Senator O'BRIEN**—And the cost of the involvement of Tom Sherman?

**Mr Ilyk**—I have no knowledge of Mr Sherman's involvement.

**Mr Gemmell**—We have already taken that on notice. We will find that information for you.

**Senator O'BRIEN**—Okay. What would it have cost to have referred the matter to the DPP and have them come to a view on the matter?

**Mr Ilyk**—I have no idea.

**Senator O'BRIEN**—Don't they normally give you a bill?

**Mr Ilyk**—No, they do not charge us. However, when we have questions of legal interpretation, I do not refer the matters to the DPP for external advice. They are not there to

provide legal advice. We have a panel of legal people and our own internal people who provide advice. The DPP is not there to provide general legal advice to agencies; Attorney-General's is, the Australian Government Solicitor is, but the DPP is not.

**Senator O'BRIEN**—Is it possible for CASA to refer a matter to the DPP and indicate that there is a question as to the application of a particular law?

**Mr Ilyk**—It is possible, but that is not their role and we do not do that as a matter of course. That is why we have a panel of legal firms and we have our own internal legal advisers. In cases of substantial Commonwealth interest and constitutional issues, we would refer the matter to the Attorney-General's Department. We do not go to the DPP.

**Senator O'BRIEN**—So you do refer matters to Attorney-General's where there is—

**Mr Ilyk**—On constitutional issues and matters like that, yes.

**Senator O'BRIEN**—But not on interpretation?

**Mr Ilyk**—No, generally not. We have a panel arrangement with two firms. We have deeds of agreement with those firms and, under those deeds of agreement, they are the first port of call in relation to matters of interpretation if we need to get external advice.

**Senator O'BRIEN**—Mr Farquharson, what is the normal route for matters where there is an allegation of a breach? Does it come through Mr Boys to you, or through you to Mr Boys?

**Mr Farquharson**—The matter would normally be referred through the chair that I occupy, or through one of the general managers who have specific responsibilities for certain areas. If there is a thought that there may need to be an investigation, we need to be aware that we can investigate in two senses. One is the formal part 3 investigation, which is the function over which Mr Boys has control. A request for investigation will be forwarded to Mr Boys. That will state what the matter is. In both cases, the initial path was to deal with it as an administrative matter, in which case Mr Boys's area does not generally become involved, other than to assist in the gathering of evidence.

**Senator O'BRIEN**—But in this case he did?

**Mr Farquharson**—In this case we requested the assistance of Mr Boys's investigators to ensure that the gathering of evidence was of a proper standard.

**Senator O'BRIEN**—When you say 'we'—

**Mr Farquharson**—I use that as a collective 'we'.

**Senator O'BRIEN**—do you mean yourself or do you mean the organisation?

**Mr Farquharson**—As in the organisation.

**Senator O'BRIEN**—In this particular case, what was the chain of command, if I can call it that?

**Mr Farquharson**—In the case of Brindabella, that was on foot when I arrived.

**Senator O'BRIEN**—We are talking about the Horn Island case.

**Mr Farquharson**—In the case of the Horn Island matter, I received an instruction from the board, via the chairman, to commission an investigation. In doing so, as it was an incident that had occurred in the North Queensland area, I tasked Mr Ivory to conduct the investigation and requested from Mr Boys the assistance of a part 3A investigator to ensure that evidence was collected and statements were taken in the appropriate manner.

**Senator O'BRIEN**—You asked Mr Boys for an opinion on the matter too, I believe.

**Mr Farquharson**—In the process, Mr Boys expressed an opinion.

**Senator O'BRIEN**—You did not seek an opinion?

**Mr Farquharson**—The files went back to Mr Boys after Mr Ilyk had provided some information, and Mr Boys, as I recall, had expressed an opinion that there had been a technical breach.

**Senator O'BRIEN**—The chairman told this committee that in the Horn Island case there was a finding of a technical breach. So that is CASA's view—is that right?

**Mr Farquharson**—That is the view of Mr Boys, Mr Ilyk and Mr Sherman. It is a prima facie breach of a regulation.

**Senator O'BRIEN**—But, when tested against Commonwealth prosecution policy, it was determined that it was not a matter that should be referred outside of CASA?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—Mr Ilyk, I am trying to understand what you have been telling us about a disagreement on the regulations. What do you mean by that?

**Mr Ilyk**—The original report indicated that there was a prima facie breach of at least one particular regulation. In reviewing the file, I looked at that particular issue and reached the conclusion that that was simply not correct. That regulation in fact had no relevance to Mr Toller's conduct at all, so you could not have found a breach of that regulation because the regulation had no application whatsoever.

**Senator O'BRIEN**—So it was a breach of another regulation—that was your finding, was it?

**Mr Ilyk**—I was only dealing with that one issue because the investigation had not been completed at that stage.

**Senator O'BRIEN**—There has been a finding, apparently reported by the chairman, of a technical breach, so there was a breach of some regulation.

**Mr Ilyk**—That was another regulation that I was not specifically looking at when I reviewed the files. The investigation had not been completed. I initially had a look at the file and said: 'There is a particular problem with the finding in relation to this matter. You need to review that issue in the light of my advice.' After that I never saw the file again, as I recall.

**Senator O'BRIEN**—So you do not know what the technical breach was that has been referred to by the chairman?

**Mr Ilyk**—No, I would not say that. In my discussions with Mr Boys he raised another issue. He did not accept my advice in relation to the breach of regulation 282, if I recall correctly, and he raised another matter. I never provided any advice on that other matter; that was a matter that went to Mr Sherman, unbeknownst to me.

**Senator O'BRIEN**—Do I take it that that is a matter on which Mr Sherman agreed with Mr Boys?

**Mr Ilyk**—I think that is the matter on which Mr Sherman agreed that there was a technical breach. He agreed with my view that regulation 282 had no application whatsoever. That was also confirmed, as I mentioned earlier, by Phillips Fox.

**Senator O'BRIEN**—I had better ask Mr Boys what the other regulation was, if I can.

**Mr Ilyk**—Yes. The other one was regulation 228.

**Senator O'BRIEN**—Can I ask Mr Boys to give evidence? Mr Boys, what is the difference in the two regulatory issues that you raised with Mr Farquharson, who referred the matter to Mr Ilyk?

**Mr Boys**—I raised one issue after reviewing the investigation report. The investigation report raised two issues: one was a prima facie breach of the act; the other was a prima facie breach of CAR 282, in relation to the need to hold an endorsement to fly this class of aircraft. I looked at the report, I looked at the facts and I highlighted to Mr Farquharson that there was also a breach of another regulation, which I believe was CAR 232, 'manipulate the controls of an aircraft'.

**Senator O'BRIEN**—Was there an allegation of a breach of the act?

**Mr Boys**—That was raised in the investigation report and was discounted on the fact of lack of knowledge, I believe, by Mr Ivory.

**Senator O'BRIEN**—Mr Ivory had already discounted that when it came to you?

**Mr Boys**—He raised it in the report.

**Senator O'BRIEN**—So you looked at it and agreed with his view?

**Mr Boys**—I did not necessarily agree. I thought there was sufficient evidence to cast a doubt on the success of that from a prosecution point of view. But there was certainly evidence suggestive of it. At the time, I was less than certain that that would be successful if it proceeded to prosecution.

**Senator O'BRIEN**—I take it you have referred a number of matters to the DPP?

**Mr Boys**—Yes, I have.

**Senator O'BRIEN**—Do they go through Mr Farquharson?

**Mr Boys**—They go direct from me to the DPP.

**Senator O'BRIEN**—How many matters in relation to this sort of breach have you referred to the DPP?

**Mr Boys**—Shall I give the exact figures, or would you just like a stab in the dark?

**Senator O'BRIEN**—Could you give us the exact figures. The evidence should be as precise as possible.

**Mr Boys**—Running from 1999 to the present—I came on board in the last days of April 1999—during that year there were 115 investigation requests, during which time 30 prosecutions were finalised. During 2000 there were 97 investigation requests, during which time 34 prosecutions were finalised. Up until 22 May, there were 40 investigation requests, with six finalised and 38 still remaining with the DPP in various stages of interlocutory proceedings.

**Senator O'BRIEN**—How many matters have you referred to the DPP where the DPP has rejected your advice that the matter should be prosecuted or has charged you not to prosecute?

**Mr Boys**—I can recall two occasions.

**Senator O'BRIEN**—Were they based on matters of law or matters of evidence?

**Mr Boys**—One was a dangerous goods matter in Adelaide relating to a paint spill on board a commercial 737 aircraft. That matter was rejected on the basis that they thought counselling of the individual was more appropriate than prosecution. The second issue was also in relation to dangerous goods, where they thought that the subjective element would be too difficult to prove because of the regulations.

**Senator O'BRIEN**—So one was a matter of proof and one was a matter of the appropriateness of prosecution?

**Mr Boys**—That is correct.

**Senator O'BRIEN**—I suppose for completeness I should ask: how many matters have you referred where it has been found in the prosecution that there was legal incapacity to proceed?

**Mr Boys**—Are you talking about being unsuccessful?

**Senator O'BRIEN**—You can be unsuccessful because the evidence does not stand up, or you can be unsuccessful because your interpretation of the regulations does not fit with the views of the court. It is the latter case that I am asking about.

**Mr Boys**—Since I have been on board, there have been only three.

**Senator O'BRIEN**—So you are saying that so far there have been 60 prosecutions completed while you have been in the chair. Three failed because the court interpreted the law differently, and two were not proceeded with. I presume there would have been others where the evidence did not stand up?

**Mr Boys**—There are others that I filter out before, where I am not sufficiently satisfied that there is evidence to support matters.

**Senator O'BRIEN**—I beg your pardon?

**Mr Boys**—There are also matters that I will review when I am reviewing investigation reports or briefs of evidence, and I will make a determination at that point.

**Senator O'BRIEN**—So it is also the case that you make a judgment where there is insufficient evidence and decline to refer.

**Mr Boys**—Yes.

**Senator O'BRIEN**—I think you have already told us that this was not one of those cases.

**Mr Boys**—No.

**Senator O'BRIEN**—Would this case normally have come to you and been determined by you?

**Mr Boys**—Yes.

**Senator O'BRIEN**—If it had been someone other than Mr Toller?

**Mr Boys**—Yes.

**Senator O'BRIEN**—I have one more question before you go: what normally happens to complaint investigation files? Would you normally have control of them? Would they be with Mr Farquharson or would they be elsewhere in the organisation?

**Mr Boys**—Our normal process with the papers in relation to an investigation is that, once I approve the investigation, we raise a file within our section. All paperwork relating to the initiation of the investigation is raised and put onto that file. The investigation is then tasked to an appropriate investigator in the area where the breach has occurred, and a record is kept.

**Senator O'BRIEN**—Who controls the files in those circumstances?

**Mr Boys**—In central office, while we are putting everything together, it is my investigations coordinator, Neil Enders. Once the investigation is delegated, it goes to the individual investigator with the conduct of the investigation.

**Senator O'BRIEN**—And who would normally have access to those files?

**Mr Boys**—At the initial stages, once they are in Canberra within our section, it would be just those in our section—me and Neil Enders. Then once it is sent out to the investigator, it would be the investigator.

**Senator O'BRIEN**—During the investigation process, if a licensed person, or for that matter an unlicensed person, were seeking to challenge your action to investigate, would they have access in any way to your investigation files?

**Mr Boys**—Could you just rephrase the question? I am sorry, but I could not understand it.

**Senator O'BRIEN**—If someone wants to challenge the action that is being taken to investigate an alleged breach, is there any way that they can access the files to see what you have on your files?

**Mr Boys**—Invariably the investigation process is such that you amass all the evidence first and approach the person of interest last. So generally they do not know what is going on.

**Senator O'BRIEN**—In this particular case, do you know where the CASA files on the Horn Island matter were kept and under whose control?

**Mr Boys**—When it came into my control it was put into a locked combination safe or it was being used at my desk. It was put away in a safe each and every night. Then it was up to Mr Farquharson, and I am not sure what processes he used in relation to storage.

**Senator O'BRIEN**—So it initially came to you?

**Mr Boys**—No.

**Senator O'BRIEN**—So that is how it was kept when it did come to you?

**Mr Boys**—Yes.

**Senator O'BRIEN**—And where was the file kept otherwise, Mr Farquharson?

**Mr Farquharson**—The files for this and the Brindabella incident have been retained largely in my office in a locked cabinet.

**Senator O'BRIEN**—Okay. Who has had access to those files, other than you, Mr Ilyk, Mr Boys and the investigators mentioned by Mr Boys?

**Mr Farquharson**—To my knowledge, Mr Sherman has. I would also presume, although I cannot state this certainly, that the files were viewed by Mr Skehill and by the external legal person from Phillips Fox.

**Mr Ilyk**—I certainly had access to both those files. In relation to the Brindabella matter, Mr Skehill saw that file. He never saw the Horn Island file. In relation to the Horn Island matter, Phillips Fox never saw that file either.

**Senator O'BRIEN**—So there was a brief to Phillips Fox from you, I take it?

**Mr Ilyk**—Yes, I raised a specific issue with them in relation to the application of CAR 282. I did not refer the file to them.



**Senator O'BRIEN**—So you have a separate file on the matter, I take it?

**Mr Ilyk**—No, I dealt with the files that I have.

**Senator O'BRIEN**—So your brief to Phillips Fox is on the investigation file?

**Mr Ilyk**—I am not sure whether I just briefed them orally and took over some papers and said, 'Here is the legal issue; could you provide advice on that.' I have that somewhere.

**Senator O'BRIEN**—So they did not have access to the files?

**Mr Ilyk**—No.

**Senator O'BRIEN**—The reports?

**Mr Ilyk**—No.

**Senator O'BRIEN**—They had your summary?

**Mr Ilyk**—No, it was one very specific issue. It was a technical legal issue. They did not need to see the file, Senator.

**Senator O'BRIEN**—Are you saying that the circumstances of the case were not relevant?

**Mr Ilyk**—Absolutely. It was only a question of legal interpretation.

**Senator O'BRIEN**—So, Mr Farquharson, you know that Phillips Fox never saw it?

**Mr Ilyk**—I certainly never gave them the files.

**Senator O'BRIEN**—And Skehill?

**Mr Ilyk**—Skehill saw the Brindabella file but not the Horn Island file.

**Senator O'BRIEN**—Sherman did see the file? I think Mr Farquharson said that.

**Mr Farquharson**—Yes, Senator, Mr Sherman saw both files.

**Mr Gemmell**—Senator, it is also possible that the chairman might have seen the files. We do not know.

**Senator O'BRIEN**—But Mr Farquharson would know, surely. Mr Boys did not indicate that the chairman had seen the files so presumably, Mr Farquharson, you would have to have given him access to the files—or Mr Sherman?

**Mr Gemmell**—Exactly, Senator. If Mr Farquharson has not, maybe Mr Sherman did when he reported—I do not know. It is possible the chairman saw the files because he received a report from Mr Sherman.

**Senator O'BRIEN**—So they physically went to Mr Sherman? They left the premises? Mr Sherman took them away?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—In your recording system, is there a way of recording who has seen the files? Does whoever takes the files out have to sign them out?

**Mr Farquharson**—The files are normally tracked on a system called TRIM, Senator, and they are marked out to holders.

**Senator O'BRIEN**—These particular files would have been marked in the normal and proper way?

**Mr Farquharson**—To the best of my knowledge, Senator.

**Senator O'BRIEN**—How many other files would you normally hold? Do they normally go to Mr Boys but this was an exception or do you hold other files?

**Mr Farquharson**—I think we need to separate the prosecution—

**Senator O'BRIEN**—Potential breach files; put it that way.

**Mr Farquharson**—With respect to this matter, in my view there was never a request for investigation issued. There was a request for assistance in terms of the provision of an investigator to take statements. The matter has always been an administrative matter. It has never been considered in the first instance for prosecution. The statements that have been made in the sense of requesting opinions originated in the investigator completing a report to document his involvement in the process. That is perfectly normal. That is what we would do for any administrative matter. I say again that there was never any consideration in the first instance that this was a matter being considered initially for prosecution. So in relation to the files, the files were retained by me as the officer who had been tasked to do the administrative investigations and they were kept in a secure cabinet in my office, other than when released to other officers for review or action.

**Senator O'BRIEN**—They were released to Mr Boys for review?

**Mr Farquharson**—They were released to Mr Boys for review in both cases because his investigators had made comment. Indeed, he had made comment. Mr Ilyk and others had also made comment in terms of legal issues and procedural matters.

**Senator O'BRIEN**—Are you the central point in this—

**Mr Farquharson**—Both of these administrative matters came under my jurisdiction. I was asked to do that shortly after arriving to occupy this position. As I mentioned before, the Brindabella matter was on foot and shortly after I arrived I was tasked by the board with conducting an investigation in relation to the Horn Island matter.

**Senator O'BRIEN**—You were tasked by the board?

**Mr Farquharson**—The letter actually came from the chairman. I have assumed that that was a board matter as well.

**Senator O'BRIEN**—When did you take up the position?

**Mr Farquharson**—In mid-November.

**Senator O'BRIEN**—Does Mr Boys still report to you or does he report to Mr Ilyk now?

**Mr Farquharson**—He reports to Mr Ilyk and from the time I assumed the acting assistant director's position the relocation of his reporting line to Mr Ilyk had already taken place.

**Senator O'BRIEN**—This was some time early in November?

**Mr Farquharson**—To the best of my knowledge, yes.

**Senator O'BRIEN**—Is that right, Mr Ilyk?

**Mr Ilyk**—Sorry, Senator?

**Senator O'BRIEN**—The reporting line changed early in November?

**Mr Ilyk**—In about the first or second week in November.

**Senator O'BRIEN**—Normally, when Mr Farquharson refers things, they go to Mr Boys before they go to you?

**Mr Ilyk**—When the arrangement was put in place, I indicated to Mr Boys and to Mr Farquharson that I was not proposing to change the normal working relationships between compliance and investigations and that, if it was felt appropriate to do so, Mr Farquharson could task Mr Boys direct, if needed.

**Senator O'BRIEN**—There was one other matter I wanted to ask Mr Boys about. Mr Boys, did you seek any advice with regard to this matter from the DPP's office?

**Mr Boys**—No, I did not.

**Senator O'BRIEN**—In terms of the time of the change of lines of reporting, did that actually affect the way that you processed matters in the normal course of events when they came to you?

**Mr Boys**—Insofar as normal matters are concerned, no. None at all; no change.

**Senator O'BRIEN**—So this matter is the exception?

**Mr Boys**—Yes, it is.

**Senator O'BRIEN**—Have I got the concept right, Mr Boys, that the matters come through Mr Farquharson normally or another assistant secretary to you and then go to Mr Ilyk? Is that right?

**Mr Boys**—No, not necessarily.

**Senator O'BRIEN**—How does it work? Could you just clear that up for me?

**Mr Boys**—A breach is usually discovered at the field level by inspectorate staff. Inspectorate staff usually notify their area manager. They discuss the matter at that level. If they are sufficiently concerned that the breach has merit, or is serious enough, and they need assistance in relation to finding out more about the matter by way of statements, evidence, et cetera, be it for consideration as to show cause or for administrative action, they then raise a request for investigation. At that point, the request comes to me via my coordinator. I will have a look at the request, and if it is in accordance with our ability to deal with the matter, and if there is merit or there are issues such as safety or in support of regulatory action involved with the matter, I will task an investigator.

**Senator O'BRIEN**—Is there some special circumstance of this case that it did not come through you?

**Mr Boys**—I cannot answer that in relation to the Horn Island matter. The Brindabella matter was initially referred to me.

**Senator O'BRIEN**—In relation to the Horn Island matter, is it significant that the matter went through the hotline?

**Mr Boys**—I think when these matters that get reported to the hotline have come to my attention, I have then ultimately tasked an investigator with them, yes.

**Senator O'BRIEN**—So this followed a different path because it was Mr Toller?

**Mr Boys**—I cannot really say. I was not involved in the process at the time.

**Senator O'BRIEN**—Would it be technically possible for Mr Toller, as director of aviation safety, to approve himself to operate the Uzu aircraft?

**Mr Boys**—I think that would be best answered by operational staff or Mr Ilyk. I do not know the answer to that.

**Senator O'BRIEN**—Perhaps I should ask Mr Ilyk.

**Mr Gemmell**—Senator, let us jump back one. You are asking Mr Boys some questions about why things were done and Mr Farquharson was the person commissioning what was done. It might be appropriate for him to comment on why he proceeded the way he did.

**Senator O'BRIEN**—I think he has already commented.

**Senator Ian Macdonald**—If he wants to say something perhaps we should ask him if there is a correction or a different view. So, please, could you comment on that?

**Mr Farquharson**—Issues that come to us for investigation or issues that we are made aware of via the hotline or through any other means—we receive intelligence through a number of channels—can be and are frequently referred from me to the responsible general manager for an initial investigation, an initial look. 'What is this? Is there substance to it? What do we know about this matter?'

**Senator O'BRIEN**—You were not here when this happened, were you? Horn Island.

**Mr Farquharson**—No, I was not. It was tasked to me shortly afterwards.

**Senator O'BRIEN**—Yes, precisely. Who tasked it to you?

**Mr Farquharson**—The letter came from the chairman.

**Senator O'BRIEN**—Dr Scully-Power directed the matter to you?

**Mr Farquharson**—To me.

**Senator O'BRIEN**—Do hotline matters normally go to the chairman?

**Mr Farquharson**—I would say not normally.

**Senator O'BRIEN**—So this case is a special pathway?

**Mr Farquharson**—The matter was referred to me for investigation. The way in which I then tasked people is quite normal.

**Senator O'BRIEN**—The way in which you tasked people is normal?

**Mr Farquharson**—The way in which it went from me to the area manager involved, and requesting the assistance of an investigator.

**Senator O'BRIEN**—How many matters involving an alleged breach have come to your attention since you have taken the position?

**Mr Farquharson**—I would struggle with that number, but there are many, in the sense that the instance, as it is first revealed, requires the reference to the general manager, who then, in his own right, on the next issue of information to him from either an area or airline office, may request the assistance of an investigator.

**Senator O'BRIEN**—So this particular case, which occurred before you came on board, ultimately found its way to you via the chairman?

**Mr Farquharson**—Yes.

**Senator O'BRIEN**—It is the only matter of its nature that has come to you in that way?

**Mr Farquharson**—In that manner.

**Senator O'BRIEN**—Breaches of the regulations normally go through Mr Boys?

**Mr Farquharson**—Not necessarily, no.

**Senator O'BRIEN**—That is Mr Boys's evidence.

**Mr Farquharson**—If the matter is going to be considered for prosecution or there is a requirement to employ the assistance of Mr Boys's investigators for the gathering of information, then his group will become involved. If the matter is an administrative matter and is considered to be solely an administrative matter, then Mr Boys may know nothing of it. Those matters may all involve breaches or technical breaches but fall within the ambit of administrative action rather than prosecution.

**Senator O'BRIEN**—The investigators report those matters to you and you refer them to Mr Boys where necessary. Is that what you are saying?

**Mr Farquharson**—The output would normally be reviewed by Mr Boys before coming to me or the requester for that assistance, yes.

**Senator O'BRIEN**—So, again, this is quite a different pathway.

**Mr Farquharson**—Correct.

**Senator O'BRIEN**—In the case of this particular matter, we have a significant difference of view between two of the officers of the authority. Mr Boys is clear that he would have referred the matter to the DPP. There is a clear difference on which regulation may or may not have been breached between Mr Ilyk and Mr Boys. Phillips Fox reviewed the matter without seeing the file on Mr Ilyk's information and gave an opinion. Subsequently, Sherman looked at the file and gave an opinion. So perhaps I can finalise this particular matter—

**Senator Ian Macdonald**—Let me understand this. You have two officers with different views. You refer it then to an independent person because you have two officers with different views. It is also referred to a QC. So the independent lawyer and the QC come down on the side of the advice they eventually gave you?

**Mr Farquharson**—I am not sure that Mr Sherman is a QC but he is an eminent lawyer. That is the sequence, yes. I was left with a difference of opinion that I felt required an independent review. Even after the legal opinion was received from Phillips Fox, Mr Boys still held his opinion. I felt it was incumbent upon me to remove this to an independent area of law and have it reviewed and resolved. The question was answered in the favour of Mr Ilyk, Phillips Fox and Mr Sherman.

**Senator O'BRIEN**—Mr Boys, you were shaking your head.

**Mr Boys**—It was only in relation to the information about Mr Sherman. I did not think Mr Sherman was a QC.

**Senator O'BRIEN**—Mr Boys, given the evidence that you have given, if I understand you correctly, you have a strong track record in relation to pursuing matters, sending matters for the consideration of the DPP where those matters have been, with very few exceptions, proceeded with and with, again, few successful exceptions. Is there any doubt in your mind that this matter should have gone to the DPP?

**Mr Boys**—In my mind, no.

**Senator O'BRIEN**—Thank you.

**Senator Ian Macdonald**—Can I just clarify from Mr Farquharson that in the mind of another officer, in the minds of those at Phillips Fox and in the mind of Mr Sherman, there was a doubt. Is that right?

**Mr Farquharson**—The questions asked of the external legal opinions of Phillips Fox were in relation to a particular matter of law. They did not express an opinion as to whether this matter should be referred. Given the disparity of opinions, I felt it was incumbent upon me to settle this in an independent area. Mr Sherman came down heavily that the matter should not be referred in either case.

**Mr Gemmell**—I might add to that, Minister. Obviously the chairman reviewed all this and came to the conclusion that it should not be referred. I assume that the board was also involved in that decision.

**Senator Ian Macdonald**—Just out of interest, Mr Farquharson, in your experience or in the experience of the authority, have we ever pursued breaches of this regulation before that you are aware of?

**Mr Farquharson**—I would have to defer to those with knowledge of our records, and perhaps I could take that on notice.

**Senator Ian Macdonald**—Yes, perhaps you can take that on notice.

**Senator O'BRIEN**—Can you answer that, Mr Boys?

**Mr Boys**—None have come to my attention in relation to the CAR 228, manipulation of controls, no.

**Mr Gemmell**—We are not aware of any investigation having been pursued of anyone in breach of this particular regulation.

**Senator O'BRIEN**—So there has been no evidence of a similar event. Is that what you are saying?

**Mr Gemmell**—I am not saying I do not think there has not been a similar event, just that I am advised that we have never investigated anyone else for a breach of this regulation.

**Senator O'BRIEN**—It would normally be under the other regulation, CAR 282; is that right? I believe the committee should have access to all of the files in relation to the Horn Island matter, which I believe would contain the legal advices that have been referred to. Is that right, Mr Farquharson?

**Mr Farquharson**—Those advices are on file.

**Senator O'BRIEN**—And the brief to counsel in those matters as well?

**Mr Farquharson**—The brief to Mr Sherman is on file.

**Senator O'BRIEN**—Yes. There was apparently no written brief to Phillips Fox.

**Mr Farquharson**—That you would have to ask—

**Senator O'BRIEN**—I thought Mr Elliott said that. I think he is agreeing with that. He will come forward if he disagrees with that, for purpose of the record. There were no other briefs or written advices on the file from legal practitioners?

**Mr Farquharson**—Not from a legal perspective, no.

**Senator O'BRIEN**—I think that there is sufficient in this to warrant the committee having access to the file, and I request that it be supplied to the committee.

**Senator Ian Macdonald**—I will get some advice on that. I am not sure of what the law is on making available legal files.

**Senator O'BRIEN**—Legal files?

**Senator Ian Macdonald**—Files about legal matters.

**Senator O'BRIEN**—Every file potentially has something about a legal matter. There is no expert case in this.

**Senator Ian Macdonald**—What I am saying is that I will take it on notice and see whether they can be made available to you. It just takes you away from all of the other—

**Senator O'BRIEN**—All right. We could follow the other paths. When will we know whether they will be supplied?

**Senator Ian Macdonald**—When I get my advice. I guess the first thing is that I would have to get some advice on whether it is the board that has control of those, or the minister, or whatever. As always, we will get you answers at the very earliest time—certainly before 30 July, which is the date the committee has set.

**Senator O'BRIEN**—I am interested because if there is not going to be cooperation on the matter earlier, I propose to give notice of a motion to the Senate to produce, as we did in a similar matter—

**Senator Ian Macdonald**—That is entirely for you.

**Senator O'BRIEN**—I am not saying that in any other way than to suggest perhaps we could deal with this matter as we ultimately dealt with the air facilities matter, where I think we had a truckload of files delivered to my office on order of the Senate. Ultimately we were able to work that one out.

**Senator Ian Macdonald**—You do what you like, Senator. I am telling you what I am doing. If you want to move motions in the Senate, good luck to you.

**Senator O'BRIEN**—I do not think it will be a matter of good luck, Minister. On the Brindabella Airlines matter, can I ask Mr Ilyk a couple of other questions, please?

**Senator Ian Macdonald**—When did this Brindabella incident occur?

**Senator O'BRIEN**—The chairman referred to this incident on 4 May 2001 in his address to a legislation committee hearing.

**Senator Ian Macdonald**—Why are we going over it again now?

**Senator O'BRIEN**—It is a matter which was raised by the chairman when he brought it to the attention of the committee, again, at a hearing on 4 May.

**CHAIR**—How does that relate to this matter?

**Senator O'BRIEN**—It relates to the activities of the department and of the authority, under the terms—

**Senator Ian Macdonald**—When was the incident?

**Senator O'BRIEN**—The incident postdates the Horn Island incident, about which we already took evidence.

**Senator Ian Macdonald**—Is this the one we have trawled over in two estimates committees since it happened? I cannot even recall what the Brindabella incident is.

**Senator O'BRIEN**—We will find out.

**Senator Ian Macdonald**—I recall trawling over Brindabella—although I do not remember what it was—at two estimates committees so far.

**Senator O'BRIEN**—These questions relate to the statement of the chairman of the authority presented to this committee on 4 May 2001, which, in anyone's language, relates to the period which is the subject of these estimates.

**Senator Ian Macdonald**—Does anyone know the date of the incident?

**Mr Farquharson**—The actual incident took place on 24 June 2000.

**Senator Ian Macdonald**—So it is not even in the current financial year, let alone in the next financial year. Anyhow, I do not know what you are going to ask about.

**Senator O'BRIEN**—It is a matter on which the authority has acted in this current financial year, I suggest.

**Senator Ian Macdonald**—Let us hear your question, I suppose, but it is drawing an enormously long bow.

**Senator O'BRIEN**—The matter, as I understand it, involves counselling. Is counselling—whether it is formal or informal—recorded on a pilot's file?

**Mr Ilyk**—I am not aware of that. I do not counsel people, so I do not know what is kept on files.

**Mr Farquharson**—Formal counselling is certainly recorded in the details. I will confirm for you whether or not informal counselling is recorded.

**Senator O'BRIEN**—Can you confirm whether or not counselling, formal or informal—in each case—is recorded on the LARP record?

**Mr Farquharson**—Formal counselling would normally be recorded on LARP, but I will confirm that for you.

**Senator O'BRIEN**—I understand that Mr Boys asked Mr Leaversuch for a direction in relation to Brindabella Airlines and in relation to Mr Toller's breach when he was director of safety compliance. Was Mr Boys in fact directed to cease his investigation into the matter?

**Mr Farquharson**—I have no knowledge of that. I would have to ask either Mr Boys or Mr Leaversuch.

**Mr Leaversuch**—I have not reviewed those times recently—and I recall a time when I asked Mr Boys for some help with the investigation, but I do not recall the details that you are referring to.

**Senator O'BRIEN**—Do you recall taking charge of the investigation file?

**Mr Leaversuch**—I do not believe there was ever an investigation file. The matter was the subject of operational assessment, which I think Mr Farquharson was advising you on.

**Senator O'BRIEN**—Was there a file at all?

**Mr Leaversuch**—I do not recall that. There certainly were documents.

**Senator O'BRIEN**—Presumably the documents would be put on a file and kept, wouldn't they?

**Mr Leaversuch**—Yes, eventually.

**Senator O'BRIEN**—So there is a file?

**Mr Leaversuch**—Yes, I presume so.

**Senator O'BRIEN**—Someone would have controlled the file?



**Mr Leaversuch**—Someone would have, yes.

**Senator O'BRIEN**—Did you control the file?

**Mr Leaversuch**—I did not control the file, no, not that I recall.

**Senator O'BRIEN**—So the file was not in your possession.

**Mr Leaversuch**—No, not specifically.

**Senator O'BRIEN**—The recording system for the files would show whether or not that was the case, wouldn't it?

**Mr Leaversuch**—The TRIM system would show that, yes.

**Senator O'BRIEN**—Was Mr Boys normally your adviser on issues such as the Brindabella Airlines issue?

**Mr Leaversuch**—One of the advisers, yes.

**Senator O'BRIEN**—Did you take advice from others apart from Mr Boys on that matter?

**Mr Leaversuch**—I do not recall specifically taking special advice from an operational person, no.

**Senator O'BRIEN**—What was the role of Mr Toller in your work on the matter?

**Mr Leaversuch**—Mr Toller played no part in the role.

**Senator O'BRIEN**—So you did not discuss the matter with him at all?

**Mr Leaversuch**—Certainly not.

**Senator O'BRIEN**—Do you recall directing Mr Boys in relation to his activities on the matter?

**Mr Leaversuch**—Yes.

**Senator O'BRIEN**—What did you direct him to do?

**Senator Ian Macdonald**—Madam Chair, how can what one officer directed another officer to do have anything to do with the 2001-02 financial affairs of the Department of Transport and Regional Services?

**CHAIR**—Minister, regrettably I was not present at the inquiry, but I am just about to review the *Hansard* and to try to better understand where this fits into the current estimates inquiry.

**Senator O'BRIEN**—Mr Leaversuch, what was your direction to Mr Boys?

**Mr Leaversuch**—My recollection is that I made an operational judgment, which I believe I am entitled to make, that the matter did not warrant prosecution. Therefore, it did not warrant an investigation with a view to prosecution. The matter, as far as I was concerned, was an operational matter, which I dealt with in the way that I would deal with any operational matter of that kind, and have done for many years.

**Senator O'BRIEN**—And that would all be recorded on the file?

**Mr Leaversuch**—I presume so, yes.

**Senator O'BRIEN**—Did you record it on the file?

**Mr Leaversuch**—I cannot remember that.

**Senator O'BRIEN**—We had also better have a look at that file just to be absolutely sure. I am requesting that that be produced, in case there is any doubt.

**Senator Ian Macdonald**—Again, I am not agreeing that that be produced. I will take some advice on that.

**Senator O'BRIEN**—What is the title of the file?

**Mr Leaversuch**—I do not recall.

**Senator Ian Macdonald**—How many files do you deal with in a year?

**Mr Leaversuch**—Hundreds, thousands.

**Senator O'BRIEN**—How many files do you deal with in a year, Minister? That is about as relevant.

**Senator Ian Macdonald**—Tens of thousands.

**Senator O'BRIEN**—Tens of thousands?

**Senator Ian Macdonald**—Yes. Fortunately, there is not a file for every question on notice from this committee that I have to review or there would be millions.

**Senator O'BRIEN**—It would not just be this committee that would be generating files, if that were the case.

**CHAIR**—Are there any further questions, Senator O'Brien?

**Senator O'BRIEN**—I would be happy to ask questions if the minister stops making those sorts of interventions.

**Mr Farquharson**—I believe I can add some clarity to the sequence, and I might be able to add a termination to this matter.

**CHAIR**—We would be grateful for any contribution you could make.

**Mr Farquharson**—From looking at the file over the last few days, the initial notification of any concern, or matter, in relation to this came from the office of the Area Manager, Country New South Wales. It was an email from him to Mr Foley, the then Assistant Director, Aviation Safety Compliance. In summary, it said that during an audit of the documentation of Brindabella Airlines, a documentation irregularity had been found which concerned the director. It said that the area manager had followed this through in accordance with the procedures in our enforcement manual, and in his view, all was resolved because he had also informally counselled the director at that time. That occurred in early July 2000.

**Senator O'BRIEN**—So that is recorded on the file?

**Mr Farquharson**—Yes, that is recorded on the file. Subsequently there is a statement on the file from Mr Foley to the effect that he sat next to the director on a flight and the matter was discussed. The next entry of any import on that file is an email from Mr Foley to Mr Boys which states effectively that, as a result of the air facilities matter, he should now initiate an investigation. I cannot be sure of the date of that, but it is some time after both matters were notified to Mr Foley and his acceptance that that was properly dealt with. In closing, Mr Sherman's report states:

... the investigation was initiated for the wrong reasons namely some criticism that was perceived as relevant in a parliamentary committee report. If the principles of enforcement now set out in the Enforcement Manual were observed the investigation would not have been commenced, particularly in circumstances where informal counselling had already taken place.

**CHAIR**—We are very grateful for your recollection of such detail.

**Senator O'BRIEN**—You have had a look at the file over the last couple of days so thank you for that clarification. So the Sherman report is on that file?

**Mr Farquharson**—Yes, it is.

**Senator O'BRIEN**—In an attempt to finalise this matter, it would be useful if the file was produced to the committee.

**CHAIR**—It would not only be useful, but it sounds as though it would be a great relief.

**Senator O'BRIEN**—It may well be. In terms of a question on staffing levels that was taken on notice in the estimates round in November last year, we were advised that the establishment target for CASA at that time was 711. You had 599 positions filled and 125 positions were being advertised. Can we have an update on those figures?

**Mr Comer**—The figure at the end of April was 634.

**Senator O'BRIEN**—So 634 positions are filled. How many positions are unfilled?

**Mr Comer**—We had 78 recruitment actions in train at that time.

**Senator O'BRIEN**—Can you tell us at what levels those 78 positions which are to be filled come from?

**Mr Comer**—I can tell you what areas they come from and their various categories. We have a document we could table in relation to that. Would you like a summary of it?

**Senator O'BRIEN**—I would appreciate the document and the summary, thank you.

**Mr Comer**—The compliance area is 45, standard 17. Then you run across by decreasing numbers to add up to 78. I might add that some of those recruitments will probably result in the appointment of perhaps temporary staff or the transfer of internal staff, so there is quite a mix. The actual recruitment actions, which include internal and external recruitment, are 78.

**Senator O'BRIEN**—So are the 45 compliance positions new positions, or are they positions which have simply been vacated and need to be filled? Have they been, in some cases, vacant for a long period?

**Mr Comer**—My records do not show that differentiation, but as you know we have been building the work force up over the past 12 months. My belief would be that it would be a mix of both, that there would be new positions currently being filled and there could be some positions being vacated as people move through the organisation.

**Senator O'BRIEN**—Do you have any statistics on how long particular positions have been vacant?

**Mr Comer**—That is a difficult question to answer. I think you have asked similar questions previously. It takes a fair bit of research work to actually go back through the files and look at how long the position has been vacant. In the case of new positions, it is relatively easy in the sense that you have a starting point for your file, but if it is a position that becomes vacant, it is much more difficult. There is research work we can do. We have looked at how to streamline and simplify our recruitment processes. We are concerned that sometimes it takes a fair while to recruit to positions. The market pool for us is not all that deep. Sometimes you have to readvertise positions. It is quite a complex issue.

**Senator O'BRIEN**—Is there a particular area that is difficult?

**Mr Comer**—Typically my recollection is that getting FOI people in certain parts of Australia is not easy—for example, Townsville, Cairns and Darwin. I think Mr Farquharson can probably add more detail to that. Sometimes it is harder to attract people to those locations.

**CHAIR**—Mr Toller, you recently opened an office in Brisbane. Isn't that correct?

**Mr Toller**—Yes, we recently opened our regional service centre in Brisbane. In fact, we are a new division.

**CHAIR**—Are you able to tell us the purpose of that new office?

**Mr Toller**—The Regulatory Services Division was set up last year to try to improve the service we give from the authority to applicants for new approvals or changes to approvals of any form. We have set up this office which will in time be staffed with about 25 people to track the progress through the authority of those applications and to facilitate contact with the authority by the individuals in the industry who want to know how their applications are progressing.

**CHAIR**—This will therefore aid the efficiency of the processing of the applications? Will it improve customer service or both?

**Mr Toller**—I think both in that we will have much clearer information of the progress of each application and also the ability of people to give that information quickly. So it is more efficient for us but it also enables us to give the information more readily to the industry applicants.

**CHAIR**—Thank you.

**Senator O'BRIEN**—During the last hearings, we discussed the PricewaterhouseCoopers document entitled *Functional and resource analysis: final report October 2000*, the price tag for which I understand was about \$60 million. I understand that the board approved at its December meeting that this strategy proceed to the planning stage and that that work was to be completed in August. Is that chain of events on schedule?

**Mr Comer**—We are at the pre-definition planning stage—that sounds like a convoluted term. Currently, CASA is proceeding through the appointment of a possible alliance partner to do what we call the definition planning stage. That has slipped in the timeframes—we are looking at that work being completed towards the end of the year, and that correspondingly will fit into the budget cycle as we get the detailed business case for that program. When we last spoke to you, we identified it as a high-level estimate. The board gave us certain approvals to proceed on a stage basis. We are currently working our way through that. We did get some funds through the budgetary process, so the whole thing is under way.

**Senator O'BRIEN**—Some funds?

**Mr Comer**—Some funds, yes.

**Senator O'BRIEN**—How much did you get out of the budgetary process?

**Mr Comer**—I think that has been well recorded in the budget documents. Over the four-year period there was \$36 million allocated. It is a matter now for CASA to build that funding availability into our equations for developing the business case for the ASRIP, as we call it. The funding coming through that process at the moment is about \$20 million, but we have now to go through the stage of doing the detailed business case. We will look at funding

options within that process. We expect that high-level estimate that we mentioned to be refined significantly during the detailed planning stage.

**Senator O'BRIEN**—Firstly, the detailed business case is to have a series of subprojects, as I understand it. Can you remind me what those subprojects are?

**Mr Comer**—We have used the title Aviation Safety Regulatory Improvement Program, and that embraces a whole range of things, including implementation of the new regulatory reform plan, and a number of what we call business processes that we need to make more efficient and, perhaps, develop into a new IT infrastructure environment. As we have mentioned to you previously, we have Legacy IT systems, which are high risk to us and high cost. We are integrating a program that enables us to work as efficiently as we can when we implement the new regulations. We have mentioned to you a number of subprojects, and there are quite a number of those, but they relate to a different line of business applications that we are re-engineering during that process.

**Senator O'BRIEN**—Perhaps on notice you can supply us with that list.

**Mr Comer**—We can supply the list that is the subject of the definition planning stage, as we call it, yes.

**Senator O'BRIEN**—The Pricewaterhouse document identified funding of \$21 million from internal sources. That is not required now, I take it?

**Mr Comer**—The budget documents indicate that, of the \$36 million, just under \$10 million comes out of the internal reserves and the balance comes out of the reallocation of the excise revenue. When we do the business case, obviously we will look at the funding parameters that we have now, based on what the government has approved, and that is an ongoing exercise.

**Senator O'BRIEN**—Instead of requiring \$20 million from internal sources, you require \$10 million?

**Mr Comer**—That was the subject of the government's deliberation on the proposal that we put. When we do the detailed business case, CASA will need to readdress that issue. The whole funding issue of that program will be readdressed subject to the detailed business case. As I said before, we will make sure that the detailed business case has options in it that fit the current funding availability to us.

**Senator O'BRIEN**—Let us leave that for the moment. The Pricewaterhouse document identified funding of \$21 million from internal sources. Remind me what they were.

**Mr Comer**—I am not sure whether the figure was \$20 million or \$21 million, but that was the extent of our assessed available internal cash reserves at that time.

**Senator O'BRIEN**—What is your current assessment of internal cash reserves?

**Mr Comer**—We believe, based on our current estimates, that that will continue at about that level. So those funds would remain available either for that program or for other programs that CASA will consider.

**Senator O'BRIEN**—Essentially, CASA has reserves of \$20 million or \$21 million plus?

**Mr Comer**—It is a variable, as we have discussed.

**Senator O'BRIEN**—Is it going up or down?

**Mr Comer**—It is at least holding at \$20 million at present.

**Senator O'BRIEN**—It is more likely to be going up?

**Mr Comer**—That depends on what the excise issue becomes during the current financial year. We tend, in whatever estimates we put forward, to budget conservatively in relation to those sorts of things—excise. I do not expect the figure to come down, no. But it is a matter for the CASA board to decide how best it uses those reserves. There are other programs that conceivably they may wish to allocate some of those funds to.

**Senator O'BRIEN**—Is that subject to direction by the minister?

**Mr Comer**—CASA's funds become part of the overall fiscal balance of the Commonwealth. So they are subject to the same scrutiny that any new policy proposal is subjected to.

**Senator O'BRIEN**—I ask again: is the use of that surplus subject to direction by the minister?

**Mr Comer**—It is subject to approval through the Commonwealth budget process, yes, if you call that direction of the minister. It is subject to the normal Commonwealth budget process.

**Senator O'BRIEN**—If the minister said, 'Use \$10 million,' you use \$10 million of the reserves?

**Mr Comer**—It is an issue that the board has under consideration at present. Obviously, once the full business case is available to us in relation to the ASRIP program, it will remain a matter for consideration as to whether the \$10 million that is currently part of the overall \$36 million would remain. CASA will take a view about that once we have the business case available to us.

**Senator O'BRIEN**—You are saying that what is in the budget document does not necessarily apply, subject to the determination of the board?

**Mr Comer**—As I mentioned before, the detailed business case will become available towards the end of the year. That will then give us the information that we can feed into the recycling of the Commonwealth budget process. As we go forward next year and input our figures into that system, we will have the benefit of the detailed business case to assist us with that process.

**Senator O'BRIEN**—At page 100 of the PBS, talking about the announcements in the budget which relate to CASA, it is stated:

This measure will be partially funded by an increase in the allocation of aviation fuels duties to CASA and by an allocation of the over collection in aviation duty of \$7.6m relating to the Airservices Australia Location Specific Pricing Subsidy in 1999-2000 and 2000-01, and the use of the Authority's internal reserves.

Am I understanding you to be saying that that aspect of the PBS needs to be understood in the context that that matter is ultimately to be decided by the board of CASA?

**Mr Comer**—No, I am not saying that. I am saying that the board will take a decision in relation to the business case for ASRIP, which will then form part of our budget proposal for the following financial year.

**Senator O'BRIEN**—The particular part of what you described as ASRIP, the Aviation Safety Regulatory Improvement Program, is re-engineering the authority's existing operational business processes and replacement of information technology systems.

**Mr Comer**—That is correct. As I mentioned before, that is integrated with the planned implementation of a new regulatory reform process.

**Senator O'BRIEN**—That was under consideration arising out of the Pricewaterhouse-Coopers plan, and it was originally being considered in the context of CASA's reserves in excess of \$20 million.

**Mr Comer**—That reserve fund was certainly an issue for us at the time, yes. It was a funding issue.

**Senator O'BRIEN**—And the fund remains. What operational surplus will CASA achieve in the current financial year?

**Mr Comer**—I am looking at the March figures. The surplus at the end of March was \$5.8 million. Our original target for that financial year was \$2.3 million.

**Senator O'BRIEN**—What factors would you attribute the surplus to?

**Mr Comer**—It is a range of issues. There are basically two elements to it. There is the fact that our recruitment program has not been as quickly put into effect as we would like, so there has been a recruitment lag, as we would call it, and, if you look at the excise revenue, there has been some increase in excise revenue. You might recall that the government made a decision, which was effective from 23 May, on the reallocation of excise. Some of that reallocation will impact our surplus figure for the current financial year. We will end up with a surplus probably in the vicinity of \$6 million to \$7 million for this financial year.

**Senator O'BRIEN**—Does that include the excise surplus?

**Mr Comer**—Sorry, I should make that clear. The 23 May decision that I am talking about concerns the reallocation of the excise revenue that took place from there. The overcollection issue is a matter that only becomes effective from 1 July.

**Senator O'BRIEN**—As I understand it, there is \$5.4 million from this financial year being allocated and \$2.2 million from last financial year. That is my recollection of the evidence we got last night.

**Mr Comer**—You might be thinking of the fact that the \$36 million effectively equates to about four times the \$5.4 million figure. I am not sure whether that is the figure that is in your mind.

**Senator O'BRIEN**—That is much more than four times the \$5.4 million figure.

**Mr Gemmell**—I do not know about the figures from last night, but they are in the right order, from what I remember, in relation to the overcollection of the Airservices component of the fuel levy.

**Senator O'BRIEN**—I want to understand where that \$5.4 million for this year fits in with the \$6 million to \$7 million surplus for CASA this year. Is that in addition to it or part of it? Let me put it clearly so that we get the precise answer. The \$6.7 million is the projected surplus for CASA this year. The government is talking about allocating \$5.4 million to CASA, which is collected but unspent excise funds. What I want to know is: does the government have that \$5.4 million or does CASA have it, and is it included in the \$6 million to \$7 million surplus that is projected?

**Mr Comer**—I think the best way to answer it is that the board last December approved of CASA proceeding to this definition planning phase which allocated to us about \$2.7 million—I think that was the order of the figure. That is the work that I am now describing as being

completed by the end of the year. Of that \$2.7 million for that process, a percentage of that will be spent this financial year. It is probably in the order of \$1 million to \$2 million. That is taken into account in the surplus figure that I identified previously.

**Senator O'BRIEN**—The money that the government allocated, the \$36 million, is that part of the surplus?

**Mr Comer**—It is not.

**Mr Gemmell**—Let me see if I can get this right to try to clarify it and make sure that my understanding is right: I think what you are asking about is the overcollection of Airservices funds from the past, how that has been given to CASA and whether that is on top of any surplus we create in our own accounts by however we create them. The answer is yes, it is. It is on top of any surplus we create.

**Senator O'BRIEN**—Okay.

**Mr Yuile**—That is the \$7.6 million that is mentioned of that \$100 million which we referred to last night.

**Senator O'BRIEN**—Yes. I just did not want to be thinking that it was somehow in the \$6 million to \$7 million that Mr Comer was mentioning as the surplus for CASA this financial year—

**Mr Comer**—A different issue altogether.

**Mr Yuile**—A separate issue.

**Senator O'BRIEN**—So that money will carry forward for expenditure into the coming financial year or will simply go into reserves?

**Mr Comer**—It will become part of our reserves, yes.

**Senator O'BRIEN**—Was that figure in contemplation when Pricewaterhouse identified the \$20 million to \$21 million in reserves from which the internal funding for the strategy that we have been discussing should come?

**Mr Comer**—For that level of estimating purposes at the time, we considered it prudent to say that there would be an internal capacity of about \$20 million available for that program. What that surplus or that balance ends up being at 1 July, I am saying to you that the \$20 million available capacity will hold good—

**Senator O'BRIEN**—At least.

**Mr Comer**—There may be some additional surplus funds, but we would treat that in our normal budgetary process.

**Senator O'BRIEN**—You were estimating \$20 million to \$21 million late last year; did you assume there would be a \$6 million to \$7 million surplus?

**Mr Comer**—The answer to that question is no, we were assuming that the surplus, as I mentioned to you before, would be about \$2.3 million. That was the original budget projection.

**Senator O'BRIEN**—So you are up \$4.7 million potentially?

**Mr Comer**—Potentially, yes.

**Senator O'BRIEN**—There is at least the potential that CASA will have a surplus of around \$25 million at the end of June?



**Mr Comer**—The correct expression is cash reserves, not surplus.

**Senator O'BRIEN**—Cash reserves. And, on top of that, you will be receiving the \$36 million over four years—

**Mr Comer**—Four years, yes.

**Senator O'BRIEN**—Plus the government is expecting you to spend \$10 million of that \$25 million surplus.

**Mr Comer**—Yes, the \$36 million includes the internal reserves.

**Senator O'BRIEN**—Sorry, so you are getting \$26 million and are expected to spend \$10 million of that as a war chest—

**Mr Comer**—Internal reserves, yes. As I mentioned to you before, this will become a dynamic process as we go through each cycle of the budget program.

**Senator O'BRIEN**—In February we discussed additional staffing numbers that had been funded, and I think we were then talking about figures of 20 which turned out to be 17. Mr Toller advised:

When we put together the final structure at the end of the restructure, the additional positions that we required to do the work we had recognised needed to be done numbered only 17 rather than the 20 positions that we contemplated originally. It is not a budgetary or a financial constraint; we are very comfortable with those 17 positions.

I would like to know if there is a breakdown on where the additional staff from the extra money in the budget are going, which areas of the authority?

**Mr Comer**—I am not sure what the page is, but there is a reference to the ASL increase from 628 to 680. This coming budget gives us the funding capability, in conjunction with our reserves running through the ASRIP program, to fund 680 what we call full-time equivalents. So that is an increase of 52 people. We are saying that 17 of those are attaching to compliance; there are 15 identified in the budget papers attached to the regulatory services area; and through our operational budget process for next year we have been able to fund another 20 people, which will be part of our overall funding of 680 FTEs.

**Senator O'BRIEN**—But you are only advertising enough jobs to fill 612 positions at the moment, so you are 16 short of the 628 ASL—I am not even sure that the numbers you gave me earlier were ASL—

**Mr Comer**—They were staff.

**Senator O'BRIEN**—Just bodies.

**Mr Comer**—There is quite a difference between ASLs and people. To illustrate that, our target establishment in the organisation as a whole is 700 plus.

**Senator O'BRIEN**—Seven hundred and twelve; I was wrong, I apologise. With the positions to be filled, the 712 bodies, if I can put it that way, equals the 628 ASL; is that right?

**Mr Comer**—We had funding for an ASL of 628 for the whole of this financial year which means that, if you were below 600 at the start of the financial year, you can go above that at the end of the financial year. I mentioned figures to you earlier that, at the end of April, against that structure we had 634 people on the payroll.

**Senator O'BRIEN**—So if you do not fill the positions early, you can have a lot more later in the year. But then you have a problem in the next financial year in funding it.

**Mr Comer**—You balance your budget, that is correct.

**Senator O'BRIEN**—With respect to the 20 ASL positions, however many people that adds up to, what decisions have been taken about where they will be in the organisational structure?

**Mr Comer**—Again, I think strategically, when you have a target establishment as we have of over 700 people, we know that we have a funding capability of 680 FTEs as we call them or ASLs. It is a matter then for us to balance that through the financial year. So those 20 people just simply become part of our total target establishment which is developed through our business planning process.

**Senator O'BRIEN**—Is it the case that you have not decided yet or is it the case that you are holding those aside to be decided as need arises?

**Mr Comer**—No, the need has been assessed and we are recruiting up to that 680 FTE level as we go.

**Senator O'BRIEN**—So where will they go?

**Mr Comer**—I could give you the split of the 680 positions, if you like.

**Senator O'BRIEN**—That would be good, yes, thanks.

**Mr Toller**—The concept that we have as an organisation is that we have a structure. That structure is known to the staff and known to the unions. It is over 700 people. But the actual cost to us over the year of filling that structure as much as we possibly can is going to be 680 people. In other words, there is always a vacancy rate and there is always turnover. Therefore, our estimate is that the cost to us in ASL terms is 680 to fill the full structure—to attempt to fill every position within that structure.

**Senator O'BRIEN**—Mr Toller, I asked the alternative question to find out whether you were holding the 20 or whether there were 20 slots to be filled in the context of what you said, and that is the answer that really I am after. But, on the other hand, maybe the position is that some of them are being held just in case you are going to go over budget—

**Mr Toller**—No, Senator.

**Senator O'BRIEN**—So presumably Mr Comer can give us those positions.

**Mr Comer**—What might be easier is if we gave you our target establishment figures broken up across our divisions and we will table that document for you.

**Senator O'BRIEN**—Thanks very much for that. It will certainly be easier. In relation to another matter, the Ansett matter, could you tell me what the timeframe is for the completion of changes to Ansett's maintenance system?

**Mr Farquharson**—Could you expand a bit on your question?

**Senator O'BRIEN**—Arising from the two incidents last Christmas and over Easter, I understood there was an agreement between the authority and Ansett about changes to their maintenance system; is that correct?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—When does Ansett have to have its final changes to its maintenance system, as agreed, in place?

**Mr Farquharson**—If you will just bear with me, I will get Mr Leaversuch to join us. We have a series of Gantt charts which outline how that will take place. I believe that Ansett have also tabled those documents or given those documents to you, or documents of that form?

**Senator O'BRIEN**—I have not seen them if they have. They may have given them to the committee, and I have not seen them.

**Mr Gemmell**—I think that that was the binding undertaking that was discussed at the last hearing, which I think they tabled, and that is what the gentlemen are talking about here. In there are the Gantt charts and the documents that set out the timeframes.

**Senator O'BRIEN**—As I say, it may have gone to the committee and I have not seen it.

**CHAIR**—I am advised that they have been tabled, Senator O'Brien.

**Senator O'BRIEN**—So the answer to the question is that there are a series of dates.

**Mr Leaversuch**—A series of Gantt charts with dates on them, yes.

**Senator O'BRIEN**—So there are a series of milestones, as it were, for completion of the task?

**Mr Leaversuch**—Correct.

**Senator O'BRIEN**—What is the last milestone; when does it end; when are they supposed to be right up to speed?

**Mr Leaversuch**—You are asking for the certificate of approval?

**Senator O'BRIEN**—No, the date that they are supposed to have their maintenance—

**Mr Leaversuch**—For the certificate of approval?

**Senator O'BRIEN**—Yes.

**Mr Leaversuch**—It goes out to June 2002.

**Senator O'BRIEN**—What is the situation with Ansett's 767 fleet? Are they all operational?

**Mr Farquharson**—In the sense that we have no outstanding action against them in terms of the two matters.

**Senator O'BRIEN**—There is no reason they cannot fly that CASA is aware of?

**Mr Farquharson**—Not that we are aware of.

**Senator O'BRIEN**—Mr Farquharson, can I ask you about a problem that Ansett had with one of its BAe 146 aircraft in March last year. The problem related to the company overlooking a service bulletin that related to a fatigue issue. You identified that matter in an answer to a question on notice, reference 'CASA 13 re Rural and Regional Affairs and Transport Legislation Committee supplementary estimates, 16 February 2001'. Some might say it is a similar problem to the 767 problem but it is specifically related to the undercarriage of the aircraft. As I understand it, Ansett contacted the manufacturer, British Aerospace, and reached an agreement on a scheduled schedule of inspections that would allow the aircraft to continue to operate. Do you recall that matter?

**Mr Farquharson**—I was not involved in that matter personally. What I can tell you is that CASA is aware of one exemption granted in mid 2000 relating to inspections of undercarriage components. The exemption on the BAe 146 inspection subsequently gained an approval from the UK to all BAe 146 airplanes—it was applied universally.

**Senator O'BRIEN**—So the exemption was granted by CASA prior to BAE extending that exemption more widely; is that what you are saying? Perhaps it is the wrong way of putting it: prior to BAE recommending a changed schedule of inspections for the aircraft generally.

**Mr Farquharson**—It would be normal for there to be conversation between CASA and the manufacturer. I am unaware of what actually transpired and I will take that question on notice and come back to you.

**Senator O'BRIEN**—Does Mr Leaversuch know anything about it?

**Mr Leaversuch**—No.

**Senator O'BRIEN**—At that time would it have been fair to say that, if it was okay with the manufacturer, it was okay with CASA?

**Mr Farquharson**—Excuse me, I was getting input from both directions. I would just like to resolve this matter.

**Senator O'BRIEN**—Certainly.

**Mr Farquharson**—I am informed that, in the process, Ansett gained technical support from BAE in support of the request for exemption, and subsequently BAE extended those matters to all other aircraft.

**Senator O'BRIEN**—Was that before or after the exemption was granted by CASA—subsequently I think you said?

**Mr Farquharson**—Subsequently.

**Senator O'BRIEN**—What process does CASA follow in assessing the safety aspects of this scheme of arrangements with the BAe 146? If it is all right with the manufacturer, CASA gives it the tick?

**Mr Farquharson**—I would seek that the standards division comment on that because these matters of design and so on fall within the standards division.

**Senator O'BRIEN**—Sure.

**Mr Yates**—When a service bulletin is released by a manufacturer, it is received in the authority, it is reviewed and a judgment is made by a technical specialist as to what action may perhaps need to be taken depending on the nature of the service bulletin. In this particular case, I am unaware of the precise detail.

**Senator O'BRIEN**—I see. Do you know whether it is a fatigue issue on the landing gear?

**Mr Yates**—I cannot comment on the detail of the particular case because I am not familiar with it myself. I will take it on notice.

**Senator O'BRIEN**—If you can take it on notice and supply us with the detail as to precisely what was involved in this particular defect and how CASA chose to grant an exemption for the aircraft to permit it to continue flying.

**Mr Yates**—We will take it on notice.

**Senator O'BRIEN**—Thank you. I would like to find out what action CASA took following the breakdown in Ansett's maintenance procedures last March. Given in this case the nature of the problem that a critical inspection was not properly logged in the Ansett maintenance regime for the BAe 146, wouldn't CASA have immediately reviewed not only Ansett's systems in relation to service bulletins but also CASA's systems?

**Mr Farquharson**—Could you put that in terms of timeframe again?

**Senator O'BRIEN**—In this particular BAe 146 matter, I would have thought that, when that came to the attention of CASA, CASA would have reviewed not only Ansett's systems in relation to service bulletins but also CASA's systems.

**Mr Farquharson**—I cannot answer in relation to that particular matter as I was not in the chair at the time.

**Senator O'BRIEN**—That was during Mr Foley's time in the chair?

**Mr Farquharson**—Yes.

**Senator O'BRIEN**—Can you investigate and advise on notice what action was taken when it came to Mr Foley's attention; presumably the files will show that?

**Mr Farquharson**—I will take that on notice.

**Senator O'BRIEN**—It just seems that, when Mr Toller told us last February flaws in the Ansett system existed before Captain Jensen gave evidence last July, he was correct. Obviously, this BAe 146 issue was an indication of a flaw, was it not, Mr Toller?

**Mr Toller**—It certainly would appear to be, yes.

**Senator O'BRIEN**—Wouldn't it equally be the case that the flaws were known to CASA before July because effectively CASA had ticked off a system to deal with the consequences of those flaws in the first half of 2000, the BAe problem?

**Mr Toller**—My understanding is that was a single incident that was taken into consideration and dealt with as an individual incident. I think what we then started to see, and what we have then seen right through to April this year, is the evidence of a systemic breakdown rather than of an individual flaw.

**Senator O'BRIEN**—Yes, but the new systems audit process had been in place for nearly a year at that time and been subject to review and modified by that time, had it not?

**Mr Toller**—I think it was still being introduced at that time.

**Mr Farquharson**—And, indeed, because of the way in which that system works in terms of elements over a period of time, that part of the organisation may not have been examined. But I can find that out for you.

**Senator O'BRIEN**—What do you know about this, Mr Leaversuch, the BAe incident?

**Mr Leaversuch**—I know only what came to my attention as a result of inquiries after the Ansett incident. The matters are dealt with in our engineering area which is a separate part of the compliance division.

**Senator O'BRIEN**—So you had no role at all in this BAe 146 issue?

**Mr Leaversuch**—No.

**Senator O'BRIEN**—Mr Toller, when did CASA receive a service bulletin that related to the 25,000 cycle check for the 767?

**Mr Toller**—Which service bulletin are you referring to?

**Senator O'BRIEN**—That is the one in relation to the fatigued engine pylon.

**Mr Toller**—The engine pylon matter. I would have to defer that to the standards division; I do not have that information to hand.

**Senator O'BRIEN**—I understood that CASA receives those contemporaneously from the operators as a matter of course from the manufacturer.

**Mr Toller**—Not necessarily directly contemporaneously because we are lower down the distribution chart, if you like.

**Senator O'BRIEN**—Well, shortly after then.

**Mr Toller**—Within a similar timeframe, yes. I can take on notice the time at which we actually received it. In fact, it is coming now.

**Mr Farquharson**—In relation to the outer wing attachment fitting SB, it was allocated on 27 March 2000, it was closed off on 28 March 2000 and the remarks are awaiting FAA action.

**Senator O'BRIEN**—Mr Toller, you told a press conference on 12 April:

Where necessary .. we take action and turn these—

I think you mean bulletins—

into an AD.

This was part of the record of the press conference that you had. I have got a printout from the Net. At the top of the page it reads:

We receive the service bulletins and, you know, always have done. Where necessary, as we've proved this week, we take action and turn those into an AD.

How do you actually assess each of these bulletins such that some are turned into ADs; and who would do that?

**Mr Toller**—That is done within the standards division. I can table a flow diagram which shows our process for how we deal with service bulletins and how we end up with whatever decision we end up with.

**Senator O'BRIEN**—Have there been occasions—you may not know the full history, Mr Toller—going back over the last 10 years when CASA has taken independent action in response to an alert service bulletin without relying on a view from the FAA?

**Mr Toller**—I think the best thing I can do is take that one on notice—that is a large timeframe with a lot of activity.

**Senator O'BRIEN**—Would it be fair to say that, if there are occasions when you have taken independent action, that is an ad hoc implementation of the ATSB recommendation on the matter in Mr Anderson's view.

**Mr Toller**—That is a difficult generalisation, Senator. Certainly, we turned the service bulletins which are relevant to Ansett unilaterally into airworthiness directives because of effectively the evidence that we were finding domestically, locally, in Australia. And, having done that, subsequently the FAA also turned those service bulletins into airworthiness directives.

**Senator O'BRIEN**—Going back to an airworthiness directive policy of 1991, the then CAA said of service bulletins:

Alert, telegraphic and similar urgent safety of flight SBs will be reviewed by the CAA, consultation carried out as appropriate and, where necessary, Australian ADs issued. This will normally cover cases ranging from action required before further flight up to that necessary in less than a 100-hour maintenance release period.

Is that the policy that has applied since your time at CASA?

**Mr Toller**—In the process that we are tabling as a flow chart, the service bulletin is passed to a certification standard specialist and there is then an assessment of whether an Australian airworthiness directive is warranted. That is done predominantly by looking at whether the service bulletin is supported by a foreign airworthiness directive. There is still the opportunity for us to take action, even if it is not supported by a foreign AD or by the certifying authority, but I think it is safe to say that that would be unusual post 1991. I think that ties in with the evidence that was given to the committee by the Boeing representative in terms of the fact that that is, if you like, the standard approach—I think he said ‘by nearly all’—and he could not think of an example of the authorities in the world who rely on the certifying authority predominantly to determine whether a service bulletin becomes an airworthiness directive or not, for the reasons that it is the manufacturer and the certifying authority that have all the knowledge of the aircraft and all the details of the aircraft.

**Senator O’BRIEN**—Why would a service bulletin relating to engine pylons not fit within the definition of what is considered to be ‘urgent safety of flight’?

**Mr Toller**—I think it is not necessarily about where it is relevant to. That is an assessment that has to be made by the manufacturer and it was also being made by Boeing. Therefore, they are the people who have the best handle on how serious it is. Our action was to effectively put it on hold awaiting what the FAA did.

**Senator O’BRIEN**—Exactly. But the question I ask is: given that it was about fatigue, it was about engine pylons and consequences of a failure in that area being calamitous, why was it not considered in terms of the airworthiness directive policy of 1991 a matter related to ‘urgent safety of flight’?

**Mr Toller**—I cannot answer that because I did not do the assessment, obviously. These are technical specialists. There are all different types of fatigue of varying nature. Clearly, Boeing did not consider it to be a matter of immediate safety, and the evidence of that being that they had given Ansett a period of time in which to conduct those checks. Why the authority acted when it did though was because, when those checks were taking place, we found cracks in Australia within the Ansett aircraft that clearly were of a greater magnitude than had been found elsewhere and also than I suspect—I cannot necessarily answer for them—Boeing ever envisaged. That is why we believed at that stage we had to take immediate action once we had discovered the magnitude of the cracks in the Australian aircraft.

**Senator O’BRIEN**—Would you agree that it would have been prudent to require inspections when you saw that service bulletin, notwithstanding the manufacturer’s failure to recommend urgent action?

**Mr Toller**—Rather than answer that question directly, this is very much the issue that is being addressed by the working group that is reviewing service bulletins to make sure that we do adequately address those that may be of the sort of urgency you are trying to paint this one into. I do not think I can comment on whether this one—at the time that it was produced by Boeing and given the knowledge that Boeing had at that stage—was seen to be of that urgency. Mr Yates has come to the table. He may wish to comment on this.

**Mr Yates**—If I could add a little clarification: the service bulletin required an inspection within 180 days. It was reasonable therefore on the basis of that information to await action from the FAA, as has been said. It was when these inspections were conducted on the Ansett aircraft and some cracks were found that obviously it became important to take action straight away, which is what was done, and a unique Australian airworthiness directive was issued as

a result, which subsequently was mandated also by the certificating authority in the United States.

**Senator O'BRIEN**—So we took action ahead of the manufacturer and the FAA in this case after we found that we were proceeding down a very dangerous path, having not done so beforehand.

**Mr Yates**—The inspections were carried out within the period stated in the service bulletin. It was when the evidence was found that obviously we felt it necessary to take mandating action.

**Senator O'BRIEN**—Within 180 days?

**Mr Toller**—No, that is not true.

**Mr Yates**—That is not so?

**Mr Toller**—Ansett had missed them initially as we know. However, I think the point being made is that the very fact that Boeing had said you have 180 days in which to do this inspection means that they do not believe that it is an immediate safety concern. If it was an immediate safety concern, it would be before the next flight, within three days or something like that. These are the sorts of things on which your judgments have to be based. The fact that Ansett missed it within that 180-day period but then got permission from Boeing for it to be extended significantly further, again leads you to believe that Boeing perhaps did not realise the magnitude or the severity of these cracks until Ansett conducted the inspections and we then discovered, if you like, that the Ansett aircraft were worse than any others that had been previously inspected.

**CHAIR**—Senator O'Brien, it is 1 o'clock which is the time set down for our lunchbreak. Just before we do go to lunch, I think it would be appropriate for me to read into the *Hansard* the complete paragraph of Dr Scully-Power's evidence before this committee on 4 May this year as part of the reference into CASA administration—air operator maintenance, regulation and oversight. Dr Scully-Power is referring to the issues that have been traversed this morning; that is, the Horn Island incident, the Brindabella incident and the Moruya incident. It would be appropriate to read into the *Hansard* the following paragraph from Dr Scully-Power:

Let me tell you what the resolutions were. The finding in the Brindabella incident was that there had been no breach of the law. In the Horn Island case, there was a finding of technical breach but, when tested against Commonwealth prosecution policy, it was determined that it was not a matter that should be referred outside of CASA. The third, the Moruya incident, was treated very much as a matter of poor airmanship, and the director has been counselled by the area manager of CASA. The board, as I have said, took a very strong view on this. We have not only caused to be conducted an in-depth investigation on all three matters, but we have taken the liberty—at the expense of the crown, I might add—to get those three reviews reviewed again by a very eminent lawyer, and reviewed beyond that by an even more eminent lawyer, all of whom support what I have just told you.

Dr Scully-Power then goes on to say:

The board and I are fully satisfied that the matters have been properly addressed and resolved, and that they have been handled in full conformance with corporate governance. So I think that puts an end to the matter and I would like to move on, because Mick Toller is a member of the board; he is doing an outstanding job.

I regret I was not at that committee meeting, so that I was not aware of that to have brought it to the committee's attention during the hearing.



**Senator O'BRIEN**—You will note there is reference in there to 'expense by the crown subsequent to the activities'.

**CHAIR**—Nevertheless, I think it is important that that balance is put into the *Hansard* in relation to this morning's proceedings.

**Senator O'BRIEN**—It is already in the *Hansard*.

**CHAIR**—We now stand adjourned until 2 o'clock.

**Proceedings suspended from 1.04 p.m. to 2.07 p.m.**

**ACTING CHAIR (Senator Calvert)**—I call the meeting to order and continue with air transport.

**Senator O'BRIEN**—In relation to information supplied to the minister to answer parliamentary questions, is that supplied by CASA direct to the minister or through the department?

**Mr Toller**—Through the department, Senator.

**Senator O'BRIEN**—So the information comes from CASA. CASA compiles the PPQ and it goes to the minister. Presumably that is how the system works.

**Mr Gemmell**—Some questions get inputs from various areas. Those that are totally CASA we will provide some input to them and they go to the department and the department will then compile the actual draft answer that goes through its processes with the minister before going into parliament.

**Senator O'BRIEN**—My attention was drawn to Minister Anderson's answer to a question from Mr Ferguson in the House of Representatives on 2 November about the Brindabella matter. Mr Anderson said:

Yes, the Director of Aviation Safety was counselled by CASA after he failed to record a defect in the maintenance release of an aircraft that he had hired—that is true.

I am trying to establish that that is the information that CASA provided to the department that was provided to the minister.

**Mr Gemmell**—We have to look at that, Senator. There could be some changes made.

**Mr Elder**—Could you give me the number, Senator?

**Senator O'BRIEN**—It was a question without notice answered in the House on the 2 November. You can take a copy of this and go and check it—

**Mr Toller**—We will certainly check that. A question without notice is clearly different from a question on notice.

**Senator Ian Macdonald**—Senator, how Mr Anderson answered the question is not a question to the department—

**Senator O'BRIEN**—I presume that he gets his information about CASA from CASA. That is why I was asking the question so I was not presuming but had the facts.

**Senator Ian Macdonald**—He might get it from a whole range of sources. Wouldn't your question better be: is this the fact—and you can repeat whatever Mr Anderson said? But as for saying that that is what they told Mr Anderson—

**Senator O'BRIEN**—The answer goes on:

Needless to say, he is pretty humiliated and somewhat chastened by the experience. He will not be doing it again. I am advised that Mr Toller was dealt with in accordance with CASA's normal compliance and enforcement procedures.

That indicates that he had some advice from somewhere.

**Senator Ian Macdonald**—They are Mr Anderson's words and he gets advice from a range of things—plus he has his own view on life. Because Mr Anderson said so, it does not necessarily mean—

**Senator O'BRIEN**—He did not make up that Mr Toller was pretty humiliated and somewhat chastened by the experience, I presume.

**Senator Ian Macdonald**—He gets that from a range of sources. If you want to ask me about that, I am happy to take it on notice and put it to Mr Anderson, but all I am suggesting to you is that you ask the department whether what Mr Anderson said is what they told him. I think that is inappropriate and unfair to the department.

**Senator O'BRIEN**—Can I really ask them that, Minister? Can I ask them what they told Mr Anderson?

**Senator Ian Macdonald**—No, but you can ask them what the fact is. It should not in any way be related to what Mr Anderson may or may not have said. That is what you have been doing all morning, though, I would have thought.

**Senator O'BRIEN**—I would have thought that what Mr Anderson said in answer to a question in the House of Representatives reflected his knowledge of the matter at that time. I think that is pretty fair.

**Senator Ian Macdonald**—It certainly is; otherwise he would not have said it.

**Senator O'BRIEN**—I think it is reasonable for me to find out if CASA were the source of that advice.

**Senator Ian Macdonald**—Why don't you ask me and I will ask Mr Anderson what the source of his information was? I am sure that it will be from his own investigations—from departmental advice, from advice from CASA, from talking with a range of parties, which I assume would include the board, and perhaps from talking to Mr Toller himself.

**Senator O'BRIEN**—Mr Toller, did you talk to Mr Anderson about that matter?

**Mr Toller**—I do not recall talking directly to the minister about it.

**Senator O'BRIEN**—Did you talk to the people in his office about it?

**Mr Toller**—I would have to check the dates. I think I was overseas at the time, but I am not sure.

**Senator O'BRIEN**—I guess that raises more questions than it answers. I would appreciate it if you would ask Mr Anderson if he would let us know the source of the information he had to provide in the answer to Mr Ferguson in the House of Representatives.

**Senator Macdonald**—I will put that to him.

**Senator O'BRIEN**—Thank you for that. Mr Farquharson, can you confirm that CASA's attention was drawn to a problem with engine mountings on Qantas 747s late last year?

**Mr Farquharson**—That is correct—it was a component that goes together to make up the engine mountings.

**Senator O'BRIEN**—Did CASA engineers then raise concerns about those aircraft?

**Mr Farquharson**—Yes, there was a matter raised.

**Senator O'BRIEN**—What was the nature of the problem?

**Mr Farquharson**—It came to CASA's attention that allegations of improper procedures were received. It related particularly to the use of heat treatment that was not prescribed in the maintenance procedures.

**Senator O'BRIEN**—What action was taken by CASA?

**Mr Farquharson**—CASA moved immediately to determine the airworthiness effect of that matter. Considerable discussion ensued between CASA, Qantas and Rolls Royce, who were the manufacturer responsible for that particular part, and it was determined that there was no airworthiness effect as a result of the use of unauthorised procedures.

**Senator O'BRIEN**—Did the unauthorised procedures have any effect on the component of the engine mounting?

**Mr Farquharson**—Could you be a bit more specific?

**Senator O'BRIEN**—What was the unauthorised procedure?

**Mr Farquharson**—It was the application of heat in the form of a propane gas gun. Given the siting of heating ovens and so on in the Qantas plants, it allowed a bearing to be dropped into place much more quickly. The prescribed method, as I recall, was to evenly heat in an oven rather than use a propane gas gun, and I am not sure whether there was an alternative relating cold treatment.

**Senator O'BRIEN**—The manufacturer felt that that in no way compromised the part?

**Mr Farquharson**—During the process of determining the effect, Rolls Royce was intimately involved—it came to Australia—and in the very early stages of determining the effect, parts or components that had been subject to this treatment were sent to Rolls Royce. The UK CAA was investigating in parallel—they were aware of this—and the investigation determined that the heat treatment had in no way affected the chemical and, therefore, the structural integrity of that component.

**Senator O'BRIEN**—How long did that investigation take?

**Mr Farquharson**—The initial part of the investigation in determining the immediate airworthiness issue—and I would have to return to give you an exact time—I would estimate took a week to two weeks.

**Senator O'BRIEN**—Two weeks?

**Mr Farquharson**—A week to two weeks, but I will return to you with a summary.

**Senator O'BRIEN**—Who within CASA was dealing with the matter?

**Mr Farquharson**—It was a conjoint effort between the compliance division, the Sydney airline office, which is responsible for Qantas, but particularly the design area and maintenance area in the standards division.

**Senator O'BRIEN**—Was that matter referred to the director?

**Mr Farquharson**—I believe the director was aware of it.

**Mr Toller**—I was informed of it, Senator. I was informed of it.

**Senator O'BRIEN**—Did the matter go to the board safety committee?

**Mr Toller**—We do not have a board safety committee; we have an executive safety committee, which I chair.

**Senator O'BRIEN**—Did it go to the executive safety committee?

**Mr Toller**—I would have to take that on notice. I think it happened out of session and between sessions of the safety committee.

**Senator O'BRIEN**—Were there any doubts about airworthiness until the consultation with Rolls Royce took place?

**Mr Farquharson**—It is always of concern in these matters, and it is our charter to establish the airworthiness. It was essential in establishing the condition of those components, so we consulted with Rolls Royce.

**Senator O'BRIEN**—Did CASA conduct any inspections prior to Rolls Royce's involvement?

**Mr Farquharson**—Could you repeat the last part?

**Senator O'BRIEN**—Prior to Rolls Royce's involvement did CASA of its own volition organise to conduct any inspections?

**Mr Farquharson**—I would have to take that one on notice to be accurate.

**Senator O'BRIEN**—I was just wondering how CASA would satisfy itself that there was not some issue of airworthiness without some inspection or advice from someone who inspected the component that was the subject of unauthorised heating.

**Mr Farquharson**—I would have to take the explicit recall of the standards division on that, because they were the people who were particularly involved.

**Senator O'BRIEN**—Has the internal audit report now been rewritten and provided to you, Mr Toller, as director?

**Mr Toller**—No, Senator. There is a process, as I understand it, under way. It has not yet reached the stage where it has been rewritten and given to me.

**Senator O'BRIEN**—What is the status of the internal audit report at the moment?

**Mr Toller**—I will ask my risk manager, Karen Nagle, to address that.

**Ms Nagle**—Work on the audit report continued in-house until about early May. We have now engaged KPMG as an independent arms-length provider to review that report and to complete the work to the terms of reference originally set by Mr Farquharson.

**Senator O'BRIEN**—How long was the audit report process kept in-house?

**Ms Nagle**—Until approximately the end of April.

**Senator O'BRIEN**—When did it start?

**Ms Nagle**—The actual audit report?

**Senator O'BRIEN**—The process, yes.

**Ms Nagle**—The actual audit process started back in July 2000 when phase 1 was completed, which was an audit of the same systems with the general aviation sector. In relation to the audit and the work in Melbourne, a request was received from Mr Farquharson on 20 February to commence the work in Melbourne. The work in Melbourne would have

started, I think, at the beginning of February on that process, which would be an initial gathering of documentation prior to the actual work that was conducted in the Melbourne airline office.

**Senator O'BRIEN**—How far did the process get in-house before it was referred to KPMG?

**Ms Nagle**—As you are aware, there was a final report that was presented in the Melbourne office. The auditors continued to do some work on that report, which was a reformatting exercise to produce it in a different format. They had made some attempts at that format but they had not taken it very far at that stage.

**Senator O'BRIEN**—I heard that there was some documentation—at least a first draft of the audit report—prepared. Is that right?

**Ms Nagle**—The leaked audit report was marked 'final'. That did not follow a normal CASA process in that a final report would have had an action plan attached and would have been agreed by Mr Farquharson.

**Senator O'BRIEN**—Why did it have the word 'final' appended to it?

**Ms Nagle**—I do not know the answer to that question.

**Senator O'BRIEN**—Have you seen a similar document in-house?

**Ms Nagle**—I was sent a copy of that report by my audit staff. That was essentially the same document as that which was leaked. There are some slight differences in formatting, and the copy that was leaked was actually signed by Mr Castles, the lead auditor.

**Senator O'BRIEN**—It sounds fairly final but you say it was not the final report.

**Ms Nagle**—The normal processes in producing what would be considered a final report would be that a draft would be presented to the manager of the relevant office; an action plan would then be developed with the assistance of the general manager of the audit branch, which is aimed at developing a plan to address issues that are identified in the process of that review. That would then be concluded and agreed and, in that process, the report with the action plan attached would normally then go forward to Mr Toller and then to the board audit committee. In this case, those processes were not followed.

**Senator O'BRIEN**—So what is the significance of the document?

**Ms Nagle**—Which document are you referring to?

**Senator O'BRIEN**—The document that you describe as having been leaked, which was signed by a person from your audit team.

**Ms Nagle**—At this stage I do not regard that document as having any status. It is subject to independent review at this stage, nor does it address the terms of reference that the original audit was supposed to address

**Senator O'BRIEN**—Whilst you are here, Ms Nagle, I want to ask you some questions about your risk management policy. Can you confirm that you actually drafted this document and that it was endorsed by the board?

**Ms Nagle**—Yes.

**Senator O'BRIEN**—Section 7 of the policy statement is headed 'Arrangements for risk management'; 7.1 states that 'a risk management strategy is mandatory for the following classes of activity' and it has four dot points under that. The first one is 'All projects or new

activities which require additional resources or reallocation of resources across functional areas', and the last is 'Activities and projects that have potential to significantly impact on the external perceptions of CASA and its reputation'. There are two others, but I will focus on those two.

**Mr Yuile**—Just for the rest of us, what is this document?

**Senator O'BRIEN**—It is CASA's risk management policy statement.

**Senator Ian Macdonald**—Is that a public document?

**Senator O'BRIEN**—Apparently so.

**Ms Nagle**—No. It is not a public document.

**Senator O'BRIEN**—Isn't it?

**Senator Ian Macdonald**—What is its distribution?

**Ms Nagle**—It was a paper prepared and distributed firstly to the executive in CASA, and then presented to the board. Its intention was to provide a policy document that we would use as a working basis as we refined and developed our risk management framework in CASA. It is essentially a statement of principles to guide the implementation of a risk management framework within CASA.

**Senator Ian Macdonald**—So it is not a finalised document?

**Ms Nagle**—It is what I would call a living draft. As we progressively implement and refine our arrangements we will update that draft on a regular basis.

**Senator O'BRIEN**—It has been to the board, hasn't it?

**Ms Nagle**—It has been presented to the board, yes.

**Senator O'BRIEN**—And what have they done with it?

**Ms Nagle**—The paper was presented to the board and in that process I asked them to agree the roles and responsibilities that were contained within that document and to agree to progress the implementation of the risk management arrangements in CASA. They were the recommendations I put to the board, as I recall it.

**Senator O'BRIEN**—When did the board consider it; do you know?

**Ms Nagle**—It would have been at the November board meeting.

**Senator O'BRIEN**—November 2000?

**Ms Nagle**—Yes.

**Senator O'BRIEN**—Can you tell me how many formal risk analyses have been undertaken since you have occupied your current position?

**Ms Nagle**—I would have to take that question on notice; my recall is that it is probably about four.

**Senator O'BRIEN**—Has any risk assessment been made, to your knowledge, of the public relations aspects of the Ansett issue?

**Ms Nagle**—Not that I am aware of. I would have to refer that to the safety promotion branch and to other members of CASA. As you will be aware from that document, there are specific responsibilities within functional areas for those processes.

**Senator O'BRIEN**—It would seem, according to the risk management policy statement document, that a risk assessment of the public relations aspects of the Ansett issue would have been mandatory.

**Senator Ian Macdonald**—Do you understand that question?

**Senator O'BRIEN**—Point 7 of your document would make it so, wouldn't it?

**Ms Nagle**—As indicated, it is a document that is still under development. It is a set of principles, rather than a prescriptive guidance, as most policy statements are. That actually places that responsibility within the various functional areas. The risk assessment process can be used as a means to inform and guide our activities to give us an indication of the likely impact and probability of occurrence of risks. It can be done in either a planning phase or a phase that would inform us for our future activities.

**Senator O'BRIEN**—One would have thought a risk management strategy for activities and projects that have the potential to significantly impact on the external perceptions of CASA and its reputation would be advisable to be conducted before you became involved in those activities and projects.

**Senator Ian Macdonald**—What is the question?

**Senator O'BRIEN**—That is how the risk management policy statement ought to be read, isn't it? Did you think it is so loose that you could do it 12 months after the event—that as long you did it, it would not matter?

**Ms Nagle**—There are a number of activities that we would take in a routine day-to-day progression of our business where, dependent on the significance of that activity, you may or may not go through a formal process of risk assessment. Certainly risks should be considered in a number of activities, particularly in circumstances such as you are describing. Whether or not that particular activity falls within the definition that is intended—that is, there is a major activity or project—we will stand to be advised on at this stage.

**Senator O'BRIEN**—As far as you are aware, there is no view within CASA that it is advisable to manage risks on activities and projects before they occur—that is, activities and projects that have the potential to significantly impact on external perceptions of CASA and its reputation?

**Ms Nagle**—Again, I would emphasise that the roles and responsibilities place those particular activities within the functional areas of CASA. So as a major activity was contemplated or had been completed, it may or may not be appropriate in the judgment of that particular executive to undertake either a formal or an informal risk assessment. I would add that this is a new activity for CASA as well.

**Senator O'BRIEN**—Yes, I think you said that it received the attention of the board, if not more than that, in November.

**Mr Toller**—As a guiding policy, and it is now reaching to a risk management implementation plan, which is currently before the executive. So it is moving to, 'How do we get this policy to work within the authority?' rather than be instantly implemented, which you cannot do.

**Senator O'BRIEN**—Was a risk assessment made of the public relations aspect of the Ansett issue, Mr Toller?

**Mr Toller**—Not to my knowledge. Equally, I am not sure that it could have been done in view of the timing of that event. These things happen fairly quickly, as you are aware.

**Senator O'BRIEN**—So Ms Nagle would definitely have played no role in advising on those issues in the Ansett matter?

**Mr Toller**—I am not aware of any role that she played at that stage.

**Ms Nagle**—No, Senator.

**Senator O'BRIEN**—You played no role in advising on risk management issues in that issue? I am just clarifying that that is the question.

**Ms Nagle**—With respect to the media issues, no, and with respect to any other issue relating to the Ansett issue, no.

**Senator O'BRIEN**—Has a risk assessment been done on the structure that has been developed by PricewaterhouseCoopers?

**Ms Nagle**—Could you explain that for me, please, Senator?

**Senator O'BRIEN**—There is a new organisational structure, as I understand it, being developed by PricewaterhouseCoopers. I wondered whether the project was the subject of a risk assessment, because paragraph 7.1 of the document states that a risk assessment management strategy is mandatory for all projects which require additional resources or reallocation of resources across functional areas.

**Ms Nagle**—Could you refer me, please, to which PWC—

**Senator O'BRIEN**—It is the first dot point, 7.1.

**Ms Nagle**—No, which PWC study are you talking about?

**Senator O'BRIEN**—You are not aware of any?

**Mr Toller**—This probably significantly predates Ms Nagle and risk management being in CASA, and certainly that policy document. The work that PWC did which led to the organisation structure is significantly older than that document.

**Senator O'BRIEN**—That is right—it was October 2000.

**Mr Toller**—And that was the final report.

**Senator O'BRIEN**—Yes. Is consideration being given to applying this risk management policy to the development of new structures, new IT arrangements, et cetera, that we have been discussion this morning with Mr Comer?

**Mr Toller**—That is right. The risk management strategies are built into the business case for the ASRIP, the Aviation Safety Reform Implementation Program, so as it moves forward from now on, yes, we will be implementing risk management strategy and risk assessment.

**Senator O'BRIEN**—One of the reasons I am asking that is that we had some evidence in the past of some IT projects, the outcomes of which were minimal and the expenditure on which was very significant, one would have to say. So I am interested to know, particularly on the IT side of things, how CASA have gone about the detailed planning processes for that part of the project, how advanced those components are, what they are, the staffing and funding allocations and the consequences of the project.

**Mr Comer**—We did a business case for ASRIP, and risk management played a very active role in that process.



**Senator O'BRIEN**—What are the detailed costings of the IT side of the ASRIP project, or haven't they been done yet?

**Mr Comer**—No. I mentioned this morning that we are going through a definition planning stage. Senator, you alluded to previous problems with IT projects.

**Senator O'BRIEN**—Yes.

**Mr Comer**—What we have been very deliberate about—

**Senator O'BRIEN**—Are you saying there weren't any?

**Mr Comer**—We had issues, and we have addressed those in previous hearings.

**Senator O'BRIEN**—Yes, problems.

**Mr Comer**—What we have built around the structure for ASRIP is a very deliberate attempt to make sure that CASA acquires the right sorts of external expertise to help with the project. We are looking at things like alliancing proposals, we are looking at what sort of external expertise we require, and we are looking at what the internal resource capability of CASA is for when there are fairly complex and large program management issues. So we are building around ASRIP a superstructure which addresses a whole range of things, including resourcing and how to avoid some of the pitfalls that you typically have in complex, integrated projects. We have had problems with IT projects—I accept that. We have managed those in the best way we can and we have certainly learnt from them. One of the things we learnt was that you have to resource these projects adequately.

**Senator O'BRIEN**—Regarding major IT projects over the last four years, how much money have they absorbed and what has been the outcome?

**Mr Comer**—We will take the question on notice but, in summary, what I can say is that we have successfully completed some projects, one of the major ones being the Y2K compliance project. You and I talked rather extensively about LARP and LINK. We have certainly had our successes, but we have had our problems.

**Senator O'BRIEN**—Yes. They were very expensive successes, weren't they? How much, in ballpark terms, has been spent on those projects?

**Mr Comer**—I would be guessing and I think it would be unwise to make a guess at that. You will recall that with the Y2K compliance issue we had funds of some \$6 million for that project where we had to take all of our legacy IT systems and make them Y2K compliant. That was a huge task for us. We can give you some of the historical figures on IT projects over the last two to three years that have occurred. I can say that we have had our successes and it is not all doom and gloom, as you might be suggesting.

**Senator O'BRIEN**—But aggregated, they are very expensive successes however, aren't they? If you said, 'We have spent this much on IT projects. The sum total of our outcomes is this,' if you judge the outcomes against the expenditure, isn't it a fair proposition to say they have been extremely expensive?

**Mr Comer**—I do not think you can make such a broad statement as that. Any IT legacy system is expensive to maintain, and the whole reason for this ASRIP project is so that we can replace those systems. What inevitably occurs in an organisation is that, whilst you are waiting for new environments, you have to do patchwork and you have to keep the systems going. That is expensive—I accept that—but I do not accept the suggestion that the projects

themselves have been expensive with little in return. It is a pretty big value judgment to make that they have been expensive with little return.

**Senator O'BRIEN**—Is it fair to say that the expenditure on those projects exceeds \$6 million?

**Mr Comer**—I am careful in my answer because it depends on what you define as a project. We talked previously about the medical records system and we talked about cyber exams. If you put those two new systems together they would not exceed \$6 million, and I am not sure now what the figure is.

**Senator O'BRIEN**—What about the Sun system software project? Did that ever come to fruition?

**Mr Comer**—We are still pursuing the contractual situation in relation to that. This is the ND4 product for the personnel licensing system?

**Senator O'BRIEN**—Yes.

**Mr Comer**—That is still going through its final negotiation processes.

**Senator O'BRIEN**—There has been no outcome on that project?

**Mr Comer**—There has been no outcome, and that particular product, we believe, is not going to be one of our future IT architectural solutions. It was looked at as a possible IT solution but our experience with it would suggest that it will not be.

**Senator O'BRIEN**—I come back to what I was asking before about this project mentioned in the PBS—the ASRIP project—of re-engineering the authority's existing operational business processes and replacement of information technology systems. What sort of money, in broad terms, is expected to be expended on that part of the project?

**Mr Comer**—Again, I will take that on notice. Until we finish the definition planning stage, it is very difficult to answer that. If you want to take a very broad sweep at those sorts of products, your IT costs are probably about 50 per cent, but that would depend very much on what solution you finally take to that. Some of our processes may not have an IT solution to them; others will.

**Senator O'BRIEN**—What did PricewaterhouseCoopers think that sort of thing would cost?

**Mr Comer**—You had their high level estimate of the total project of some \$60 million.

**Senator O'BRIEN**—How much of that was the IT? I am sure they would have broken it down.

**Mr Comer**—They did break it down, but I would have to take that on notice. I cannot recollect what the figure is, but it would not be far out from somewhere between 40 or 50 per cent.

**Senator O'BRIEN**—Somewhere between \$20 million and \$30 million?

**Mr Comer**—Yes, for that high level project. As I mentioned to you this morning, we expect that project to come in at significantly less than that high level estimate.

**Senator O'BRIEN**—We are talking about big dollars in an IT project again?

**Mr Comer**—One of the major factors in ASRIP is an IT solution.

**Senator O'BRIEN**—Given that you did not ultimately migrate to a new system as a consequence of the last bucket of money spent, I would have thought it fairly obvious that you are going to have to do it now.

**Mr Comer**—That is correct.

**Senator O'BRIEN**—It is going to be a big dollar project and, as you say, part of a risk analysis has been conducted.

**Mr Comer**—It has. When we did the business case for ASRIP as part of our request for funding, the risk mitigation and risk management aspects of the business case were quite extensive and will continue to be as we go through these latter stages of the project.

**Senator O'BRIEN**—I would like to find out what the staff allocation for that project will be. I would like the details of the funding for that aspect of the project and, indeed, for the other components of ASRIP. Have they been broken down yet?

**Mr Comer**—Senator, can I pose the question to you: is there much point in going into a lot of this detail, short of completing this definition planning stage, when we have completed the business case for the program? We have gone from a high level project stage; we are now going through the standards processes of narrowing that down to the point where we define a project. That project will not be defined properly until the end of this year. So is there much point in going through a speculative exercise of what it might lead to, given that we started off on that high level estimate?

**Senator Ian Macdonald**—It is not relevant to the estimates to go into a speculative process anyhow.

**Senator O'BRIEN**—Only in the sense, Minister, that the government is providing funding for the project, and I am trying to find out what the basis of the funding provision is. Has the government received cost estimates, or is it just best guess and, 'Here's a bundle of money. Do what you can with it'? Maybe you can answer that.

**Senator Ian Macdonald**—What is being suggested to you is that it would be far better to wait until the work is completed and people know exactly what they are talking about—

**Senator O'BRIEN**—What about this work?

**Senator Ian Macdonald**—rather than guessing what it might be in the future.

**Senator O'BRIEN**—But it is the subject of the PBS that I am talking about. ASRIP is the subject of specific funding in the PBS.

**Senator Ian Macdonald**—We can talk about the specific funding, if you want to.

**Senator O'BRIEN**—I am. I am asking what the basis of the costs of the components of the project are. ASRIP—it's your program.

**Senator Ian Macdonald**—The basis of the costing has already been done. Is that what you are saying?

**Senator O'BRIEN**—I presume it came from CASA. Maybe I am wrong. Did CASA provide the government with costings?

**Mr Comer**—We prepared the business case, which was part of what is called the new policy proposal.

**Senator O'BRIEN**—Did that have numbers in it?

**Mr Comer**—It had numbers in it

**Senator O'BRIEN**—Good.

**Mr Comer**—What eventuated is that the funding that has been allocated to us at this stage will not meet the estimated full content of that program. We will go through the definition planning stage, and we will review the scoping of the project in light of the funding that is included in the PBS.

**Senator O'BRIEN**—Can the committee be supplied with the numbers that CASA to date have estimated will be the cost of ASRIP?

**Mr Comer**—Senator, you already have that at the high level stage within the PWC report.

**Senator O'BRIEN**—I want it broken down.

**Mr Comer**—There is some break down in the report, but if you wish, we can look again for you. I am just concerned that, as we are heading towards the definition stage, that might be an academic exercise.

**Senator O'BRIEN**—I guess we are entitled to our own view as to whether it is academic, but if that information is available, I would appreciate it if you would supply it to the committee.

**Mr Comer**—To reiterate, Senator, we sought X through our business case; thus far the government has allocated Y and there is a difference between the two. We now need to go through a process of cutting our cloth and doing a detailed business case.

**Senator O'BRIEN**—And you will supply the committee with the X part of the equation?

**Mr Comer**—We can supply the X part, but largely it will be a repeat of what is in the PWC document.

**Senator O'BRIEN**—Thank you very much for that.

Ms Nagle, returning to the audit report, how many forms or drafts of the audit report did you receive prior to the last copy you received?

**Ms Nagle**—I have seen a draft and then what was sent to me as the final report.

**Senator O'BRIEN**—Did you make comments to the audit team in relation to the draft that you received?

**Ms Nagle**—No comments were made. The interval between the draft report and the final report being received was about two days. It would not be usual to make comments at that stage as the draft report is usually presented to the manager of that office and that is when the action plan is developed to turn it into a final form.

**Senator O'BRIEN**—Did you draw the contents of the draft to the attention of members of the executive, to Mr Toller, or to any board members?

**Ms Nagle**—Mr Toller has not seen the report. The board has subsequently considered the report—

**Senator O'BRIEN**—No, I meant the first draft.

**Ms Nagle**—No. There were discussions between myself and Mr Farquharson when we were both sent the final report.

**Senator O'BRIEN**—But you did not discuss it with Mr Farquharson before—

**Ms Nagle**—Not before the final report was received.

**Senator O'BRIEN**—And, Mr Toller, you did not see any drafts?

**Mr Toller**—No, I did not.

**Senator O'BRIEN**—Mr Toller, what was your response to the audit report's appearance in the public domain?

**Mr Toller**—I was disappointed.

**Senator O'BRIEN**—Disappointed?

**Mr Toller**—Yes.

**Senator O'BRIEN**—What actions did you take in that disappointed state?

**Mr Toller**—I put out a message to staff to inform them about what was going on and I referred it to our internal fraud and security manager as a leaked document.

**Senator O'BRIEN**—So you sent everyone an email?

**Mr Toller**—Yes, I sent an all-staff email.

**Senator O'BRIEN**—And subsequently that report has been referred to external auditors?

**Mr Toller**—We have engaged external auditors to assist us in the process of completing that report.

**Senator O'BRIEN**—And are they auditing the audit area?

**Ms Nagle**—The initial task for the external provider is, firstly, to review the report, to examine whether or not it satisfies the tests of objectivity and the terms of reference that were initially set by Mr Farquharson. Our intention is, at the request of Mr Farquharson, to complete that audit series, to provide the work to him that he originally requested: that is, a review of the airline officers' AOC COA processes.

**Senator O'BRIEN**—What does that stand for?

**Ms Nagle**—I am sorry. That process is the awarding of certificates of operation.

**Senator O'BRIEN**—Okay. So when was the last review of the audit area done, and who did that work?

**Ms Nagle**—I believe there was review in 1999. But that was before I started in CASA.

**Senator O'BRIEN**—Do you know what the findings of the last review were?

**Ms Nagle**—I have seen a report which is directed towards implementing a risk-based approach to the use of the audit function.

**Senator O'BRIEN**—Presumably the audit report had recommendations?

**Ms Nagle**—Yes, there is a series of recommendations in that.

**Senator O'BRIEN**—And were they actioned?

**Ms Nagle**—I believe some of those have been implemented, yes.

**Senator O'BRIEN**—Do you know who made the decisions as to which would be actioned and which would not?

**Ms Nagle**—I cannot answer that, Senator: that was before my time.

**Senator O'BRIEN**—Who made the decision to initiate the KPMG review?

**Mr Toller**—I believe that was done by the board audits committee.

**Senator O'BRIEN**—Has KPMG been tasked with looking at the question of whether the audit function should be outsourced?

**Mr Toller**—That was part of that original review, Senator, yes.

**Senator O'BRIEN**—Do you mean it was part of the original review conducted by the internal audit report?

**Mr Toller**—No, it was part of the review by KPMG of our internal audit.

**Senator O'BRIEN**—I am just a little unclear whether you mean the one that occurred before Ms Nagle's time?

**Mr Toller**—Yes, Senator, the original KPMG review that was put in place by the board audit committee looked amongst other things at the issue of whether there were benefits in outsourcing all or part of the internal audit process.

**Senator O'BRIEN**—What about the matter that has now been referred to KPMG? Does that include that issue as a term of reference?

**Mr Toller**—Not to my knowledge. This is purely about helping us to tidy up the internal audit report, in terms of the report reflecting the material that was available to the auditors and also of completing it through to a recommendation. As I understand it, it had no recommendations.

**Senator O'BRIEN**—Mr Farquharson, is your system safety approach to airline audits an audit of the system that the operators have put in place to ensure that they comply with their legal obligations?

**Mr Farquharson**—It examines the systems and also tests for compliance with legislation, Senator.

**Senator O'BRIEN**—Is it fair to say that operators are obliged to conduct internal audits to ensure their operational procedures are complying with their respective legal obligations?

**Mr Farquharson**—We would expect operators to look at how they meet their obligations.

**Senator O'BRIEN**—If you discovered an operator had conducted such an audit and had chosen to obscure it and its findings because they exposed significant failings in the company, what action would you take against such an operator?

**Senator Ian Macdonald**—It would depend on all the circumstances. Again, you are delving into hypotheticals which need an explanation as to how this falls into the 2001-02 budget process.

**Senator O'BRIEN**—I would have thought that it really goes to CASA's approach to particular circumstances in enforcement and its regulatory role.

**Mr Farquharson**—Again, we would take into account what we saw and what was available as evidence. It would then be a matter of deliberating as to whether this went down an admin route or whether there was a prosecution. Again, we are hypothesising.

**Senator O'BRIEN**—Sometimes you have to do these things to find out what the policy is. I will use Impulse as an example because it is not operating, but only for that reason. If Impulse had conducted an internal audit which said that its maintenance systems were inadequate, and it chose not to act and it hid that audit, and you discovered that that was the case, you would take action of some sort against Impulse, would you not?

**Mr Farquharson**—We would take all the matters into consideration and then determine what action we were going to take.

**Senator O'BRIEN**—Yes, I am sure you would. After the problems Ansett had just prior to Christmas, Mr Gibson said that CASA would require Ansett and Boeing to take the authority right through the whole problem to ascertain what had happened, why it had happened, but, most importantly, how to avoid it happening again. The following day Mr Gibson said, 'We've got to sit down very carefully with both the manufacturer and the airline and go through all the issues step by step and get a thorough understanding of it all and obviously make sure that we don't get into this situation again.' What process did you follow in going through the issues step by step, Mr Farquharson?

**Mr Farquharson**—The initial incident was noted and the first priority, as is our charge, was to ensure the airworthiness status of the aeroplane. Following that, once those measures were in place, an investigation was commissioned with a report due at the end of March. An interim final report was received and we then found ourselves in the Easter situation. We went back into the airworthiness issues and we will return to the systemic issues which have been partially addressed.

**Senator O'BRIEN**—On 8 January you ordered both Qantas and Ansett to urgently inspect several jet engines because of a concern by overseas regulators that they may disintegrate. The engines were on some Ansett 767s and some Qantas 747s, as I understand it. Is that correct?

**Mr Farquharson**—I remember the incident vaguely. I would have to take specialist advice.

**Senator O'BRIEN**—The article in the *Australian*, quoting a CASA spokesperson indirectly, says that the authority had received notification from its British counterparts that inspections had been ordered following a survey of 42 planes. Does that help you?

**Mr Farquharson**—Not specifically.

**Mr Yates**—We need to know what engine type you are referring to.

**Senator O'BRIEN**—The article mentions Ansett 767 300s and some Qantas 747s.

**Mr Yates**—Would these be Pratt and Whitney 4000 engines?

**Senator O'BRIEN**—The article unfortunately does not specify the engine type. It says:

The aviation watchdog will today order Qantas and Ansett to urgently inspect several jet engines which overseas regulators fear may disintegrate, blasting shards of metal into passenger cabins.

Actually, it does go on to specify the engine type—General Electric CF6 engines.

**Mr Yates**—There have been several items on CF6 engines. One concerns nozzle guide vane locks, and there were no affected aircraft in Australia. With respect to some engines fitted to 747s and 767s, there is a problem with a high pressure compressor spool which is a major issue on CF6-80 and CF6-80 C2 engines. The problem is under control and there have been several airworthiness directives issued which provide for corrective action.

**Senator O'BRIEN**—When was the notification received from UK CAA by CASA?

**Mr Yates**—I would have to take that on notice.

**Senator O'BRIEN**—What did CASA do with the information when it received it?

**Mr Yates**—Again, on that particular detail I would have to take the question on notice.

**Senator O'BRIEN**—I take it CASA passed on the alert to the two airlines.

**Mr Yates**—I am not aware of the detailed action that took place. I would be speculating on the detail on that. I am advised that that would have been automatic and, if there were any aeroplanes or engines affected in Australia, it would have been passed on automatically to the operators of those aircraft.

**Senator O'BRIEN**—Can you confirm that that actually happened? I am not sure if you are saying that, as a matter of process, it should have happened or that it did.

**Mr Yates**—All I can say at this stage is that I believe it did, but I do not have the fact to hand to confirm or guarantee that.

**Senator O'BRIEN**—Could you check that?

**Mr Yates**—Certainly.

**Senator O'BRIEN**—I understand Qantas did a check straightaway. Would CASA have inquired of Qantas what they had done?

**Mr Farquharson**—Ansett have attended to those matters.

**Senator O'BRIEN**—The question was: would CASA have followed up the Qantas matter? Would CASA have gone back to Qantas and asked them what they had done and what they had found? Did CASA ask of Qantas, 'What have you done? What have you found?' in relation to that matter?

**Mr Farquharson**—I will take that on notice.

**Senator O'BRIEN**—Can you also tell us what happened in relation to Ansett on that matter—that is, what contact was made, when it was made and what follow-up process occurred?

**Mr Farquharson**—Again, I will take that one on notice to give you a complete answer.

**Senator O'BRIEN**—What has happened with the fitting of audible alarm systems in small pressurised cabin aircraft?

**Mr Toller**—We issued a discussion paper in February this year. At the moment, as I understand it, we are analysing the comments from that discussion paper.

**Senator O'BRIEN**—When is that aspect of the consultative process going to be completed?

**Mr Yates**—We are in the process of finalising the summary of responses for the discussion paper. We have a two-sheet briefing paper, which we are prepared to table, which gives some preliminary information for your benefit.

**Senator O'BRIEN**—That would be very useful; thank you very much for that. I understand that the alarm required will affect about 300 aircraft and it is estimated to cost around \$1,700 per aircraft to fit.

**Mr Yates**—That is approximately the figure, I believe.

**Senator O'BRIEN**—In answer to my question on notice No. 3230 about the safety case relating to new pilot briefing procedures, I was advised that Airservices had forwarded its safety case to CASA on 16 November last year; that the safety case was, in general terms, acceptable; and that Airservices and CASA were working to resolve any outstanding issues. What has happened?



**Mr Farquharson**—There have been a number of exchanges between Airservices and CASA. Some elements still require to be resolved.

**Senator O'BRIEN**—What are the outstanding issues that require resolution?

**Mr Farquharson**—I would like to call for some technical advice on that one.

**Mr Leaversuch**—The general context of the matters relates to performance information and fallback positions in the event of a component failure within the system.

**Senator O'BRIEN**—What is happening to resolve the outstanding issues?

**Mr Leaversuch**—CASA has written to Airservices and for that matter has had a series of discussions with them. My understanding is that there is still information outstanding.

**Senator O'BRIEN**—There is information outstanding between you and Airservices?

**Mr Leaversuch**—Yes.

**Senator O'BRIEN**—From Airservices to you or from you to Airservices?

**Mr Leaversuch**—The information is required by CASA for us to complete consideration of the safety cases.

**Senator O'BRIEN**—How long has Airservices known that you require that information?

**Mr Leaversuch**—The last request for detail of the information required was 28 November last year. I should add that the information is not viewed by CASA as relevant to the safety of the system as installed.

**Senator O'BRIEN**—What is it relevant to?

**Mr Leaversuch**—CASA is very keen to see the safety process followed and to have an assurance that the system will continue to be adequately supported.

**Senator O'BRIEN**—I am struggling to completely comprehend your answer. This is the safety case about new pilot briefing procedures.

**Mr Leaversuch**—It is about the charging for pilot briefing.

**Senator O'BRIEN**—What sort of information do you want from Airservices? What is outstanding?

**Mr Leaversuch**—Matters to do with the system configuration. In discussion with Airservices it seems that some of that stretches back into the Telstra systems that support Airservices in what they do. Our first concern was to ensure that every pilot who could previously obtain briefing information continued to be able to obtain that information. That was the major safety issue and we are satisfied that that is the case.

**Senator O'BRIEN**—But there are aspects on which you are not satisfied?

**Mr Leaversuch**—There are aspects where we would like to know what happens if—what happens if that breaks, sort of thing?

**Senator O'BRIEN**—Apparently the questions are difficult to answer because you have been waiting for six months for an answer.

**Mr Leaversuch**—Having reached the point that we are satisfied with the ability of pilots to get the safety information they require and the system having been implemented, Airservices undertook to do two things. They undertook to measure the number of contacts or access to their system, to assure both themselves and us that the level of pilot participation in

the system had not declined. We have seen figures that show that that is the case. They have also undertaken a post-implementation review, involving an industry survey. I have not yet seen the results of that post-implementation review. I expect that that will be very good evidence as to how the system performs in the real world.

**Senator O'BRIEN**—We will learn more about that subsequently, I imagine. In relation to CAO 48, during the February hearings, Mr Toller, you advised the committee that CASA believed there were a number of inappropriate exemptions to CAO 48—at least potentially inappropriate—and that you were acting to regularise these exemptions. What has happened?

**Mr Toller**—We are requesting that operators operate to CAO 48, which is the basic law, or that they operate to a number of what are known as industry standard exemptions, which were effectively trialed in 1991 and have existed successfully ever since, or, if they want to have a non-standard exemption, that they provide to us a fatigue management system that would justify the particular non-standard exemption that they are requiring.

**Senator O'BRIEN**—How would they do that?

**Mr Toller**—That is entirely up to the individual operator. Some have elected to revert to the industry standard exemptions and some are going through the process of making the case for their non-standard exemptions. There are tools available, particularly through Dr Drew Dawson from the Centre for Sleep Studies, which enable them to do that. Obviously, they then have to apply particular strategies and put them in their operations manual as to how they are going to manage the fatigue of their pilots.

**Senator O'BRIEN**—I placed on notice question No. 3232 about international flights out of KSA on 2 November 2000. I was advised that a number of flights required extensions to the tour of duty during that period. I was advised that those extensions were in line with CAO 48.1, paragraph 3.8 of which states:

An operator shall not roster a pilot for a tour of duty in excess of:

(a) sixteen hours for a turbo-jet aircraft.

Paragraph 3.5 of CAO 48.1 was then quoted. It states:

Provided the provisions of Section 48.0, sub-section I are observed, a tour of duty, commenced in accordance with paragraph 3.5 of this sub-section may be extended at the discretion of a pilot in command as follows:

(a) turbo-jet aircraft, twenty hours.

The answer states that all flights were extended at the discretion of the pilot in command and that the operator was not required to apply to CASA for an exemption against the requirements of CAO 48. Can you confirm for me that the need to breach the provisions of CAO 48.1, paragraph 3.8, was known in relation to those flights mentioned—I think there were three Qantas flights, particularly QF107 and QF001—prior to those aircraft departing Sydney.

**Mr Farquharson**—The three flights that I am aware were involved were QF107, QF011 and QF007. In general, the Qantas op spec allows them to operate in accordance with CAO 48. Crews were either in the operations building or on the way to it, and they were contacted. I understand that one commander chose not to exercise his discretion, and that an alternative crew was found, and that all aircraft then departed and operated within the 20-hour discretionary rule.

**Senator O'BRIEN**—When the crews commenced their tour of duty, they were not rostered on for a maximum of 16 hours because, in the case of QF107 and QF011, both had to make stopovers. That is correct, isn't it?

**Mr Farquharson**—The scheduled tour of duty time from Sydney to Los Angeles, for example, is 15 hours, which is approximately 13 hours and 30 minutes flight time, one hour of pre-flight duties and 30 minutes of post-flight duties. That is for any normal flight. The aeroplanes were dispatched, and the information that I have to hand indicates that QF107 had a tour of duty of 17 hours and 45 minutes, QF011 had a tour of duty of 17 hours and 30 minutes, and QF007 had a tour of duty of 17 hours and 48 minutes. That was over the normal scheduled tour of duty but within the allowable extension under commander's discretion.

**Senator O'BRIEN**—Are you saying that when those crews were rostered on they did not know that they had to make stopovers and that therefore the tour of duty would exceed 16 hours?

**Mr Leaversuch**—That is correct.

**Senator O'BRIEN**—They did not know or they did know?

**Mr Leaversuch**—They did not know. They did not expect to have to stop.

**Mr Toller**—I just want to make sure we are not talking at cross-purposes. The original roster was for a Sydney to Los Angeles flight, which was a 15-hour duty. Due to the circumstances of the day, it was impossible to operate direct to Los Angeles on those flights and therefore they made a technical stop for refuelling which took them over the 16 hours but kept them under the 20 hours. At the time of the rostering, and even up until the crews arrive to do the flights, they are not going to know that they will need to do a technical stop. But at the time before they left Sydney, they obviously knew that they were going to do a technical stop.

**Senator O'BRIEN**—I thought crews were advised that it was to be an extended roster, and one captain declined to extend. Isn't that what you said?

**Mr Farquharson**—One crew was advised, as I understand it, and the commander declined to extend his tour of duty. That is the commander's discretion. Another crew was contacted and the commander elected to extend his tour of duty.

**Senator O'BRIEN**—So the other members of the crew were rostered on from the start in excess of 16 hours.

**Mr Farquharson**—The additional—

**Senator O'BRIEN**—I am talking about the new crew—the one that was asked whether it would do the extended roster. It seems to me to be self-evident from what you have just told me.

**Mr Leaversuch**—We will check that, but my understanding is that a second crew was arranged to take the aircraft beyond the 16 hours, not to take it for the 16 hours or 20 hours. But to take over, a second crew was rostered to do part of the tour of duty.

**Senator O'BRIEN**—To do part of it, not all of it?

**Mr Leaversuch**—Yes, that is my understanding and I will check on that.

**Senator O'BRIEN**—Perhaps we should check that. If that were not the case, it would seem that they were rostered for more than 16 hours.

**Mr Leaversuch**—I understand.

**Senator O'BRIEN**—Mr Leaversuch, you would probably recall receiving a letter from the Ansett Pilots Association about fatigue levels and the application of CAO 48, dated 7 August last year. According to that letter, 237 pilots had advised the Ansett Pilots Association that they thought CASA should revoke the Ansett exemption to CAO 48 in the interests of safety. I assume that did not happen. Did you revoke Ansett's—

**Mr Leaversuch**—No, we did not.

**Senator O'BRIEN**—What process did the authority follow in assessing the claims by these pilots about fatigue?

**Mr Leaversuch**—We asked the Ansett Pilots Association for a copy of the information that they referred to, and that information was seen to be a pro forma letter which gave no justification, other than expressing a concern about the rostering.

**Senator O'BRIEN**—What did you do then?

**Mr Leaversuch**—Nothing.

**Senator O'BRIEN**—Did you indicate to the pilots association that you thought the level of information was inadequate and if—

**Mr Leaversuch**—Yes. I understand that one of my staff members advised the association that the information did not provide a justification for any change.

**Senator O'BRIEN**—Did someone write to the Ansett Pilots Association?

**Mr Leaversuch**—I do not believe so, no. We have not been able to find that out.

**Senator O'BRIEN**—So the extent of the action by CASA on that matter was to request the pilots association to supply more information; that is, the information that the pilots association were relying on.

**Mr Leaversuch**—The request was to provide justification for the concerns that were expressed in the 230 or so reports.

**Senator O'BRIEN**—Was there some question as to the authenticity of the letters? Did you think they were not signed by Ansett pilots? Did CASA think there was something improper in them being form letters?

**Mr Leaversuch**—No, the concern was the lack of any argument to justify any change. They were simply an expression of concern by the pilots.

**Senator O'BRIEN**—Did someone have a conversation with Brice Halls, the then President of the Ansett Pilots Association, about the matter?

**Mr Leaversuch**—I do not know who the conversation took place with, but one of my staff contacted the association.

**Mr Farquharson**—There was a meeting held, and there was a meeting actually held a day or so before that and, in a reply signed by me, I acknowledged that the association had received a number of general complaints and some specific complaints relating to standard industry exemption, but that no evidence was presented that would justify cancellation of the exemption or reversing of CAO 48. Consequently, there is no intention on the part of CASA to change those present arrangements.

**Senator O'BRIEN**—So, can we fill in the space between August and January?

**Mr Farquharson**—There were a number of exchanges—telephone calls, discussions over the telephone and some letters—but it culminated in a meeting between the Ansett Pilots Association and Ansett management, with CASA acting as the chair and broker of the meeting. In this meeting, a number of issues were discussed.

**Senator O'BRIEN**—When did that take place?

**Mr Farquharson**—On 20 January of this year, as best as I can determine. As best as we can determine it, the association and the company had negotiated a set of rostering practices at some stage, and those practices lived within the boundaries of the standard industry exemption and CAO 48. They were more restrictive. The company appears to have taken the option to move to the limits of the exemption.

**Senator O'BRIEN**—What do you mean by that?

**Mr Farquharson**—Instead of operating within an envelope prescribed within the exemption, they moved—and that was an industrial negotiation—to a boundary that was prescribed by the limits of the standard industry exemption. That appeared to us to be causing a degree of friction between the association and the company. We urged and cajoled both parties to reach a resolution over this, to go back and negotiate how they were going to conduct their affairs internally, but we made it very clear to both parties that CASA would tolerate no breach of operations outside the exemption. There were standards branch personnel present, and we also discussed the participation of Ansett, both as a management and a pilots association group—including cabin crew members—in the ongoing gathering of data in a collegiate project that also encompasses, I believe, Qantas, for the establishment of some database for future investigation, looking at how fatigue might be managed in airline operations. At the end of that we left with an understanding that the airline was operating legally, that there was an industrial issue that needed to be resolved and that the airline, the association and other participants would continue in the research project defined.

**Senator O'BRIEN**—Did the pilots association withdraw or suggest that the 237 Ansett pilots withdraw their request or their letter of opinion?

**Mr Farquharson**—I do not think there was a formal withdrawal.

**Senator O'BRIEN**—Ansett operates to the standard industry exemption, and that is the 20-hour exemption?

**Mr Farquharson**—It is one of the suite of exemptions that was referred to by the director. There is CAO 48 and the series of exemptions covering segments of industry. They operate under the airline exemption.

**Senator O'BRIEN**—Was there any attempt to make out a safety case to restrict the exemption?

**Mr Farquharson**—On whose part?

**Senator O'BRIEN**—The pilots.

**Mr Farquharson**—They offered the data that we have discussed previously. I am not aware of any other data.

**Senator O'BRIEN**—The fatigue issues?

**Mr Farquharson**—I am not personally aware of any other data.

**Senator O'BRIEN**—I guess it follows from what you said about writing to the pilots association that CASA does not believe there is a safety issue involved.

**Mr Farquharson**—There is nothing that we have seen put before us at present, from what I am led to believe, that would warrant consideration of restriction of the exemption in any way. Should they wish to negotiate with their company for a different set of rostering practices, then that is a matter before the company and the association.

**Senator O'BRIEN**—Mr Toller, with respect to your comments that I referred to earlier on CAO 48—that is, the number of exemptions to CAO 48 which are potentially inappropriate—are any of those, to your knowledge, involved in this Ansett pilots issue, or aren't you aware of it?

**Mr Toller**—I would want to take that on notice. To my knowledge, Ansett are operating to a standard industry exemption.

**Senator O'BRIEN**—Is that what you mean by regularising any exemptions to CAO 48—regularising them to standard industry exemptions?

**Mr Toller**—Yes. There were some that were way outside either the CAO 48 or any standard industry exemptions. The standard industry exemptions are, effectively, one for each part of the industry, because what is appropriate for Ansett is clearly not appropriate for helicopters doing search and rescue operations, and medical support.

**Senator O'BRIEN**—In terms of maintenance of ultralight aircraft, what are the regulations covering that?

**Mr Toller**—I will call my expert to the table on that matter, if I may.

**Mr Yates**—I would like to begin by saying that I do not know that I would describe myself as an expert in ultralight maintenance, but I will do my best to answer your questions on the subject.

**Senator O'BRIEN**—I take it that what you are telling me is that no-one else is an expert. What are the regulations that cover the maintenance of ultralight aircraft?

**Mr Yates**—The standards that apply to the maintenance of ultralight aircraft are those contained in the Ultralight Federation's technical manual.

**Senator O'BRIEN**—There are no regulations?

**Mr Yates**—There is CAO 95.55, which effectively is an exemption from a regulation, which calls up the technical manual. That document is the one that contains the standards that apply. That document is approved by the authority. The current issue of that document—it is issue 2—was approved and is dated March 1996. I believe that the approval by the authority was in either March or April of that year, but I am still awaiting confirmation of the precise date of approval.

**Senator O'BRIEN**—Who can do work and what standard of competence do those people have?

**Mr Yates**—There are three levels of competency or qualification—levels 1, 2 and 3. Level 1 is the lowest one, which may be exercised by the holder of an AUF pilot certificate, so an owner can maintain his own aircraft. A level 2 maintenance authority is awarded on the basis of qualifications and experience of each applicant for such a qualification.

**Senator O'BRIEN**—By the AUF?

**Mr Yates**—Yes. They can issue interim certificates, which allow the exercise of those privileges of a full level 2 holder for an initial period of 24 months. Finally, there is a level 3 maintenance authority. These are people—and I do not believe that there are very many of them—appointed by the AUF technical manager who are appointed as regional coordinators for ultralight maintenance. I believe they provide advice to the lower level qualifications.

**Senator O'BRIEN**—I guess it goes without saying that, by comparison with requirements for maintaining GA aircraft, the requirements are fairly minimal.

**Mr Yates**—I do not know that I am qualified to comment on that. The nature of the beast is different to some considerable extent to the majority of general aviation aircraft, however, and different skills and practices are required to maintain them.

**Senator O'BRIEN**—I am told that some ultralight aircraft are now much more sophisticated than many GA aircraft.

**Mr Yates**—I think the ultralight industry has been evolving considerably since the activity commenced. I also think it is fair to say that the expansion of that industry has exceeded any expectation that might have been held at the time that the activity took off, so to speak.

**Senator O'BRIEN**—Given that level of development since it took off, is it satisfactory from a safety point of view not to have an appropriate regulatory regime with regard to the maintenance of these aircraft?

**Mr Yates**—With regard to the people in the AUF who are responsible for putting together the standards which apply, the technical manager—I am trying to remember his title correctly—is an ex-CASA employee and, I understand, a very experienced maintenance engineer. I also understand that currently the AUF is going through a process of reviewing with a small committee the content of its technical manual which they propose to update, no doubt to reflect the advanced technology that is coming into effect.

**Senator O'BRIEN**—During the last hearings Mr Elliott agreed that there may be a number of operators providing training for ultralight aircraft, the legality of which is questionable. Mr Toller, you received a letter from the AUF, dated 4 April. In it, Mr Middleton apparently complained that the discussion with CASA had shifted from the provision of sports certificates to full-blown AOCs under the act. Is that the case? Are we now looking at the requirement of proper AOCs for operators providing flying training in ultralight aircraft?

**Mr Toller**—That was always a requirement if they were providing commercial flying training in ultralight aircraft. The Civil Aviation Act does not differentiate, in terms of commercial flying training, between the types of aircraft, be it sport aviation or ordinary aviation. It is on the basis of that requirement that we are attempting to facilitate for the various elements of sport aviation a means by which those that wish to undertake commercial flying training as opposed to flying training for their members on a not-for-profit basis are able to do so. Mr Yates has been having significant talks over a period of time with the Australian Sport Aviation Confederation to facilitate that matter.

**Senator O'BRIEN**—Mr Middleton says:

We are also promised that it—

I think he means the new licensing system—

will be at neutral cost to our members.

What can you tell the committee regarding the weight you give to the cost of meeting a standard as against the safety provided through a standard? Have you factored cost into this sort of process?

**Mr Toller**—I am not sure that I really understand that question, Senator. ‘No’ is the obvious answer. These are safety standards. Whether there is a cost neutrality or a cost addition to the members of the sports aviation fraternity is not taken into account when we are considering the safety standards. That is just a by-product.

**Senator O’BRIEN**—Mr Middleton says:

Because of this—

I think he means the changed approach—

the AUF board has instructed me to discontinue cooperating with CASA on the matter of the issue of full AOCs to our members.

Has that happened?

**Mr Toller**—I will ask Mr Yates to update you on what happened subsequent to that letter. My understanding is that that was a bit of a dummy spit at the time which has now gone away.

**Mr Yates**—Probably the best way of describing the situation now is that that letter has been overtaken by events. We held a meeting with the Australian Sport Aviation Confederation, of which the AUF is one of the constituent members, on 10 April. The AUF is cooperating fully in that exercise. At that meeting we put a proposal to the ASAC members who were present. If you wish to have a copy of it, we are prepared to table that proposal. It basically outlines the process that we are going to be adopting to facilitate the issue of AOCs for sport aviation activity.

**Senator O’BRIEN**—What is the difference between an AOC for sports aviation and an ordinary one?

**Mr Yates**—Fundamentally, there is no difference. The practices that these organisations currently conform to are entirely in line with the relevant sections of the Civil Aviation Act that apply to air operators certificates, as appropriate to that particular type of activity.

**Senator O’BRIEN**—Are there operations and maintenance technical manuals publicly available to enable interested parties to get a clear picture of exactly how the sports aviation AOC will work—how they can tailor to that?

**Mr Yates**—First of all, on the documentation for the AUF in particular, I understand that the operations manual and the technical manual are both available through the AUF web site. I would like to clarify an earlier question of yours about the regulation of maintenance of these aircraft. I would like to make it clear that that responsibility is delegated by the authority to the Ultralight Federation.

**Senator O’BRIEN**—So in essence the operational or technical material is in production but not available yet?

**Mr Yates**—It exists. They are operating to this documentation in the current arrangements. The authority, as part of the certification process that will lead to the issue of ASEs for sport aviation, has requested from each of the member organisations of ASAC copies of their manuals so that they can be vetted again and approved as part of that certification process.

**Senator O’BRIEN**—Can you provide the committee with a copy of the operational and technical maintenance material?



**Mr Yates**—The authority does have copies. They are not available to hand, but I am sure that they can be provided without any problem. We also have a copy of the proposal, if you would like that. I can put it on the table.

**Senator O'BRIEN**—Apart from the AUF, who has been involved in the consultative process?

**Mr Yates**—All of the member organisations of ASAC: the Hang Gliding Federation of Australia—although they are not currently a member of ASAC, at the last meeting the Australian Sports Rotorcraft Association attended—the Australian Ballooning Federation; and, although not directly affected as an ASAC member but keeping a watching brief on what was going on, the Australian Parachute Federation. Since that meeting we had another meeting last Wednesday afternoon with the General Aviation Professional Association, at which we explained the proposal that you are looking at.

**Senator O'BRIEN**—Can you tell me what the AOC sports aviation proposal means when it says:

CASA will provide an estimate in writing to the applicant of the fee that will apply for this service. In accordance with item 5.1 of the fees regulations, this activity is cost recoverable.

**Mr Yates**—I am not sure that I can speak to the actual detail of that, but I understand that that is a completely standard process when it comes to an applicant for an AOC. It applies whatever the type of AOC it is, as I understand the arrangements. This will all be dealt with by the regulatory services division, which is using the new office in Brisbane.

**Senator O'BRIEN**—What range of fees would applicants render themselves liable for?

**Mr Yates**—I cannot provide that information off the top of my head.

**Mr Toller**—We will take that question on notice. Unfortunately Mr Collins had to go to a family funeral today and could not be with us. I apologise. Could we take it on notice?

**Senator O'BRIEN**—Thank you. Are you going to go through the discussion paper-NPRM process on this one?

**Mr Yates**—There are some amendments being prepared which will make some changes to the relevant civil aviation orders, and yes, they will be going through the standard consultation process.

**Senator O'BRIEN**—Will you be sending the discussion paper and the NPRM documentation just to the bodies you have been talking to?

**Mr Yates**—Not at all. All consultative documentation is available to all interested parties in general aviation, the general community and so on. It is available for all, and we most certainly will be sending it to people that we know have an interest in it.

**Proceedings suspended from 4.00 p.m. to 4.26 p.m.**

**Senator O'BRIEN**—At the last hearings, I asked some questions about a letter to Dr Scully Power regarding the manner in which problems faced by Mr Murphy had been handled by CASA, and I was advised that the board had signed off on the response to that letter. Have you now received advice from the minister or his office in response to that letter? At the time you provided an answer to the question, he had not responded. Has he responded since then?

**Mr Toller**—I do not know the answer, otherwise I would help you, Senator.

**Senator O'BRIEN**—You are not aware whether the minister has responded?

**Mr Toller**—I am not aware whether the minister has responded or not.

**Senator O'BRIEN**—Could we perhaps find out, in relation to the Murphy matter that I was referring to, which was touched on at the estimates hearing of 19 February—it is at page 47 of *Hansard*—whether the minister had responded to the communication between the chairman of the board and whether the minister was satisfied with the response from CASA? If not, what areas remain concerns for him and what action is planned to resolve those concerns?

**Senator Ian Macdonald**—What are you referring me to?

**Senator O'BRIEN**—I am referring to the *Hansard* of the Senate legislation committee of 19 February—page 47.

**Senator Ian Macdonald**—Do you have a copy of that? Unfortunately, I did not bring that with me.

**Senator O'BRIEN**—That is a shame. I am sure I can supply you with the page. I think it is marked in blue somewhere.

**Senator Ian Macdonald**—What is your question?

**Senator O'BRIEN**—Has the minister responded to the chairman? Is the minister fully satisfied with the chairman's response? If not, what areas remain of concern to him, and what action is planned to be taken in relation to the minister's remaining concerns?

**Senator Ian Macdonald**—As neither the minister nor Dr Scully-Power are here, no-one can answer those questions. I will have to take that on notice and ask for Mr Anderson's response.

**Senator O'BRIEN**—Thank you. Mr Toller, at those same hearings, I asked some questions about Mr Alan Rose from Rockhampton. We discussed the option for Mr Rose of the issuing of a system of maintenance authority. There seems to be some sort of communication breakdown between Mr Rose and CASA. Can you tell me what has happened with that application?

**Mr Toller**—Mr Elder has the details on that, and I note that he is temporarily out of the room. Can we come back to that question later?

**Senator O'BRIEN**—Certainly. The next matter is in relation to Aeropelican Airlines. I understand there was a problem relating to the loading of their aircraft and that CASA was dealing with that problem. What is happening in relation to that matter?

**Senator Ian Macdonald**—Is this in recent times?

**Senator O'BRIEN**—Yes.

**Mr Farquharson**—The matter was brought to CASA's attention. It was an issue in relation to unknown weight distribution on the aeroplane. It was of such concern that CASA issued a notice of suspension, and that was to take effect—

**Senator O'BRIEN**—That is suspension of the AOC?

**Mr Farquharson**—Yes, suspension of the AOC. The notice was sent to the operator to come into effect at midnight of that night, 16 March. From the time that the operator received the notice, which would have been between 8 o'clock to 8.30 that evening and midnight, exchanges took place—

**Senator O'BRIEN**—Between who?

**Mr Farquharson**—CASA and the operator. The operator put in place a temporary system that met our requirements. Subsequently, as a result of that, the suspension was lifted—although, in effect, it never came into effect.

**Senator O'BRIEN**—You revoked the suspension?

**Mr Farquharson**—Yes, we revoked the suspension. Subsequent to that, there has been an audit on the operator. I have not seen the audit report, but I have been told that in recent times the CEO of that operator has been discharged and a nominee from one of the Ansett subsidiaries, of which Aeropelican is one, has been put in place to oversee the operation.

**Senator O'BRIEN**—So at all material times Aeropelican was a subsidiary of Ansett?

**Mr Farquharson**—They are in the Ansett stable of companies.

**Senator O'BRIEN**—What does that mean?

**Mr Farquharson**—Some are partly owned; some are fully owned. I have just been told that they are fully owned.

**Senator O'BRIEN**—A wholly owned subsidiary of Ansett?

**Mr Farquharson**—Yes.

**Senator O'BRIEN**—What representations were made on behalf of Aeropelican to CASA other than from Aeropelican?

**Mr Farquharson**—I do not quite understand.

**Senator O'BRIEN**—Did anyone other than the direct staff of Aeropelican—the CEO, for example, or others on the payroll of Aeropelican—make representations to CASA about the suspension of their AOC?

**Mr Farquharson**—There was a telephone call or two between CASA and Mr Bruce Byron. We voiced our concern.

**Senator O'BRIEN**—Who is Mr Bruce Byron?

**Mr Farquharson**—He is part of the executive of Ansett itself. He has had executive responsibilities for Kendalls, and he has recently been promoted to the group compliance and regulations manager.

**Senator O'BRIEN**—Of Ansett?

**Mr Farquharson**—Of Ansett.

**Senator O'BRIEN**—Did Mr Byron give any undertakings on behalf of Ansett to make the problem go away?

**Mr Farquharson**—Not in the sense of 'go away and be swept under the carpet'. He was very keen to have the whole issue—

**Senator O'BRIEN**—'Fix the problem' perhaps is a better way I could have put it.

**Mr Farquharson**—Yes. He gave us notice that Ansett were about to undertake their own internal audit of this operator as a function of their looking at the companies that they owned.

**Senator O'BRIEN**—Did that give you confidence?

**Mr Farquharson**—It was not a matter of whether it was going to give us confidence. We had a solution to the immediate problem and subsequently CASA has done its own audit.

**Senator O'BRIEN**—I was thinking back to the Ansett audit of Arcas. So the current state of play is that there are certain undertakings in place, CASA is auditing Aeropelican and the CEO has moved on?

**Mr Farquharson**—CASA has completed the audit. I have yet to see the audit report. To the best of my understanding, the CEO is no longer with the company.

**Senator O'BRIEN**—How serious is the unknown weight distribution issue?

**Mr Farquharson**—It is a matter of not knowing the centre of gravity position of the aeroplane. The actual weight of the baggage was known, but it was a matter of where it was distributed on the aeroplane. That could cause an out of trim condition. To my knowledge, we have had no reports that there has been any extreme example of that or even anything reported. However, it was certainly a matter of concern and it has been corrected.

**Senator O'BRIEN**—Does it indicate a casualness towards safety if you hear that sort of thing?

**Mr Farquharson**—It is a systemic issue.

**Senator O'BRIEN**—If your inspectors are supposed to be intuitive and they saw something like that, would they think, 'Maybe I should check other things because it might be an indicator that there are other things wrong as well'?

**Mr Farquharson**—It can be seen as an indication of systemic issues.

**Senator O'BRIEN**—Thanks for that. I want to ask questions about Yanda Airlines—I did at the last hearing—particularly on the process that led to its demise. On 2 January, CASA sent a letter to the managing director of Yanda which was headed 'Proposed refusal to recommend reissue of Yanda Airlines AOC show cause notice'. In that letter, CASA advised that, as part of the assessment process for the reissue of the company's AOC, which was due on 31 January this year, an audit occurred on 14, 23 and 24 November, a ramp check on 28 November and a surveillance flight on 28 November. Mr Farquharson, is that the normal level of surveillance in the lead-up to an AOC or was it more intense than would normally be the case?

**Mr Farquharson**—I would believe that to be a reasonable or normal level of inspection for an organisation of that type. Our policy is that an intensive audit is conducted somewhere in the three months before the AOC is due for renewal or reissue. Ideally, it should be done three to six months before.

**Senator O'BRIEN**—So would you categorise the audit that occurred on those three days as an intensive audit?

**Mr Farquharson**—It was an audit of the scope and intensity that was appropriate for that level organisation, yes.

**Senator O'BRIEN**—I understand that a total of 28 requests for corrective action flowed from that audit and from the ramp check and flight check processes. Is that an abnormally high number?

**Mr Farquharson**—That would be a cause for concern, yes, depending upon the degree and nature of the requests.

**Senator O'BRIEN**—How many of the 28 matters for corrective action were serious?

**Mr Farquharson**—I do not recall each in detail. In fact, I was not briefed on each of them, but it was sufficient for the team and the area manager to then also review the compliance history of the operator over the last three years, and my understanding is that it was consistent in pattern with what had been seen before and showed a need for further consideration as to whether the operator should continue with an AOC.

**Senator O'BRIEN**—I understand that this led to a review of the company's compliance history over the past four years. Is there any significance to the four-year period? Would you normally go back four years? Is that the period of the AOC?

**Mr Farquharson**—There is a direction—or an indication or a process—in our AOC procedures that the compliance history of the company should be reviewed.

**Senator O'BRIEN**—Apparently, this history suggested a deterioration in compliance by the company over that period, and in that letter you listed 57 breaches. Do you know what proportion of those 57 breaches were serious? Were they quantity rather than quality breaches, if I can put that way?

**Mr Farquharson**—From my recollection, Senator, the primary concern of the area office related to issues pertaining to incidents that suggested that the check and training organisation of the operator was deficient and that, while the operator had been consistently asked to take action, the system was still producing the series of incidents which culminated in the Gunnedah incident.

**Senator O'BRIEN**—I understand that Yanda challenged the validity of a number of the alleged breaches. According to Yanda, of the 20 requests for corrective action issued by flying operations inspectors, the accuracy of 12 was challenged. Were those challenges checked and dismissed or ignored?

**Mr Farquharson**—Those matters were, I understand, dealt with in the process that went beyond the issue of the show cause notice and into the informal conference area. I point out that at that stage the matter became one for the regulatory services division, as that division signs into effect air operators certificates for general aviation operations. While the deficiencies that led to the issue of a request for corrective action were issued by compliance staff, they led to consideration by the regulatory services division of whether the AOC should or should not be reissued.

**Senator O'BRIEN**—Going to attachment 1 of the show cause letter, can you comment on the analysis that, without the post-audit breaches, there does not appear to be a significant deterioration in the performance of the operator?

**Mr Gemmell**—Senator, could you clarify which show cause notice you are referring to? Is it the one under cover of the letter of 2 January 2001? The problem is that we do not see that as having an attachment.

**Senator O'BRIEN**—Perhaps I meant the response to the show cause letter and the attachment to that.

**Mr Farquharson**—This is the letter from Mr Rees to—

**Senator O'BRIEN**—Yes, to Mr McAlister.

**Mr Farquharson**—to Mr McAlister on 22 January?

**Senator O'BRIEN**—It was before 23 January, but I cannot see the date.

**Mr Farquharson**—The date that I have on the letter appears under the signature block.

**Senator O'BRIEN**—Is it handwritten or typed?

**Mr Farquharson**—It is handwritten.

**Senator O'BRIEN**—If it is handwritten, that is why I do not have it. I obviously have the copy of what Mr Rees kept for himself. I presume there was an analysis of his response and a view was taken as to which of his responses were valid and which were not?

**Mr Farquharson**—I cannot answer for what was done in the regulatory services division.

**Senator O'BRIEN**—The net result was that apparently it was rejected. Is that a fair comment?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—In a letter of 5 January, Yanda was advised that CASA's central office had initiated an inquiry into the partial loss of control of a Yanda aircraft from 2 January 2001. That had resulted in the immediate suspension of Yanda's AOC but was separate to the other process, as I understand it. The letter advised that the investigation would take a month. Can you take me through the progress of that investigation. When did it actually start?

**Mr Farquharson**—Any action under regulation 268 is over a 28-day period, and the investigation started, in effect, at that time. It proceeded and was being evaluated and processed up until the time that the operator advised CASA that it no longer wished to participate in the industry and did not want to have an AOC. At that point the documentation was finalised. The sign-off date from the office concerned was something like 13 February and I saw it a few days later.

**Senator O'BRIEN**—On 31 January you wrote to Mr Reece advising him that the investigation was complete. CASA was satisfied that a serious in-flight incident did take place as alleged. The immediate suspension of the AOC was justified. Suspension would expire at midnight on 31 January. It was unnecessary to take any action in relation to the suspension as the company's AOC expired at midnight on 31 January in any event. Was there a report from the investigation?

**Mr Farquharson**—Yes. The report followed as a matter of tidying up after the decision of Yanda to cease to engage.

**Senator O'BRIEN**—Can the committee have a copy of that report?

**Mr Toller**—It is a little difficult in this case because this company is no longer in business. We do not normally release audit reports on companies because of the effect that it may have on our future relationship with them, but of course in this case it is slightly different.

**Senator O'BRIEN**—I wanted to see what had been done—whether a chief pilot, a check pilot and managing director had been interviewed and what time period the process occurred in.

**Mr Farquharson**—Could I undertake to give you a chronology and summary of the events?

**Senator O'BRIEN**—If that is an alternative way of doing it, I am quite happy with that. A summary of what was concluded would be useful.

**Senator Ian Macdonald**—The alternative is that because of the policy implications of future dealings perhaps it is something that should either be referred to the board or the minister, whoever has responsibility for a consideration of their policy on that, and are bound

by that. There are valid policy reasons why you should not, I assume, and you explained them briefly. If giving a chronological summary does not breach that then by all means, but I just caution you against doing anything that may interfere with the way in which CASA can perform its duties in the future.

**Senator O'BRIEN**—I want to refer to another matter. I am not going to mention the name of the company. It is a Melbourne based operator. The operator was sent two show cause letters at the end of 1998, both dated 6 October. One related to the AOC, the other related to the certificate of approval. They were both signed by Mr Leaversuch. The list of breaches covered a period of two years and totalled 25—about the same as Yanda. There was a number of breaches contained in the show cause letters. Firstly, in relation to the company's certificate of approval, as at 6 August 1996 the company did not have all the equipment or facilities necessary for the proper performance of the maintenance task. That is a serious breach, isn't it? If a company does not have all the equipment or facilities necessary for the proper performance of its maintenance task, is that serious?

**Mr Toller**—In general terms, yes. It is a little difficult if you will not give us the name of the company.

**Senator O'BRIEN**—I am happy to give you the material. It is a bit different from Yanda in that it has not been in the public eye. I am using this to give you an example of an alternative approach, frankly.

**Senator Ian Macdonald**—Are these investigations made public, Mr Toller?

**Mr Toller**—No.

**Senator O'BRIEN**—No, they are not.

**Mr Toller**—The other important question is: are we also talking about another low capacity, regular public transport operation?

**Senator O'BRIEN**—No, I think it is probably charter.

**Mr Toller**—As you are aware, there are different standards required for RPT operation and for charter, so it does make comparisons particularly difficult.

**Senator O'BRIEN**—Let us have a look at a couple of other examples. The operator did not have an amendment service for publications and had not had such a system for four years. I think, Mr Toller, your officers do know the company I am talking about.

**Mr Toller**—We are talking generalities of how best to handle difficult cases, as I understand it.

**Senator O'BRIEN**—Yes.

**Mr Toller**—Probably the critical factor in all of these is the attitude of the operator. If the operator recognises the deficiencies and is prepared to do something about it, then clearly you are in a different position from somebody who denies the deficiencies.

**Senator O'BRIEN**—The implication of that is that if you put your hand up and say, 'I've been a naughty boy but I'll fix it,' you will get away with it, but if you want to contest any claim you are in trouble. That might not be what you meant.

**Mr Toller**—No. But clearly what we are about is ensuring the future of the safe operation, particularly for fare paying passengers and therefore with a particular focus on RPT operations, with a higher standard. But, at the end of the day, if people say, 'Yes, you are right

and we must do something to fix it'—and to a certain extent this is what we are talking about with the Aeropelican situation that we discussed earlier—then the fix is there and the future safety of the operation is assured. If people say, 'We hate CASA and we do not believe you,' then it makes it much harder for us to resolve things in a way that we believe guarantees that future safety.

**Senator O'BRIEN**—I suppose you would be convinced you were not working with a very smart operator if they used that terminology.

**Mr Toller**—We do come across it.

**Senator O'BRIEN**—I am sure that you do. This particular operator carried fare paying passengers and—as I am told and as your correspondence indicates—did not have a system to keep track of amendments to the relevant maintenance publications for its aircraft. Over that period there were 24 amendments that should have been taken into account, but they were not. At any time during that period there could have been a time-sensitive alert service bulletin that they could not have known about or there could have been fatigue related inspections missed. I would have thought that this demonstrated a rather cavalier attitude to safety by the operator.

**Mr Toller**—It certainly would indicate something that required action of some form, yes.

**Senator O'BRIEN**—This is much worse than the Ansett situation, is it not? This is someone who has a disregard for the need to keep up to date on the maintenance bulletins in relation to their own aircraft. I cannot think of anything more cavalier.

**Senator Ian Macdonald**—You are raising what seem to be unsupported allegations about an unnamed aircraft.

**Senator O'BRIEN**—No.

**Senator Ian Macdonald**—What is the question for the estimates committee? Are you asking whether it would be bad if an operator was doing all of these bad things? Firstly, that is a hypothetical question and therefore not allowed in the Senate and, secondly, this is not getting us a great distance as far as the estimates process is concerned or a great distance in relation to the operations of CASA.

**Senator O'BRIEN**—With respect, I think the questions go to the standards used in the performance of CASA's duties. That is what I think they are demonstrating. I am contrasting two cases: one where action was taken and another where action was not taken. I have not used the name of the operator but I can assure you that officials know exactly who I am talking about. This is a case of an operator whose maintenance releases were signed off and, in all probability, the releases were wrong.

**Senator Ian Macdonald**—Your point is that CASA has adopted different standards for different airlines.

**Senator O'BRIEN**—Yes.

**Senator Ian Macdonald**—Does CASA do that? Do you have different standards for different airlines? Can you explain how this is? I have a difficulty talking about a situation that some of you—as you say, Senator—know about when the rest of us do not. I respect and thank you for—well, I do not. It is only a matter of natural justice that you do not go bandying names around unless they have appeared in the paper or something somewhere, but it makes the estimates committee process difficult if we are talking about hypotheticals that some of you know about when the rest of us do not.



**Senator O'BRIEN**—I understand what you are saying. Is it a serious event for the operator to issue five maintenance releases when the person who signed was not present while the maintenance release inspections were performed?

**Senator Ian Macdonald**—You are asking—I suppose this is hypothetical—what CASA's approach would be if this happened. That is sort of what you are saying. Mr Toller, what would be your approach?

**Senator O'BRIEN**—You have put Mr Toller in a worse position than I have done.

**Senator Ian Macdonald**—This is just ridiculous.

**Senator O'BRIEN**—Yes, but if you let me go on it will not be.

**Mr Toller**—All I can say is that we endeavour, obviously, to maintain one standard for operators within the constraints of the requirements of the law, which are obviously higher for RPT carriers. If we find operators who are deficient, we will take what action we consider to be appropriate in the circumstances. This may, in extremis, culminate in a show cause notice. The critical element thereafter really is the reaction of the operator to the show cause notice. If you put a show cause notice on an operator and they realise that the only way they are going to stay in business is to do something fairly drastic, then we have the makings of a solution. If you have somebody who fights you all the way and will take you to court over every detail, then it is much harder to find a solution. Leaving it in that generality is probably as far as I can go in this particular case.

**Senator O'BRIEN**—That sounds well and good but in this particular case, if I detail the events, frankly they are frightening. I would appreciate it if you could explain how an operator committing these breaches could easily satisfy CASA that they were not a cavalier operator. Let us look at some of these issues. Pre-signing of maintenance releases—pretty close to a criminal act, I would have thought. The company issued eight maintenance releases over a period without all the required maintenance being completed—that seems a pretty chronic problem. In relation to flight and duty times there were 33 discrepancies between duty times recorded by the company and the pilot's logbook. For about a month in 1998 one of the aircraft flew passenger carrying operations without a valid maintenance release. In that same year, I think, an aircraft operated over a major city relying on instruments whose terms were not complied with. I am relying on someone telling me that that is a difficult matter. There was an accident in January 1997 in regard to which CASA, in its show cause letter, stated that while pilot error caused the accident, lack of supervision by the operator resulted in the aircraft being operated over water, on charter, beyond auto-rotative gliding distance from land without floats, as required under the Civil Aviation Orders.

**Senator Ian Macdonald**—Are you quoting from a CASA document?

**Senator O'BRIEN**—I am paraphrasing a CASA document.

**Senator Ian Macdonald**—Would it be useful, deleting any name or any reference to how you might have come by this document, for you to show that to the CASA officials and ask them if that is a CASA document and if it is accurate. Then I, like you, would be interested to know why that operator is still flying.

**Senator O'BRIEN**—I am certain that CASA knows exactly what I am talking about and has access to exactly the same document.

**Mr Toller**—We do, Senator.

**CHAIR**—Mr Toller might like to comment on that so that we can be clear about whether we are talking about the same document.

**Mr Toller**—I believe that we are talking about the same document. I believe that my officers would know the case that Senator O'Brien is referring to. It is clearly more difficult for us to talk about it in the general. I cannot respond to how we were assured by that operator subsequent to the show cause letter that you have got a copy of. I cannot be certain exactly how we were assured that that operator could remain safe and remain in operation. I am prepared to call Mr Leaversuch to the table if you would like to try to investigate in more detail just what the operator said at the time.

**Senator O'BRIEN**—I think that would be useful. As I have indicated, I am not seeking to identify the operator. I have handed the name of the operator over and I think that confirms that it is the one that we are both talking about.

**Mr Toller**—It does. I thank you for that confirmation, Senator. We will endeavour to answer your questions without making public the name of the operator.

**Senator Ian Macdonald**—Mr Toller, why is it that we are not naming the operator? I am not suggesting that we should, but is it because it interferes—

**CHAIR**—Is there some legal constraint?

**Senator Ian Macdonald**—Or does it interfere with the way you gain the cooperation of the industry in the future?

**Mr Toller**—No, I am just responding to Senator O'Brien's attempt to protect the name of that particular operator who is now operating, I believe, effectively without significant blemish. We are talking about events that were happening in 1997 and 1998, from memory.

**Senator O'BRIEN**—Going back as far as 1996, actually.

**Mr Toller**—Exactly. We are now in 2001. Therefore, I can understand that it would be unreasonable to start using the name of that operator and suggesting that they are now defective when we are actually talking about how we dealt with something in history.

**Senator O'BRIEN**—That is right. I used the two cases—the Yanda case and this case—as an example of what appear to me to be quite different approaches by the regulator to problems in an operator. I really am asking CASA to explain how you would come to take such quite different action where, notwithstanding what has happened historically, the operator's performance was appalling.

**Mr Toller**—I agree in both cases. I think that the general answer is the one I have already given you, which is that it depends, to a certain extent, on the operator's willingness to address the problems. I will ask Mr Leaversuch, who had the activity under him at the time, to perhaps address the matter in more detail if he can recall the details at the time.

**Mr Leaversuch**—In making that decision not to take suspension or cancellation action, I met with the company at an informal conference and not only listened to their submissions but also, prior to that, read their written submissions. As the director said, a lot depends on the attitude and the capability that the company is able to demonstrate and on its understanding of the regulations. There were certain changes made in the company—the quality assurance manager, a new chief pilot. After the informal conference, and not during it, I undertook a detailed discussion with our technical staff—both flying operations and airworthiness—before making a decision on the course of action that we would take. I acknowledge that the last paragraph in my letter to them—I do not know whether you have

that; it is the letter in which I advise them that I will not take cancellation action—says a lot of what I think was at the heart of the informal conference.

**Senator O'BRIEN**—Are you talking about your letter of 14 December?

**Mr Leaversuch**—Correct. I said then, in the penultimate paragraph, '... your acknowledgment that you had erred on some occasions, the systems that you have put in place to minimise the risk of future breaches and my assessment of your veracity at the conference, as well as the assessment that you are not likely to offend again in a manner likely to threaten air safety.' Then I went on to counsel them, in effect, on the need for them to maintain proper systems.

**Senator O'BRIEN**—What happened after that with this operator?

**Mr Leaversuch**—I was not directly involved for much longer. At Christmas time in December I left that position, but I am sure we can answer that question. I think it is also fair to say that CASA in 1998 was a different organisation from what it is now.

**Senator O'BRIEN**—This is 2½ years ago.

**Mr Leaversuch**—You mentioned, for example, in one of your questions about a drive towards systems. But in talking to an operator like this—a charter and aerial work operator principally involved in flying, training and aerial work—the idea of systems would have had no meaning at all to them in 1998.

**Senator O'BRIEN**—Would a different standard apply to this operator as against an ordinary charter operator?

**Mr Leaversuch**—No, they were a charter operator.

**Senator O'BRIEN**—So whenever members of this committee get on a charter plane—I am putting myself in this position, because I am in it quite frequently—we would want to be very careful that we were not finding ourselves in circumstances such as the one that applied to this operator. How would we do that?

**Mr Leaversuch**—How would you be sure?

**Senator O'BRIEN**—Yes.

**Mr Toller**—I believe that that is an unanswerable question. But if you would like to ring us up for advice before you charter any aircraft, we would be delighted to tell you what we think of your choice of operator.

**Senator O'BRIEN**—I know we are being flippant; the point is that we should not have to do that.

**Mr Toller**—Yes. Our role, which we take seriously, is to try to ensure that every operator is a safe operator that continues to hold an air operator's certificate. The next point is that there is a double standard existing in the current regulations between charter and RPT operations which will be removed when the new regulations are finalised. There will not be two standards in future.

**Senator O'BRIEN**—Turning to another issue, the Piper Chieftain fleet is a fleet of ageing aircraft in Australia. At our hearings in November Mr Harris indicated that he was broadly aware of work being done by CASA on the ageing of the Australian aircraft fleet. What work is under way?

**Mr Toller**—Currently, we are working alongside and with the Aviation Safety Forum on the whole subject of ageing aircraft. We have just, I believe, sent out a questionnaire to all the certificate of registration holders of that series of aircraft—that is Navahos and Chieftains—requesting a certain amount of information. The ASF is hoping to put together some sort of business case for a review of what is required to make those aircraft as new, if you like. That is on going at the moment. I jointly sent out a letter dated 22 May 2001 with Bruce Byron, whose name came up earlier and who is the chairman of the Aviation Safety Forum. I am very happy to table that letter and that questionnaire for you, Senator.

**Senator O'BRIEN**—Thank you for that. Does that mean that there is work under way or under consideration on whether the Piper Chieftain aircraft can remain an aircraft for regular public transport purposes?

**Mr Toller**—The situation is that the Piper Chieftain, in the same way as, say, the DC3, can continue to operate for as long as it is maintained properly. What we are looking to do is recognise that there are issues to do with ageing aircraft and the maintenance costs of ageing aircraft and the fatigue issues to do with ageing aircraft that can be addressed. This is not necessarily the long-term solution to the ageing aircraft situation, which clearly is to buy new aircraft, but it is our means of trying to help the industry through a transition phase which may be ten or 15 years. It may be less, but we need to reflect on the situation that it is not an easy aeroplane to replace, because they are not building that sort of aircraft any more.

**Senator O'BRIEN**—I know one route on which they operate. Where predominantly is that aircraft used?

**Mr Toller**—I think it is used throughout Australia. It is one of the two workhorses—the other being the Cessna 400 series—of charter and it also does some of the low capacity RPT operation.

**Senator O'BRIEN**—Do you know why Country Connection airlines, which has gone out of business in New South Wales, ceased to operate?

**Mr Toller**—I am aware of the letter that they sent at the time, which was basically about costs of maintenance, costs of fuel, the situation of the Australian dollar vis-a-vis the US dollar—the difficulty of operating in that economic environment.

**Senator O'BRIEN**—One of the reasons reported in the press was changes to tax laws relating to the sale of aircraft.

**Mr Toller**—That is not my part of the world, I am afraid, Senator. That is nothing to do with CASA.

**Senator O'BRIEN**—Nothing to do with CASA?

**Mr Toller**—Nothing to do with CASA. I think it is to do with accelerated depreciation.

**Senator O'BRIEN**—I would have thought that some of the aircraft operating in some country areas would have gone past the point of accelerated depreciation.

**Mr Toller**—I would have thought they were very decelerated depreciation, like zero, yes.

**Senator O'BRIEN**—An Aboriginal air service, Ngurratjuta Air, is a small organisation that provides services to about 10 Aboriginal communities to the west and to the north-west of Alice Springs. I understand this organisation obtained an AOC licence in January this year. Can you confirm that they were previously operating a charter licence doing mail runs, supplementing their revenue through carrying tourists?

**Mr Farquharson**—We have no knowledge with us of that operator. Could you give us the details and we will take that question on notice?

**Senator O'BRIEN**—Yes. I understand that, because they were having problems, they were supplementing revenue through carrying tourists, and that causes problems that we are all aware of. They therefore went through the process of obtaining an AOC. They are now waiting for routes to be approved by CASA. How long does that process take?

**Mr Toller**—It is not our requirement to approve routes. We have no regulation of routes at all, Senator.

**Senator O'BRIEN**—What is the situation with their AOC?

**Mr Toller**—This would be a regulatory services issue. As I explained earlier, unfortunately Mr Collins could not be here today. I do not have a briefing; I do not think anybody has a briefing on this matter. If we could take it on notice, we will provide you with the details on notice.

**Senator O'BRIEN**—I said 'routes' but I think it was more to do with airstrips that they have to fly to rather than routes.

**Mr Toller**—We will take it on notice.

**Senator O'BRIEN**—And could you let me know if CASA is involved with the Northern Territory Department of Transport and Works about what is required to bring those airstrips up to standard? This particular operator appears to be between a rock and a hard place trying to meet requirements that are beyond its control.

**Mr Toller**—We will certainly look at it, Senator.

**Senator O'BRIEN**—I want to ask some questions about an answer to question on notice No. 2417, from Mr Ferguson to the Minister for Transport, relating to an international charter flight from Ayers Rock to Jakarta on 30 January 2001. In the answer it was confirmed that CASA approved the flight. What is a Boeing 757?

**Mr Toller**—It is half way between a 737 and a 767! It has a big, narrow body; it is about a 200-seater.

**Senator Ian Macdonald**—Very popular in Europe, aren't they?

**Mr Toller**—Very popular in Europe and in the United States.

**Senator O'BRIEN**—In answer to part (3) of the question, you say:

On a previous occasion Air 2000 had been advised that no suitable fire fighting facilities are available at Ayers Rock.

What was that occasion? Did CASA approve a previous flight?

**Mr Gemmell**—We understand that there have been some flights operated by this company into Australia from about 1996, so there have been some flights in that time.

**Senator O'BRIEN**—The answer also says:

On this particular occasion Air 2000 requested contact details to enable them to arrange both fire cover and customs and immigration facilities.

The answer goes on to say that CASA provided these details and then:

The approval was issued in accordance with CASA policy for an international charter operation.

Did CASA not have to confirm that those services were in place before you approved the flight?

**Mr Farquharson**—Those are taken to be the responsibility of the operator and the airfield operator.

**Senator O'BRIEN**—Is the authorising of the flight to land at an airstrip, ostensibly without firefighting services, a breach of ICAO standards?

**Mr Farquharson**—Annex 14 of the ICAO document sets out the standards and the recommended practices. The responsibility for arranging these services rests with the aircraft operator and the aerodrome operator.

**Senator O'BRIEN**—Yes. So there is no responsibility with CASA—is that what you are saying? If it is not supplied, it is not your problem.

**Mr Farquharson**—This is an international operation. The AOC is a foreign operator. They were given permission to move around Australia on that basis. It is beholden upon them, particularly in terms of their oversighting regulatory authority, to ensure that they are operating in accordance with the international standards.

**Senator O'BRIEN**—So we do not have a responsibility under ICAO to make sure that happens?

**Mr Farquharson**—We give them approval to move and to do certain things, but it is their responsibility to make sure that the required facilities are there.

**Senator O'BRIEN**—Are you saying that we do not have that responsibility?

**Mr Farquharson**—That is my understanding, but I will confirm that.

**Senator O'BRIEN**—It sounds like it is a risky proposition. In relation to CASA notice of proposed rule making 0002AS, I understand that draft regulations relating to firefighting standards are about to be tabled. Can you tell me precisely where that process is up to?

**Mr Toller**—No. We have done what we are required to do and passed it on.

**Senator O'BRIEN**—So it is with government?

**Mr Toller**—It is with government.

**Senator O'BRIEN**—If they are approved, where will Australia sit in terms of quality and safety standards? I understand the draft standards are barely at the ICAO standards level and are certainly not above it.

**Mr Toller**—It is some time since I have read that document. I think it was about June of last year. I admit that I cannot recall it.

**Senator O'BRIEN**—Has CASA based the standards on those applicable in New Zealand?

**Mr Toller**—I would have to take that on notice. It is a long time since we did that work and I cannot recall the exact details of it. I know that we were looking at what was happening in New Zealand and also what was happening in Canada, as well as, of course, the ICAO standards and recommended practices.

**Senator O'BRIEN**—It has been put to me that, if you rely on New Zealand, New Zealand has the lowest firefighting standards in the Asia-Pacific region. What would you say to that proposition?

**Mr Toller**—I am not aware of that statement at all. I know that we were certainly looking at the Canadian standards as well as the ICAO standards. Whether New Zealand standards were part of it or not, I cannot recall.

**Senator O'BRIEN**—I have been advised that if Australia adopted the same standards as the United States does in relation to firefighting services, we would have 79 locations with firefighting services. If we adopted the UK standards, we would have 120. But under the proposed regulations, if they follow the NPRM document, it is proposed we will have 14 locations with firefighting units. Is that correct?

**Mr Toller**—It could be. I cannot remember the exact details of numbers. The issue is how you define the requirements, obviously. A firefighting unit may be required under certain circumstances, such as if a regular public transport flight is operated in and out of an airport, which I believe is the requirement in certain places. That obviously would make regular public transport flights to most of Australia totally uneconomic, if you think about places like Coonabarabran and Gunnedah and country New South Wales airfields, and country Tasmania—Strahan, King Island and Flinders Island.

**Senator O'BRIEN**—I have been given to understand that under the proposed regulations, if they follow the NPRM, places like Karratha and Port Hedland will not have fire services. Can you tell me which locations will have fire services under these proposed regulations?

**Mr Yates**—I will have to take that on notice because, like the director, I have not looked at the detail of this for a very long time.

**Senator O'BRIEN**—I suppose we can assume that the eight capitals would have fire services under these regulations?

**Mr Yates**—I believe that is correct, but I would need to check.

**Senator O'BRIEN**—The Gold Coast?

**Mr Yates**—I would be speculating.

**Mr Toller**—As I recall, it was done on passenger numbers. My recollection is that all the major airports of the capitals, plus the Gold Coast and a few other locations of that nature, were going to retain their—

**Senator O'BRIEN**—Alice Springs?

**Mr Toller**—Yes, I believe so.

**Senator O'BRIEN**—That is 10. If there are 14, there are four more. Launceston?

**Mr Toller**—Launceston, probably. Mackay, Rockhampton, Townsville.

**Senator O'BRIEN**—That will be it. None for Newcastle?

**Mr Gemmell**—Port Hedland certainly would not have its fire service. I am not sure about Karratha. Port Hedland fell well below meeting the criteria, as I recall.

**Senator O'BRIEN**—Could you advise, on notice, which airports currently with fire services would potentially lose them under this regulation?

**Mr Gemmell**—Against the criteria that were proposed in the NPRM?

**Senator O'BRIEN**—Yes. Has that work been done?

**Senator Ian Macdonald**—Are we talking about a made decision, or are we talking about advice to government, which I assume is confidential at this stage?

**Mr Gemmell**—No, we are talking about a public notice of proposed rule making that went out there. You can do those things, but it does lead to a decision that government has not made yet. But there is a proposal.

**Senator Ian Macdonald**—But the proposal is public knowledge?

**Mr Gemmell**—Yes.

**Senator Ian Macdonald**—I am sure your submission to the government would have had that information in it, anyhow.

**Senator O'BRIEN**—To the extent that the proposed regulations are inconsistent with paragraph 9 of annex 14 of the Chicago convention, we would be placed outside accepted international regulation on the issue. What do you say to that?

**Mr Yates**—I am not sure that is the case.

**Senator O'BRIEN**—Could you take that on notice?

**Mr Yates**—Certainly.

**Senator O'BRIEN**—The second concern expressed to us is that the regulations would impose the obligation to provide the firefighting service on the aerodrome operator.

**Mr Yates**—That is correct.

**Senator O'BRIEN**—And is it the case that there are currently no private or military firefighting services that operate to the same standard and qualifications as required by CASA?

**Mr Yates**—I believe that there are some joint civil military aerodromes where the military provides the rescue and firefighting cover.

**Senator O'BRIEN**—Which ones?

**Mr Toller**—The joint military civil use airfields are Townsville and Darwin, but I am not aware of who provides the rescue and firefighting services cover at those airfields—whether it is Defence or Airservices.

**Senator O'BRIEN**—I thought in Darwin the Air Force provided air traffic control but the firefighting services were provided by Airservices.

**Mr Toller**—I think that is right, yes.

**Mr Gemmell**—I think that is correct, Senator, but in Townsville I think you will find it is Defence who provide the fire service.

**Mr Yates**—I cannot comment, however, on how the defence facilities compare with the civil requirements.

**Senator O'BRIEN**—If the throughput of 350,000 passengers per annum were required, that would certainly lead to the closure of the firefighting services at Port Hedland and Karratha.

**Mr Toller**—I am not aware of whether the government has accepted that figure of 350,000, which was part of the notice of proposal we were making at the time.

**Senator O'BRIEN**—Have there been consultations with Airservices about these regulations?

**Mr Toller**—Most definitely, yes.



**Senator O'BRIEN**—And Airservices want these regulations promulgated, I take it?

**Mr Toller**—These are the regulations that, for the first time in regulations I think, set standards effectively and freely for the provision of rescue and firefighting services in Australia. They do not really exist at the moment as regulations. There are no standards.

**Senator O'BRIEN**—There are no standards. What has been the problem? Some people say, 'If it ain't broke, don't fix it.' What is the problem that requires the promulgation of these regulations?

**Mr Toller**—I think it is just part of the suite of regulations that we are writing which are in accordance with what all the other main aviation nations have got. This happens to be part 139H.

**Senator O'BRIEN**—So it is part of a policy approach for reform?

**Mr Toller**—It is part of the policy approach for the new regulations, yes. To provide standards in the same way as we provide standards for air traffic, rescue and firefighting services and for all of the services that are required.

**Senator O'BRIEN**—And in this case, those changes are controversial in a number of areas? I should say that the NPRM indicates that, were the regulations to follow that standard, they would be controversial in a number of areas.

**Mr Toller**—They may be in some quarters.

**Senator O'BRIEN**—Well you have had a fair few submissions about them, haven't you? Do the airport operators want to be responsible? Have they made submissions?

**Mr Yates**—I don't think there has been any particularly contrary indication from the aerodrome or airport operators. Part of this whole package of regulations that will govern aerodrome services—including rescue and firefighting, where the criteria dictate that it should exist—will be part of the aerodrome authorisation or licensing arrangements that will ensue. The airport organisations—airports and their associations—have been an integral part of the consultation process leading to the development of these regulations.

**Senator O'BRIEN**—On another subject, can you tell me what the budget for flying training for FOIs was last year and what the actual level of expenditure was?

**Mr Toller**—Are you talking about the current financial year or the previous financial year?

**Senator O'BRIEN**—Let us talk about the current financial year.

**Mr Toller**—From memory, in the current financial year \$2.1 million was budgeted.

**Senator O'BRIEN**—What is expected to be spent?

**Mr Toller**—Somewhere in the region of \$900,000, I believe.

**Mr Comer**—Forecast at \$920,000.

**Senator O'BRIEN**—What level of funding for the program is likely to be available in the coming financial year?

**Mr Comer**—Our budget for the coming financial year has been set at \$1.5 million.

**Senator O'BRIEN**—Does that include a carryover?

**Mr Comer**—No, it does not.

**Senator O'BRIEN**—It looks like you will carry over a touch over \$1 million. Is that going into the surplus?

**Mr Comer**—That is correct.

**Mr Toller**—It is the part of the reason why we have a surplus.

**Senator O'BRIEN**—How does an FOI access funds for the training?

**Mr Toller**—There is a process for that which is documented. It requires approval, I believe from Mr Leaversuch.

**Senator O'BRIEN**—So there is a formal request for funding and it is approved or not approved by Mr Leaversuch?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—How many applications for funding for that training were rejected? If there were any, what cost was saved through such rejections?

**Mr Toller**—We will have to take that on notice because there is obviously a lot of detail. I would say that the reason for turning down requests for training is never money; it is purely about conflicting priorities of the officer's time. As you know, we have been running light on FOIs, which means that it is harder for them to find the time to go flying training. That is not to say that we have not, throughout, encouraged them to do it.

**Senator O'BRIEN**—Can anyone but an FOI access those funds for training purposes?

**Mr Farquharson**—There are some people throughout the organisation who have access to flying training. There are three general aviation area office managers who still retain their command instrument ratings and their instructors ratings, or have that ability, so they are able to draw on a limited amount of flying training.

**Senator O'BRIEN**—Do they find it easier to find the time to do it?

**Mr Farquharson**—Definitely not.

**Senator O'BRIEN**—I was wondering. I would have thought they would have been as busy, or busier, than the FOIs.

**Mr Farquharson**—My recollection is two of the three keep their qualifications up; I do not think the third has. But it is becoming more and more difficult for them and they are confined much more to their management role than keeping their qualifications up.

**Senator O'BRIEN**—So, essentially, whilst there is a budgetary amount it is governed by the requests by FOIs and certain other officers of CASA for access to the funding for training purposes and by the ability of CASA to release them for the time necessary for the training. Is that how I should understand it?

**Mr Farquharson**—Depending on the category of person, an amount of money that equates to a number of hours in a class of aeroplane is set aside. These people are encouraged to be—and it is part of the team leader's responsibilities to keep them—as active in flying as they possibly can. The request is made—and it is a budgetary control mechanism: we have centralised the control of the flying training budget, so that we know where the dollars are going and how they are going—and each request is examined by Mr Leaversuch and, generally speaking, approved. Mr Leaversuch has just informed me that he has not refused one yet.

**Senator O'BRIEN**—I am very tempted to raise the budgetary history of this matter. In the current financial year you are spending less than half the budget, although admittedly you have reduced the amount for the next financial year. I thought this was at one stage a controversial matter. What you are telling me is the FOIs are not applying in numbers for funding sufficient to expend what has been budgeted for?

**Mr Toller**—I can give you the history of the \$2 million figure. We did a study last financial year with the intention of putting into place a disciplined training program for the FOIs which would have them going residential for a week, twice a year, and a requirement to demonstrate their standards at the end of that week. The cost to CASA of that, as proposed, was from memory around \$3.2 million. We believed that was a Rolls Royce solution, but that the concept was right. We also believed that we would not be able to bring it in fully this year, so the \$2 million was, if you like, a bit of a ballpark guess at what would happen if we brought it in about one-quarter to one-third of the way through the year as a slightly less Rolls Royce solution than the one that was proposed. Therefore, we set aside that amount of money in the budget because I believed that was the right way to go about it. I still believe that was the right way to go about it. I believe that is the correct way for us to maintain the standards of our flying ops inspectors. Clearly, the issue of changing over a number of the FOIs—with a number of them taking redundancies and some new ones coming in from industry—has slowed down that program, but I am keen that in the coming year we press ahead with defining that program and getting it in as quickly as possible.

**Senator O'BRIEN**—I suppose that is a matter for observation over time. CASA's responsibility for conducting the medical examination of pilots as part of its licensing function—how does that work?

**Mr Yates**—We have a number of designated aviation medicine examiners, or DAMEs. They are appointed by the aviation medicine section, by CASA in effect, on an as-needed basis in different localities around the country. They are all medical practitioners who hold a postgraduate qualification in aviation medicine and they are required to maintain currency in that specialisation by attending periodic educational training sessions. In the main, DAMEs are specialist general practitioners. Applicants for medical certificates arrange appointments with a DAME in the closest location and they are examined and a decision taken, generally by the DAME concerned, on the issue of a certificate. An interim certificate which is valid for two months is issued by the DAME if the applicant successfully passes the examination, and then the permanent certificate is issued by the authority here at the head office in Canberra.

**Senator O'BRIEN**—Do the assessments include assessment of mental state or any psychological testing?

**Mr Yates**—There is no specific psychological or psychiatric testing of applicants as such but, as part of every medical examination that is undertaken by a DAME, there is a requirement to take note of the applicant's general neuropsychological system.

**Senator O'BRIEN**—Is this by the doctors appointed by CASA?

**Mr Yates**—That is right.

**Senator O'BRIEN**—By general practitioners with a postgraduate degree in aviation medicine?

**Mr Yates**—It is a postgraduate qualification.

**Senator O'BRIEN**—Is there any psychological testing?

**Mr Yates**—Not specifically on a routine basis, no.

**Senator O'BRIEN**—There is a particular case that I want to talk about. Does CASA simply rely on a certificate or a form completed by that medical practitioner, which basically ticks the right boxes?

**Mr Yates**—I do not think it would be reasonable to describe it as a box-ticking exercise.

**Senator O'BRIEN**—Or a certificate?

**Mr Yates**—If the applicant successfully passes the examination and the practitioner has no concerns about the condition of the applicant, he will be issued with an interim certificate that will be followed up by a permanent certificate issued by the aviation medicine section. If the DAME has a concern, then the case will be referred to our aviation medicine section, where it will be assessed by some other medical practitioners that we employ. There are about 40,000 medicals undertaken a year and about 20 per cent of the results of those examinations are forwarded to the authority for perusal by an assessor before a final decision is taken on the application.

**Senator O'BRIEN**—Mr Toller, are you aware of the case of Mr Bryan Griffin? I use his name because he has his own web site.

**Mr Toller**—Yes. Over a period of time we have been aware of Mr Griffin.

**Senator O'BRIEN**—Yes. I understand Mr Griffin was a 747 copilot with a major airline, and he became mentally ill with a compulsive disorder. His condition resulted in a state where, as he described it, he had an urge to shut down the engines in flight and later on take-off—rather dramatic.

**Mr Toller**—Not advisable.

**Senator O'BRIEN**—Mr Griffin has information on his web site that suggests he obtained his medical file from CASA. Is that correct?

**Mr Yates**—I am not aware that that is the case.

**Mr Toller**—He may have requested it under FOI, but I probably would have to take that one on notice.

**Senator O'BRIEN**—He says that the file shows that two doctors—I am not sure if they were doctors or psychiatrists—said he needed treatment but he was still allowed to fly. The implication was that that was on his file. Is that possible? Presumably there is a review of what the doctors did.

**Mr Yates**—That is correct. Perhaps I should have mentioned earlier that, in addition to the 20 per cent of all of the applicants that are referred to us for further assessment, about 1,000 of those are referred to what is known as a difficult cases panel, which meets periodically. That is a standing panel, but they bring in particular specialists for specific cases.

As far as an applicant with a possible psychological condition is concerned—and I should hasten to add that I am not a medical practitioner myself—I am advised by our deputy principal medical officer that a diagnosis is generally a fairly subjective exercise for someone with a psychological problem. The majority of such cases or conditions, as is the case with lots of other types of conditions, are treated. It is an event that occurs in someone's life, and it becomes part of their medical history. But, subject to them satisfying the medical specialist, they are allowed to continue flying once they are cured.

**Senator O'BRIEN**—In Mr Griffin's correspondence—where he names his employer, which I am not intending to do—he says that the employer sent him to three psychiatrists, with an end result that they cleared him to fly. He says:

It was a nightmare for two years until I said 'enough is enough'. After the crash of the Egypt Air, where it was thought that the co-pilot committed suicide, I contacted my employer. After being threatened with extortion—

I am not sure what he means there—

I contacted CASA and received my medical file. What an eye-opener! Two of the doctors said that I needed treatment. Yet, without an inquiry, I was let loose in the air.

This gentleman has a web site and is disseminating that information. I think it is appropriate that CASA have an opportunity to clear the air, or otherwise. Was CASA ever contacted by Mr Griffin's employer airline about his medical condition?

**Mr Yates**—All I can say in response to your question is that there is no new evidence concerning Mr Griffin's medical or psychiatric history that is formally before the aviation medicine section. It is a bit difficult, therefore, to venture any opinion concerning his current fitness for medical certification to any specific standard.

**Senator O'BRIEN**—He suggests that CASA will not answer his questions. What do you say to that?

**Mr Yates**—I am aware that there are some other applicants who have also expressed concern about the difficulty in getting answers to questions. But my understanding is that the aviation medicine section goes to great pains to deal with cases that come before them in as fair and equitable way as possible. I am not aware of the specifics of this case with respect to some of my staff not giving answers to Mr Griffin's questions, but I would need to look into that to find out the facts from the authority's side. I would question that assertion.

**Senator O'BRIEN**—Perhaps you would like to take that on notice and give us a considered response.

**Mr Yates**—Certainly.

**Senator O'BRIEN**—Can you assure this committee that CASA's processes for testing and assessing the mental state of pilots are rigorous?

**Mr Yates**—As I mentioned earlier, part of the examination is a requirement on the examining medical practitioner to note the general neuro-psychological system of the individual applicants. There is no specific psychological test that is undertaken, but I am advised that, generally, if a candidate displays signs of possible mental or psychological problems, probably more than an average number of practitioners would identify that there were problems and would pursue them as part of their examination.

**Senator O'BRIEN**—Can you assure this committee that CASA's system will pick up pilots that have a disorder such as the disorder admitted to by Mr Griffin?

**Mr Yates**—I believe that is the case. It is very difficult, I would say, with certain psychological conditions to give a 100 per cent guarantee. But on the evidence that we are aware of and the statistics, if you like—not that I have firm statistics—but on the information that we have available, I think that we can say with a considerable degree of confidence that we have no concerns about the mental capability of the pilots who hold medical certificates.

**Senator O'BRIEN**—I understand that the same Mr Griffin has been attempting to get an answer from CASA to another question, which seems to be a simple question. If he has asked CASA, I am unsure as to why it remains unanswered. Mr Griffin is alleging that Qantas allowed a second officer to stand for the take-off and landing of an Electra 188C aircraft.

**Senator Ian Macdonald**—The first aircraft I ever flew in was an Electra, back in 1962, I think.

**Senator O'BRIEN**—It may well be that you have responded or you are taking the correspondence as a joke.

**Senator Ian Macdonald**—It is no joke. I was just curious about the Electra. I do not think they fly any more. In fact, Senator O'Brien, they would have been gone before you were born.

**Senator O'BRIEN**—They would be old then.

**Mr Toller**—Sorry, I cannot remember whether or not there was a question.

**Senator O'BRIEN**—He wanted to know, if he has asked you that question, why he cannot get an answer. It is obviously not taken seriously.

**Mr Toller**—I am not aware of him asking us that question but certainly it is probably pretty difficult to find an answer other than that we do not know, in terms of what we are talking about, what the Director-General of Civil Aviation, in the days when we had one, might have done back in the late sixties. I will ensure that an answer is sent to him.

**Senator O'BRIEN**—Thank you for that. What is the latest news from CASA in relation to the deep vein thrombosis issue?

**Mr Toller**—I do not think that CASA is involved at all in the deep vein thrombosis issue, being a passenger health issue rather than an aviation safety issue.

**Mr Yuile**—Do you have questions in relation to deep vein thrombosis?

**Senator O'BRIEN**—I do, but if it is not for CASA, then—

**Mr Yuile**—Ms Beetham has been involved in some work from the department's point of view if you want to take it now.

**Senator O'BRIEN**—That would be good.

**Ms Beetham**—We have been doing some work on this issue. We chaired a meeting in CASA some time ago when the issue was first raised and became topical. Subsequently, you may be aware, a Western Australia doctor, Dr Baker, and some of his colleagues convened a summit. Subsequent to that, we have considered how we might progress the issue. We are currently talking with the Department of Health and Aged Care in relation to a proposal they have for a study that they might undertake. We have also maintained contact with Dr Baker, and the minister has considered a submission put to him by Dr Baker.

**Senator O'BRIEN**—When can we expect further action from the department on the matter?

**Ms Beetham**—We are working on tying down the details of any study that the department of health might undertake, and we are moving to do that as quickly as we can.

**Senator O'BRIEN**—So there is no time line?

**Ms Beetham**—There is no specific time line, other than sooner rather than later. We are well advanced with that.

**Senator O'BRIEN**—In relation to GPWS navigation equipment, can the committee be given some background to the requirement that small regional operators must install this new GPWS navigation equipment—for example, who must install this equipment or has been required to install it? As I understand it, it is aircraft with 10 or more seats.

**Mr Farquharson**—Or greater than 15,000 kilos.

**Senator Ian Macdonald**—Which one are we talking about?

**Mr Toller**—The GPWS—ground proximity warning system.

**Senator O'BRIEN**—Crash stuff.

**Senator Ian Macdonald**—Senator, I do not want to be disruptive, but I can remember us going through this in great detail at the last estimates committee.

**Senator O'BRIEN**—Yes, I wanted to find out what the activity of the department has been in recent times about this matter.

**Mr Toller**—As far as I am concerned, all the required aircraft are now fitted.

**Senator O'BRIEN**—Was that requirement based on a cost benefit analysis?

**Mr Toller**—It was a combination of issues, partly cost benefit and partly international harmonisation.

**Senator O'BRIEN**—I am told that some operators needed to take three seats out of 12-seater aircraft to fit the equipment.

**Mr Toller**—That is so. They were generally aircraft that were always intended to have nine seats plus the pilot, rather than 12 seats plus the pilot. They were reverting them back to their original design state in that case.

**Senator O'BRIEN**—Has the industry responded to the requirement and this equipment been fitted where required? Is that the case?

**Mr Toller**—That is correct.

**Senator O'BRIEN**—Have any operators attempted to work around the requirement? Have there been any disputes about what needed to be done in particular aircraft? Are there any grey areas?

**Mr Toller**—The only grey area would be the Cessna Caravan, which is certified in the United States as a nine-passenger aeroplane and in the United Kingdom as a 14-passenger aeroplane. It can be operated as either in Australia. That is the only one where we had to make some decisions as to which way it was going to go. We virtually left the certification based on the number of persons carried. They do not have to take the seats out. Therefore, under certain circumstances, if they did not want to fit the GPWS, they can operate the Cessna Caravan without the GPWS.

**Senator O'BRIEN**—With nine passengers?

**Mr Toller**—With nine passengers.

**Senator O'BRIEN**—Is that nine plus the pilot?

**Mr Toller**—Yes. It is nine passengers or less.

**Senator O'BRIEN**—Can you tell me where the aircraft registration special subcommittee looking at the drafting of CASR part 47 is up to?

**Mr Yates**—The special subcommittee of the standards consultative committee, both of which I chair, has met on five occasions, and we have prepared a draft discussion paper on the subject in accordance with the terms of reference that we were given. The composition of this special subcommittee, in addition to CASA staff, has also included a reasonable spread of representation from the industry, including the Australian Air Transport Association; AOPA; the sports aircraft association; the Aerial Agricultural Association; the Royal Federation of Aero Clubs; the Airline Passenger Safety Association; the Association of Licensed Aircraft Engineers; in part, the gliding federation and the ultralight federation; a representative from the Australian Finance Conference; and, finally, the ADF—Defence.

We have met on five occasions. We have prepared this draft paper which was submitted to the director a few weeks ago, and the intention is that it will be circulated for public consultation in the normal manner to all interested parties in the not too distant future. I do not have a precise date at this stage.

**Senator O'BRIEN**—What is left to be done and how long will the process take?

**Mr Toller**—The discussion paper will be published as a discussion paper and it will go through the normal process of two months or so for response, summary of responses, NPRM—

**Mr Yates**—We also propose to conduct what we call roadshows at a number of major centres. We will provide seminars for those who are interested to come along and discuss the content of the paper. This will start to happen a couple of weeks after the paper has been released. The purpose of that is to explain it more fully, answer people's questions and receive their input into and comments on the document, all of which will help to refine the way ahead.

**Senator O'BRIEN**—On CASR part 43, what is happening?

**Mr Yates**—That is fairly close to being finalised for consultation. It is due to go out, from memory—and I may get this wrong, so I might need to correct it subsequently—at the beginning of the last quarter. A maintenance conference is scheduled in the second week of July, at which part 43 and the other maintenance CASA parts will be discussed with a large participation from the industry, and that will also give us some final input into the documents that have been under development. It is coming through the machinery.

**Senator O'BRIEN**—Will that will lead to the discussion paper NPRM process as well?

**Mr Yates**—I believe that it is an NPRM for part 43.

**Senator O'BRIEN**—Following the standards consultative committee conference that took place on 8 May, I understand that AOPA and the helicopter association of Australia rejected the terms of the draft CASR 43. Can you tell me what was the basis of that rejection?

**Mr Yates**—No, I cannot. If I have the facts correctly, you are referring to the maintenance standards subcommittee of the standards consultative committee. I was unaware that the helicopter association and AOPA had expressed any difficulty with part 43.

**Senator O'BRIEN**—Can you check that and advise the committee, because it is obviously a significant development?

**Mr Yates**—Yes, certainly.

**Senator O'BRIEN**—Can you let me know if, as a result of that development, CASA is revisiting the terms of the draft?



**Mr Yates**—Certainly.

**Senator O'BRIEN**—And if it is not doing that, perhaps you can let me know why it is not doing that. Could you take me through what is described as the enforcement pyramid contained in the draft?

**Mr Yates**—In part 43?

**Senator O'BRIEN**—Yes, unless I have the wrong number.

**Mr Yates**—I was not aware, and nor would I expect from my understanding of the content of part 43, that such a thing would be in that document.

**Senator O'BRIEN**—I will check that and make sure that I have not given you the wrong number.

**Mr Yates**—There is a CASA part, part 13, which is going to deal with enforcement, but I am not aware that it contains the pyramid.

**Senator O'BRIEN**—I will not speculate or ask you to speculate. I will check that over the dinner break and we can return to it later.

In relation to the aviation fuel excise, and this might run over what we touched on before, but just for completeness, in response to question on notice 2213 from the shadow minister for transport, Mr Ferguson, the government advised that the estimated revenue from this excise for 1999-2000 was \$46.688 million for CASA. That figure was revised to \$48.688 million in the additional estimates. The actual revenue was \$56.256 million and the estimate for 2001-02 was \$57.259 million. Can you give me the actual revenue figure projection, or the latest revenue figure projection, for 2000-01?

**Mr Toller**—Do you mean for this current financial year, and what we anticipate our fuel excise to be for this year? Mr Comer may have that figure. I think we have to guess.

**Mr Comer**—Our original budget was \$54 million for excise and we are projecting a figure which will come in at around \$56 million. The figure we have in relation to the end of March showed that we had collected excise of about \$41.5 million versus a budget of \$41.8 million. It will probably be a figure in the range of \$54 million to \$56 million at the end of the financial year.

**Senator O'BRIEN**—As of February this year; you said \$57.259 million for this year, so you are revising that down.

**Mr Comer**—Yes, down slightly. In the last few months, there has been a slight downturn in the projected collections of excise.

**Senator O'BRIEN**—Can I go through the recommendations contained in the ANAO audit report, Mr Toller, and get you to give the committee some information on how far CASA has gone on implementing those recommendations?

**Mr Gemmell**—We follow up on that report and produce a quarterly report which is in its final stages of completion. When we have completed it in the next few days, we would be happy to give you a copy as it will give you a full update on where we are on each of the recommendations.

**Senator O'BRIEN**—I would appreciate that. If I can make sure that it is going to address what I want addressed: recommendation 1 required that, to ensure recent surveillance history is taken into account, the reissue of an AOC should be contingent on certain key designated

surveillance tasks being completed within six months prior to the issue of an AOC. Presumably you will be addressing when that system was, or is to be, put in place, and what key surveillance tasks have been put in place. Was that process followed in relation to Ansett in the lead up to the reissue of the Ansett AOC in December last year?

**Mr Gemmell**—That bit will not be in the report, but we will follow up on that. I will have a look to ensure that it is as detailed as you want and we will add a bit if necessary.

**Senator O'BRIEN**—That is fine. In relation to that particular matter, I want to know when the process was initiated, et cetera, in relation to Ansett and how that applied to Ansett in the circumstances. Recommendation 2(a) relates to viability checks. I want to know when CASA completed the development of performance information for monitoring the financial assessment process. I want to know if CASA had undertaken an evaluation of those performance information strategies and, if that work was done, when it was done and what was the result of the evaluation.

**Mr Gemmell**—That will not be in the report, so we will have to take that on notice and provide those answers.

**Senator O'BRIEN**—Recommendation 2(b) required a review of new passenger carrying AOC holders after the first two years of operation by comparing the actual performance with the forecasts. I understand that CASA supported that recommendation with a qualification. Can you tell me what that qualification was?

**Mr Toller**—Not off the top of my head, no.

**Mr Gemmell**—I can tell you the qualification and the reasons for it. Part (b) was agreed with qualifications. We indicated this would constitute a large increase in the workload of the small section that conducts financial evaluations. CASA has limited resources available and therefore CASA has applied the resource in accordance with established safety benefits. However, the financial stress is an integral part of the risk assessment model and can also be determined through the safety audit process, which requires operators to provide adequate resources to perform safely.

**Senator O'BRIEN**—Okay.

**CHAIR**—That is probably a reasonable point at which to take a well-earned tea break.

**Proceedings suspended from 6.29 p.m. to 7.35 p.m.**

**Senator O'BRIEN**—Thank you for the copy of the Sherman report. I have had a chance to have a quick look at it and it raises a couple of questions that I will come to later. Firstly, Mr Elder, I am told that you can help with the questions I asked about Mr Alan Rose regarding the matter I raised in February. We discussed the option for Mr Rose of issuing a system of maintenance authority, but there has been some problem in the communication between Mr Rose and CASA. What is happening with that application?

**Mr Elder**—After you raised it previously, I contacted Mr Rose, I contacted our field office, and then I had further discussions with Mr Rose. Unfortunately, again, he has been unable to provide the verification of his experience to demonstrate that he is entitled to get the ratings he is seeking. I asked for central office technical experts and specialists to review it, and they have confirmed that Mr Rose has been unable to provide the written evidence to prove that he can do this work. Unfortunately, they are major parts of the aircraft and engines and so, from a safety point of view, CASA is unable to issue the necessary approvals.

**Senator O'BRIEN**—Does he need to produce written proof?

**Mr Elder**—He needs to produce sufficient evidence that he has done this sort of work before to gain that approval, and he has been unable to do so.

**Senator O'BRIEN**—What form would that have needed to be in?

**Mr Elder**—I understand that he has to produce written documentation, probably from previous employers or LAMEs that he has worked with, to show that he has done this work. We have tried to guide him into the sort of material that would be helpful, but unfortunately he has been unable to produce it.

**Senator O'BRIEN**—I now finalise the ANAO report issue—on 2B. Since the new system was put in place, how many new operators have there been? When were those AOCs issued? Did you get all the financial data required by this recommendation when those AOCs were issued? In relation to C, have you given thorough consideration to an existing AOC when they have been reissued? How many high capacity and low capacity RPT AOCs have been issued since the report was released? What financial assessment process has been followed in the lead-up to the reissue of these AOCs?

**Mr Gemmell**—Are you asking for a generic answer?

**Senator O'BRIEN**—In each case, is there a process?

**Mr Gemmell**—You mean a generic process and whether we follow that process in each of those cases?

**Senator O'BRIEN**—In relation to recommendation 3 specifically, can you give me some detail on how CASA has undertaken regular analysis of the ASSP database to ensure that resources are allocated appropriately? What strategies are now in place to ensure a more appropriate distribution of resources between surveillance and regulatory activities? Some of that may be attended to with extra money, but you may want to add other matters on that point. How are you now allocating resources to areas and operators which present the greatest risk?

Can you give me some detail on how and when you implemented the terms of recommendation 4? I take it that that would be a routine matter in your quarterly updates. And for recommendation 6, I would like some advice on the project plan timeframes and performance outcomes, what they were and how you performed against them.

In relation to recommendation 7, have you documented all analytical processes in relevant manuals? What have you done to ensure that staff are given appropriate training, compared to earlier questions on training? In relation to recommendation 8, how many operators considered to have a significant history of non-compliance has CASA reviewed since January 2000 in line with recommendation 8? How many enforcement strategies specific to those operators have been put in place as a result of those reviews?

On recommendation 11, have you developed, and can you provide, a range of suitable performance measures, including annual comparative data, that will clearly indicate the results of the authority's major resource areas in monitoring aviation safety? Could you tell us what you have done in relation to the implementation of recommendations 12 and 13? Those are the matters I wanted to put on the record. Perhaps you can take them on notice. In relation to the matters dealt with in your quarterly updates, how many of them have there been since—

**Mr Gemmell**—I think there are three or four.

**Senator O'BRIEN**—It would be helpful if you could supply the committee with copies of those. Returning to the matter I mentioned at the start, as I said, what appears to be the Sherman report was boxed in the gallery some time this afternoon. I have been given a copy. It is dated 1 May; it is a very contemporaneous report. When was Mr Sherman asked to conduct the review?

**Mr Farquharson**—I cannot give you an exact date, but it would have been approximately a week to 10 days before that.

**Senator O'BRIEN**—So this is the product of that time period. Why is it addressed to you, Mr Farquharson? I thought it was a board initiated matter.

**Mr Farquharson**—I actually contacted Mr Sherman and set the matters out to him.

**Senator O'BRIEN**—In writing?

**Mr Farquharson**—Yes, in writing. If you read the report, you will see that four questions were asked.

**Senator O'BRIEN**—Yes, I can see that on the first page. In relation to the report, a passage on page 3 refers to the critical piece of evidence and what is alleged to have been Mr Toller's note left in the folder, attached by a forced hole in one of the rings. Mr Sherman says that:

It appears that the actual note cannot now be found. This is puzzling and perplexing because the note would have provided direct evidence of the DAS's state of mind when he wrote the note, assuming it can be authenticated.

Did head office ever have the note?

**Mr Farquharson**—Not that I am aware of, Senator.

**Senator O'BRIEN**—As I understand it, the chain of events indicates that Mr Toller was counselled in July, but the investigation commenced some time later.

**Mr Farquharson**—That is correct, Senator. The exact date escapes me, but it was in October of the year 2000 and it was some months after the event had been notified to Mr Foley.

**Senator O'BRIEN**—As I recall, there was acceptance at the time that counselling was appropriate.

**Mr Farquharson**—That would be the reading that I would have. It was an email exchange and it was accepted by Mr Foley.

**Senator O'BRIEN**—Yes. So Mr Toller was counselled; he accepted it; Mr Foley accepted the counselling; and Mr Sherman says:

In relation to the Brindabella incident, I believe the counselling that has already taken place is sufficient.

He does not say that it was inappropriate, does he?

**Mr Farquharson**—No, he states, I believe, that it was sufficient.

**Senator O'BRIEN**—I was interested to look at the passage from Mr Sherman about the matters of law that Mr Ilyk, and indeed others, gave evidence about this morning. The passage that I think deals with this—and I invite you to draw my attention to some other passage that deals with this—

**CHAIR**—Perhaps you could give the page number.

**Senator O'BRIEN**—It is page 14, and I will read it:

I am also of the view that there are difficulties with establishing a contravention of Regulation 282. Both CASA's Chief Counsel and the advice from CASA's external lawyer make the point that this Regulation is in terms of prohibiting the performance of duties or the exercise of functions for which a rating or other endorsement on a licence is required under the regulations. The relevant requirements are imposed under the Civil Aviation Act not the Regulations. This may seem a technical argument, but it is the sort of argument which might well find favour in criminal proceedings. I refer again to what Gibbs J said in *Beckworth's Case* in the passage quoted in the analysis of the Brindabella Incident (see page 6 above).

I am conscious of the contrary arguments put by the investigators on the question of contravention of CAR 282 (in particular, the views expressed by Mr Boys in his minute ... ) but on balance I consider those arguments are unlikely to prevail.

I would have thought that that is a conclusion that there is still some argument about 282.

**Mr Ilyk**—Until a court—

**Senator Ian Macdonald**—What is the question?

**Senator O'BRIEN**—I am putting that as a proposition, given that in my view it is contradictory in some ways to the strength of the evidence given by Mr Ilyk earlier, and I am inviting him to comment.

**Senator Ian Macdonald**—This is an advice by Mr Sherman, and I do not think that it is competent for anyone at this table to enter into a debate on the legal niceties of someone else's opinion.

**Senator O'BRIEN**—I thought that is what we were doing this morning.

**Senator Ian Macdonald**—This morning you had two officers here giving conflicting views or evidence. Now you are inviting comment on Mr Sherman's legal advice, which I do not think is relevant for an estimates committee dealing with the 2001-02 budget.

**Senator O'BRIEN**—I think, apart from anything else, Minister, this is an activity which led to the expenditure of, as yet, an unknown amount of money.

**Senator Ian Macdonald**—It is not relevant for an estimates committee to be entering into a debate on an opinion by a senior respected counsel. You may not accept what he says. That is fine; that is your choice. It is not up to officers here to start interpreting it, arguing it or giving an indication of what they might think. They asked this guy for his advice, and they have his advice and they have actioned it.

**CHAIR**—Senator O'Brien, surely the crux of the matter is that you raised this issue this morning in relation to comments made by the board's chairman, Dr Scully-Power. You will recall page 235 of his statement, which I read into the *Hansard* before lunch. He says:

The board and I are fully satisfied that the matters have been properly addressed and resolved, and that they have been handled in full conformance with corporate governance. So I think that puts an end to the matter and I would like to move on, because Mick Toller is a member of the board; he is doing an outstanding job.

So why are we revisiting something which is simply one more piece of advice in this issue which, by his own words, the chairman of the board has determined was 'handled in full conformance with corporate governance'?

**Senator O'BRIEN**—I wish you had been at the hearing to listen to his presentation and see what little credibility he attached to himself.

**CHAIR**—These are his words, Senator O'Brien.

**Senator O'BRIEN**—Yes, they are his words and you have read part of them. I invite you to read them all.

**CHAIR**—And he invokes the name of the board. Whatever he may have said in relation to himself, no board members have subsequently advised the committee that they disagree with that comment. Therefore, why are we revisiting what is essentially another legal opinion?

**Senator O'BRIEN**—Firstly, because the legal opinion has been circulated by the government this evening. It was not offered this morning when we were dealing with the matter, and I am completing the debate.

**CHAIR**—It was not 'not offered', Senator O'Brien.

**Senator O'BRIEN**—It was not offered. I asked for it.

**CHAIR**—Just a moment, as I recall, your request was taken on notice by either the minister or other people at the table, so it was denied to you. I would have thought you would be pleased at the efficiency with which it has been made available to you.

**Senator O'BRIEN**—What—to the press gallery and not to me? It was not given to me, Madam Chair; it was circulated in the press gallery. So if it can be made available to the press gallery, then I would have thought it would be an insult to this committee to say, 'We are going to take it on notice and consider it,' whilst contemplating and actually circulating it in the press gallery.

**CHAIR**—It was clearly considered for a couple of hours because it was not boxed in the press gallery until this afternoon. I go back to the point that I made; that is, that the board is fully satisfied that the matters have been properly addressed. I ask you again why we are revisiting what is essentially one of three or four legal opinions which were part of the final decision to move on.

**Senator O'BRIEN**—I thought this was supposed to be the critical decision and, having just received it and seeing that there is, there appears to me to be at least some difference between Mr Sherman's certainty about the regulations and Mr Ilyk's. I thought it was appropriate whilst that officer was before us to ask him whether that was a fair reading of the document.

**CHAIR**—Senator O'Brien, you have had the egg-beater on this issue all day and—

**Senator O'BRIEN**—Actually I have not.

**CHAIR**—I would ask you whether—

**Senator O'BRIEN**—Actually I have been here all day doing what I am supposed to do and, frankly, I do not appreciate interference being run by the chair on the matter.

**CHAIR**—I am not running interference, nor am I trying to interfere. I am simply asking you why we are revisiting this issue when the board have clearly made a decision and moved on.

**Senator O'BRIEN**—The board might have, but I have not quite finished with the issue.

**Senator Ian Macdonald**—You cannot, though, expect other officers to enter into a legal debate with you on an interpretation that counsel, engaged by the board to give his advice, has given.

**Senator O'BRIEN**—Are you directing the officer not to answer?

**Senator Ian Macdonald**—I am strongly suggesting to the officer that he should not. I do not know that it is in my power to direct him not to. If it were perhaps I would. This estimates committee is about the 2001-02 budget. This is something that has been trawled through. It is about an incident that occurred in the last finance year, not even the current one. We have had a fair crack at it. The chair has allowed you to revisit it tonight. Revisit as you will, disagree with it as you will, but do not ask the officers to enter into a legal debate on someone else's legal opinion. The officer gave his view this morning. I assume he is not going to change that.

**Senator O'BRIEN**—Do you want to add anything to your evidence this morning, Mr Ilyk?

**Mr Ilyk**—No.

**Senator O'BRIEN**—One issue that I thought was a matter of public interest was the reference in the report to the relevance of the timing of the CASA enforcement manual to the actions taken in relation to Brindabella incident.

**Senator Ian Macdonald**—Which report are you talking about?

**Senator O'BRIEN**—Mr Sherman's report.

**Senator Ian Macdonald**—This opinion?

**Senator O'BRIEN**—I thought it was a report. It might be an opinion. If that is the wrong word I am happy to call it an opinion.

**Senator Ian Macdonald**—It is just that I thought you must have been talking about something else.

**CHAIR**—I think it could be described as 'advice', since the first paragraph of Mr Sherman's letter makes it clear that he is advising CASA on four matters. So I think it is advice rather than an opinion or a report.

**Senator Ian Macdonald**—Nothing turns on that, Madam Chair; I just wondered whether Senator O'Brien was talking about some report that I was not aware of, but he was not. If it is this document, that is fine.

**Senator O'BRIEN**—I want to know whether there was any relevant change in the enforcement manual.

**Senator Ian Macdonald**—From when?

**Senator O'BRIEN**—From the time of the Brindabella incident to when the enforcement manual, as I understand it, was updated. I am just wondering what the relevance of the enforcement manual, that Mr Sherman refers to in his advice, is to the Brindabella incident.

**Mr Ilyk**—I am not aware to what Mr Sherman is referring. You would really need gauge that from him. There was an enforcement manual in force prior to that that had not been updated for a considerable amount of time. The new version was released on 23 February 2000. In terms of overall philosophy and process there was not a great deal of change. There were some changes in terms of the centralisation of the enforcement process and some of the

reporting points, but overall there was not a significant change in the manuals. I cannot help on you that, I am afraid.

**Senator O'BRIEN**—Mr Ilyk, what is the circumstance where Joe Citizen is cautioned and commits another offence? What does the enforcement manual say about that now?

**Mr Ilyk**—I will take that on notice.

**Senator O'BRIEN**—I am not sure to whom I should direct this question. Could the committee be advised why the investigation into the Brindabella incident was opened and conducted after Mr Toller had already been counselled? Was it because Mr Toller decided that he was not guilty?

**Mr Ilyk**—I think I can answer—

**CHAIR**—Senator O'Brien, do you think that is a reasonable question—

**Senator O'BRIEN**—I think it is.

**CHAIR**—to ask an officer subordinate to Mr Toller?

**Senator O'BRIEN**—I thought this officer had some knowledge of the purpose of the investigation. I did not specifically ask him. Any officer who can answer the question is invited to do so.

**CHAIR**—I cannot for the life of me see the relevance of asking that question of Mr Ilyk.

**Senator O'BRIEN**—That is not a matter for you, Madam Chair.

**CHAIR**—I hope it will be a matter for his reflection as well.

**Mr Ilyk**—I think that Mr Sherman's report actually deals with that issue, Senator O'Brien. The conclusion—or advice—is that, in Mr Sherman's view, that second investigation was taken for improper purposes. It was actually a response to criticisms made by the committee in relation to the Arcas report, and he felt that was inappropriate.

**Senator O'BRIEN**—So it is on page 6? Sorry, that is the wrong page.

**Mr Gemmell**—It is at the bottom of page 9.

**Senator O'BRIEN**—Can you remind me which particular report he is referring to? Do you know?

**Mr Ilyk**—I assume it is the matter in relation to Arcas.

**Senator O'BRIEN**—So that was the unanimous finding of this committee in relation to Arcas and the role of CASA in prosecutions?

**Mr Ilyk**—Yes.

**Senator O'BRIEN**—Have all the files come back from Mr Sherman, Mr Farquharson?

**Mr Farquharson**—Yes, both files came into my possession.

**Senator O'BRIEN**—Did you make inquiries about the location of the missing piece of evidence before—or after—receiving the Sherman advice?

**Mr Farquharson**—That matter had been addressed prior to the file coming to me in the first instance.

**Senator O'BRIEN**—Who addressed it?



**Mr Farquharson**—As I can see from the file, there was discussion in relation to questions asked of the area officer who conducted the investigation as to where that note was and whether it was still available, and the answer was no. Other than the information that appeared on the file, I have no indication as to where that note may have been.

**Senator O'BRIEN**—I suppose that is understandable. If it was missing before you got it many months later, it was hardly going to be found. What counselling was given to the officers involved about their role in collecting evidence? It appears that this advice is critical of CASA officers in terms of their role in collecting evidence and suggests that in some ways their conduct may have prejudiced the possibility of a successful prosecution.

**Mr Farquharson**—I am not sure whether, prior to my time, any direction was given. Certainly, I have not taken any action. My reading of the file is that there was sufficient discussion to make it clear to the officers in that office that the securing of evidence is of prime importance.

**Senator O'BRIEN**—I am not sure who should answer this. Maybe the minister will want to answer it. Is it appropriate for the apparent counselling of Mr Toller to have been incidental to a meeting between Mr McAlister and Mr Toller at the National Convention Centre in July 2000? Has that matter been commented upon within the organisation or by government?

**Senator Ian Macdonald**—I will refer that to the board. I think they would be the correct people to respond to that.

**Mr Toller**—In addition to the conversation in the National Convention Centre, Mr McAlister also visited me in my office. I cannot remember the exact date that happened, but it was shortly thereafter—within a day or two—to formalise that discussion.

**Senator O'BRIEN**—So I am unsure what the relevance of the meeting in the National Convention Centre was, but it was certainly cited in the advice. The passage on page 7 reads: The most damaging evidence against Mr Toller is his admission to Mr Foley that he had committed an offence. The only respect in which I differ from the views of the lawyers is the suggestion at folio 83 that statements of this kind are inadmissible as hearsay.

He then goes on:

My concern about this admission caused me to ask you on the telephone on 26 April ...

I presume that is you, Mr Farquharson?

**Mr Farquharson**—Yes.

**Senator O'BRIEN**—On 26 April?

**Mr Farquharson**—That would be about the date.

**Senator O'BRIEN**—It says that you advised Mr Foley to go on stress leave in October 2000. Was this at about the time of the investigation? Have I got the right year?

**Mr Farquharson**—No, Senator, I think he had initiated the investigation and shortly afterwards he went on leave.

**Senator O'BRIEN**—He talks about a degree of tension between Mr Foley and Mr Toller 'about this time': presumably he means October, or does he mean the time of the alleged admission?

**Mr Farquharson**—I believe that refers to about the time that Mr Foley initiated the investigation.

**Senator Ian Macdonald**—I have to add, Senator, that that is this officer's view of what is written there. The words stand for their own meaning, and your interpretation would be as good as the officer's or mine or anyone else's, I think.

**Senator O'BRIEN**—Mr Farquharson, you can tell me what you told Mr Sherman. I take it that that was simply what is recorded there and nothing more?

**Senator Ian Macdonald**—Told Mr Sherman about what?

**Senator O'BRIEN**—In relation to the passage I have just read:  
My concern about this admission caused me to ask you on the telephone—  
we have established that was Mr Farquharson—  
what was Mr Foley's status ...

**Senator Ian Macdonald**—Yes.

**Senator O'BRIEN**—Was Mr Foley's status the only aspect that was discussed with Mr Sherman? Was there a conversation about the relationship between Mr Foley and Mr Toller?

**Mr Farquharson**—Not to my recall. The discussion revolved around the fact that Mr Foley, subsequent to the ACAS matter, had moved, I believe at the director's request, from his former position as the assistant director to general manager of airline operations.

**Senator O'BRIEN**—That was all I wanted to ask about the Brindabella incident, having had a brief opportunity to look at this document. The passages referred to in relation to the Horn Island incident are obviously summaries of the evidence or extracts from the evidence provided in the files. Is that a fact?

**Senator Ian Macdonald**—Which summary are you talking about?

**Senator O'BRIEN**—There are several quotes, on pages 11, 12, 13 and on to page 14.

**Mr Farquharson**—I believe those come from statements made and recorded on the file.

**Senator O'BRIEN**—So they are parts of statements which are on the files?

**Mr Farquharson**—That is correct.

**Senator O'BRIEN**—The Horn Island investigation commenced on 3 November or 4 November, as I recall it from this morning. Correct me if I am wrong.

**Mr Farquharson**—I think it was fractionally later than that. I would have to confirm it, but I did not take up the position until around mid-November. I believe it was commissioned on 15 November.

**Senator O'BRIEN**—That is 10 or 12 days after CASA became aware of the allegation. There was a delay in commencing the investigation, even though there had been a meeting, I think on 3 November, involving Mr Ilyk, Mr Skehill, Mr Toller and Mr Harris. Was it held on 3 November, on 6 November or on some other date, Mr Ilyk?

**Mr Ilyk**—I have no recollection of the date at all. It would have been shortly after the hotline call.

**Senator O'BRIEN**—And five days after it commenced, Mr Toller was interviewed. Is there a reason for that?

**Mr Farquharson**—I am sorry?

**Senator O'BRIEN**—It took five days to interview Mr Toller after the investigation commenced, and that was 10 or 12 days after the incident was notified to CASA on the hotline.

**Mr Farquharson**—The sequence of interviews was driven by the officers who conducted the investigation. Some of the interviews were conducted in North Queensland and one or two in the Torres Strait. I do not attach anything to those times other than that that was when they were done.

**Senator O'BRIEN**—I am not asking you to attach anything to them. I am just asking if you know if there was a reason for the delay in the commencement of the investigation, and what could be said to be a significant period of time elapsing between the allegation being made and the interview with the person who was the subject of the allegation.

**Senator Ian Macdonald**—I think the officer just answered that.

**Senator O'BRIEN**—I think he invited me to make that comment. That is all I have to say in relation to that particular document at this stage.

**CHAIR**—Senator O'Brien, there are a couple of relevant sentences on page 16 that are worth recording in the *Hansard* in relation to the Sherman view and I would like to read them into the *Hansard*. The first one is Mr Sherman's answer to the question that he poses himself:

Do the conclusions reached, upon which the initial recommendations were based, accord both with CASA policy and the law? If not, why not?

Mr Sherman goes on to say:

I believe the conclusions reached were appropriate in the circumstances in terms of law and policy. The only exception to this is that more attention could have been given to the application of Regulation 228 at an earlier stage in relation to the Horn Island incident.

He then goes on to pose a second question to himself—

**Senator O'BRIEN**—No, they are posed; they are what he is asked to answer. If you read the first page, he is just answering the brief.

**CHAIR**—But he poses them in the context of these responses—

**Senator O'BRIEN**—That is what he is paid to do.

**CHAIR**—And, to put it in context, I am simply posing them. He goes on:

Having subjected the matters to the tests in the Commonwealth's Prosecution Policy, are there any grounds or circumstances that would warrant the matters being referred outside CASA?

His view is:

As already stated, I don't believe it is necessary to refer either of these matters to the DPP. The principles already identified assist in determining that question.

And he says:

Also it should be noted that in addition to myself the matters have been referred to two independent law firms who take substantially the same view of the relevant matters as I have.

I am pleased we can move on.

**Senator O'BRIEN**—For the moment. During the last hearings I asked some questions about the licensing requirements for aircraft operated by state police wings. I was given an answer on notice, CASA 04, in which you say that there were commercial related

requirements for these aircraft up until 1998 and that when CARs were enacted in that year relating to commercial operations, the commercial provisions relating to police were not included under aerial work in CAR206. Can you tell me what the rationale for this exclusion was?

**Mr Ilyk**—I missed that, Senator. Perhaps you could repeat the question, please.

**Senator O'BRIEN**—In the answer to question on notice CASA 04, you say that there were commercial related requirements for these aircraft up until 1998—I presume they were in the regulations—and when civil aviation regulations were enacted in 1998 relating to commercial operations, the commercial provisions relating to police were not included under aerial work in CAR206.

**Mr Ilyk**—I think that in fact that is a typographical error. It should be when the civil aviation regulations were enacted in 1988, not 1998. When the changes were moved from the air navigation regulations to the civil aviation regulations in 1988, those provisions were not replicated in the civil aviation regulations. I have no idea why that was; I was not there at the time. It is a matter for the department that was dealing with the creation of the CAA at that time.

**Senator O'BRIEN**—So there are no records you can go to which might help in that regard?

**Mr Ilyk**—I suspect there are records in the department. They would certainly not be in CASA. CASA was not created and the CAA was not created at the time.

**Senator O'BRIEN**—I presume there was an inheritance, but that may not be so. I guess I can ask if the department will advise why that was the case. There may be a good reason, there may not.

**Mr Yuile**—We will take it on notice.

**Senator O'BRIEN**—I want to ask about reduced vertical separation minima. Am I correct in saying that Airservices intended to introduce reduced vertical separation over Australia earlier this year and the airlines and other aircraft operators spent a considerable amount of their resources—money, probably—to equip their aircraft and train crews to fly in the airspace to be covered by RVSM?

**Mr Toller**—For the airlines I doubt if there was any cost in terms of the fitting of equipment, but there was certainly no training of crews required for RVSM. It is not a significant operational issue at all. It is an issue of training perhaps for Airservices, but not for the operators.

**Senator O'BRIEN**—So you do not think there was money spent equipping for this?

**Mr Toller**—I would have to take that one on notice, but the majority of the current modern fleet of aircraft would have all the necessary equipment for RVSM operations. There would be some of the older aircraft in very small operations and some of the charter aircraft that would certainly require it, and some of the private aircraft—some of the business jet type aircraft—would require some fitments, but the majority of the aircraft would already be fitted.

**Senator O'BRIEN**—It was proposed for introduction on 22 March and deferred until further notice a week before that. What was CASA's role in the decision to defer the introduction of the system?

**Mr Toller**—I do not believe it had any role in it. I believe it was purely an Airservices decision.

**Senator O'BRIEN**—I think that is all except for one question. We had a previous incident of loss of evidence in the Bob Murphy matter that was referred to the Ombudsman and we have obviously got similar circumstances here. I have asked for some response to what the authority is doing about equipping their officers to make sure that evidence is preserved and thereby potential actions are not prevented. I would like to know—given that there has been correspondence between the minister and the department about the Murphy matter—what actions CASA has taken and/or proposes to take in relation to the issue of preservation of evidence.

**Mr Toller**—We will take that one on notice.

**Senator O'BRIEN**—You are familiar with the Murphy matter, I am sure.

**Mr Toller**—Yes, we will take it on notice.

**CHAIR**—Senator O'Brien, before we move on to Airservices Australia, can I ask you whether you expect to be able to call the Transport Safety Bureau tonight?

**Senator O'BRIEN**—Yes.

**CHAIR**—That follows the Airservices Australia section. Otherwise we will advise those officers they will not be required this evening.

**Senator O'BRIEN**—I think there is a good chance, but I cannot guarantee it.

**Senator Ian Macdonald**—A good chance that you will want them? Okay, we will get them to stay in the hope that they can go home tonight—

**CHAIR**—We are all optimists, Minister.

**Senator Ian Macdonald**—and not have to come back and waste more time.

**Senator O'BRIEN**—You will be back tomorrow, I presume.

**CHAIR**—We can hardly contain ourselves. Could we call the officers from Airservices Australia. I thank Mr Toller and his team for a long day.

**Mr Toller**—Thank you.

[8.26 p.m.]

#### **Airservices Australia**

**Senator O'BRIEN**—The funding for the location specific pricing subsidy has been extended for another two years. It is in the PBS at page 33. We are advised in the budget papers that this subsidy will enable the provision of ATC services at a price the general industry can 'bear.' Does that mean that without the subsidy costs these charges would be unbearable?

**Mr Smith**—The cost of providing services at most of our general aviation airports, that is those outside the major capital cities, is above the revenue received.

**Senator O'BRIEN**—Yes, which is why you have the subsidy?

**Mr Smith**—That is correct, yes.

**Senator O'BRIEN**—Because it is location specific pricing?

**Mr Smith**—Yes. The cost is for that specific aerodrome, and it is generally driven by lack of throughput.

**Senator O'BRIEN**—Yes. Fixed costs and fewer aircraft events to spread the cost across.

**Mr Smith**—Correct.

**Senator O'BRIEN**—What you are saying in the PBS is that the level of charges which apply after the subsidy lowers those charges from actual location specific to the ones you are actually charging are set at a price that the general aviation industry can bear. Is it the case that charges at the higher level—that is without the subsidy—would be unbearable for the general aviation industry?

**Mr Smith**—That is a difficult question. That depends on the circumstances of the individuals involved. However, what I can say is that these prices have gone before the ACCC. The committee might note that these prices have been held flat now for the last three years. If my recollection is correct, we went before the ACCC, and it was they that agreed to the \$6.75 at the time. The current price is that plus GST.

**Senator O'BRIEN**—It is \$6.75 per tonne—

**Mr Smith**—Per landed tonne.

**Senator O'BRIEN**—Per landed tonne MTOW.

**Mr Smith**—Yes.

**Senator O'BRIEN**—In reality, at some ports, it would be more than double that rate, wouldn't it?

**Mr Smith**—In some ports it is three or four times that. The actual cost for one particular airport—I think we did the sums at one stage, and it does vary with throughput—was in the order of about \$32 per landed tonne.

**Senator O'BRIEN**—What is the charge level at KSA in Sydney—MTAW per tonne—

**Mr Smith**—It varies. I am informed that it is \$4.48, including GST.

**Senator O'BRIEN**—Does the \$6.75 include GST?

**Mr Smith**—No. The ACCC agreed to the \$6.75 charge, and the GST came in a year or so after that. I think it is \$7.42, including GST.

**Senator O'BRIEN**—What is the charge for Sydney without GST?

**Mr Smith**—It is \$4.07.

**Senator O'BRIEN**—I suppose these businesses will all claim their input credits back. Are you able to conduct an exercise to ascertain what the landing charge would be if network pricing applied?

**Mr Smith**—We have not done that calculation.

**Senator O'BRIEN**—Given that the subsidy will only be extended for another two years, what plans have Airservices made to ensure that air traffic control charges are bearable without the subsidy?

**Mr Smith**—We only received the information on the subsidy in the last week, and we have not yet looked into the stage after two years from now.

**Senator O'BRIEN**—If you were not certain that you were going to get it until the last week then I suppose that would have made it even more urgent for you to have done the work on what would happen without the subsidy.

**Mr Smith**—We had already conducted some work 12 or 18 months ago on this subject, and at that time we determined that some of those airports did not require, at first glance, a control tower. That would have meant going through a safety case and other reviews. In discussions with government they indicated that they felt it was better to leave the services at those airports, and the government determined that they were prepared to pay a subsidy to maintain those services.

**Senator O'BRIEN**—Which airports would lose control towers without the subsidy?

**Mr Smith**—It is not possible to give a firm answer to that question. One airport that we are still looking at in this regard is Archerfield, Queensland, because it is not protected by the subsidy. To provide the answer to your question we must first go through a cost-benefit analysis, which would tell us whether or not it passes or fails the cost-benefit test, and then we have to go through a fairly lengthy consultation process. If that stands up inasmuch as we should proceed, then the next step is quite a lengthy process of a safety case. It is not until after we have finished all of those activities that we can determine whether or not a control tower is required.

**Senator O'BRIEN**—In terms of the business transformation program, am I correct in saying that the business transformation process at Airservices is completed and that you are now working on growing your business to adding value services to customers?

**Mr Smith**—That is essentially correct. One of the outworkings of the business transformation program was that we required replacement of our IT system, and that program will take us a couple of years. So that is still ongoing. But, yes, the bulk of business transformation is complete. Through our business planning process, we have determined that we have reached a point where we should move on to value adding to our customers rather than try to continually reduce costs. There is always a trade-off of cost and benefit; we have determined that we have reached that point now and that it is time to add value to our customers rather than try to cut costs in our own books.

**Senator O'BRIEN**—Can you confirm that you are still looking at the option of outsourcing your engineering and technical services?

**Mr Smith**—Yes, I can confirm that.

**Senator O'BRIEN**—Are you actually market testing those services? Have you already done that work, or is that work that you plan to do?

**Mr Smith**—That is work that we propose doing. However, prior to that happening, we are going through a consultation process with unions, and that is not yet complete. So it is subject to that process.

**Senator O'BRIEN**—When you talk about growing the business, can you tell me where that growth will come from?

**Mr Smith**—Yes, I can give you an idea of it. We do have a marketing plan. Much of it is overseas. Some of it is onshore. We see possibilities in certain market segments, the first of which is consulting. We have earned some millions of dollars in revenue over the past few years from that activity, and that is as a result of our successes with the TAAATS program and the fact that similar equipment is being contemplated elsewhere and our expertise is being

sought. We also have a great deal of expertise in navigation aid installations and maintenance. I guess they are the primary market segments. There are others, but they are smaller in size. I should mention that training is another large opportunity for us.

**Senator O'BRIEN**—What about your engineering and technical services? Maintenance is one of the areas that you mentioned.

**Mr Smith**—Yes, that is what I was referring to.

**Senator O'BRIEN**—But you are looking to outsource those functions, are you not? What is the impact of outsourcing them if you think there is a potential to grow your business from them?

**Mr Smith**—What we are doing is seeking to market test our capabilities. Notwithstanding the offers that we would make to overseas customers, we cannot ignore the fact that we are a monopoly provider to our core customers. The only way to be sure that we have reached where we think we are—that is, an optimal cost position—is to market test it. Any other way—benchmarking or similar comparative processes—gives you an indication but is not infallible.

**Senator O'BRIEN**—I still cannot see how that does not give you a problem. It is a tension, admittedly, but if you believe that there is a potential to grow the business, why would you cut yourself off from it?

**Mr Smith**—We are not cutting ourselves off from anything. This is not a tendering process. This is a request for a proposal. It is market testing. It is saying to people, 'What would you charge us? What are your prices?' It costs us nothing, relatively speaking, to ask for prices from the marketplace and service levels. But it does tell us where we are. Our intention is that, if there were a significant delta, discrepancy, in some of our areas between the market and ourselves, we would then consider whether to go to a tendering process. All we are doing for the time being is market testing, that is, asking people what sorts of charges they would levy in a similar circumstance were they the supplier and, of course, against what services levels, et cetera.

**Senator O'BRIEN**—On another matter, how many executive managers does Airservices have within the organisation?

**Mr Smith**—There are six in the executive itself—five plus me.

**Senator O'BRIEN**—Are they all on some form of individual contract?

**Mr Smith**—They are.

**Senator O'BRIEN**—How many of the individual contracts have increased in value since 1 January 2000?

**Mr Smith**—The current positions have only been created for the last four or five months. I could not give you a direct comparison, because the nature of the jobs has changed. For instance, the position of chief financial officer has been combined with the corporate activities. Once a job is changed, we look at a new size and the value can go up or down, depending on whether things have been taken away or not.

**Senator O'BRIEN**—How many executive managers did you have before this restructure?

**Mr Smith**—The same number, I believe. My colleague Tom Grant has pointed out that the previous chief executive had a different structure from that which I have, and that is quite



true. I could draw that structure off the top of my head; I would have to do that and count it. There are about the same number, give or take one, I think.

**Senator O'BRIEN**—Has there been any significant change in the cost of engagement of the salary packages combined, if you want to put it that way, of the executive managers within the organisation?

**Mr Smith**—No, we used the same methodology prior to this structure as we do now. We go to experts in this field, give them the details of the job and have the job sized and packaged. So, no, there is no significant change.

**Senator O'BRIEN**—What sort of organisation is used as a benchmark for Airservices for the purposes of assessing what structure should be set for Airservices salary? What are you pitched at?

**Mr Smith**—We go to people who are experts in this. I can recall the name of one company. There are two that can be used; we use one of them.

**Senator O'BRIEN**—I am not asking you for the name of the company that has given you the advice. I am assuming that one of those companies looks, on a comparative basis, to salaries for similar jobs in a similar strata of business. Is that how it is conducted?

**Mr Smith**—What I was getting to is that, yes, we go to the experts; they go out and look at a range of companies who they believe are in the same sort of situation.

**Senator O'BRIEN**—So I am asking what sort of companies your salaries are pitched at.

**Mr Smith**—I would have to ask Mr Grant to join us. He has gone through that detail.

**Mr Grant**—We use Mercer Cullen Egan Dell; they have one of the largest databases in Australia. They work out the job value of our positions based on extensive interviews with the CEO and the various managers.

**Senator O'BRIEN**—I know how they work; I have had something to do with Cullen Egan Dell, although not in their current form.

**Mr Grant**—They then take jobs of equivalent job value in their database. There will be some jobs that are relatively common. For example, chief financial officer is a job that you will find in many companies, whereas head of air traffic control is probably something you do not find in many companies. So you basically use the jobs that are common to benchmark yourself within the industry with the total database and then you apply that information to the whole of the executive team, including the unique jobs, to establish the value of those jobs.

**Senator O'BRIEN**—And you get relativity packages and you negotiate within bands: is that right?

**Mr Grant**—They give us a band, that is correct. In terms of where we pitch ourselves in the market, we pitch ourselves at the median of the market.

**Senator O'BRIEN**—Has Mercer Cullen Egan Dell identified particular companies and business sectors that they have pitched your salary range at?

**Mr Grant**—It is virtually their whole database. They take the equivalent jobs in terms of job value within their database.

**Senator O'BRIEN**—So the head of Airservices is compared with the head of BHP?

**Mr Grant**—I would not say that they are equivalent jobs.

**Senator O'BRIEN**—No, I do not know either. My understanding is that they would pitch you at a set of businesses with similar dynamics.

**Mr Grant**—I do not think that is correct. What they do is look at the content of the job, which is made up of a number of things; for example, the budget of the organisation, the number of staff and the responsibility levels. All of those things are different in different companies. They do not try to find other companies that have an identical set to ours. They actually segment the jobs and use the whole database to give them feedback on what those particular attributes are worth. That way you do not have to find another company that looks like Airservices, because you use the inherent data in the database to build up a picture of what the jobs in Airservices are worth. In their database there could be 30 or 40 public sector organisations and several hundred private sector organisations, and they do differentiate because of the nature of those jobs.

**Senator O'BRIEN**—Yes, I understand that they might differentiate because of the nature of jobs, but across the private sector, and probably less so in the public sector, there would be extreme differentiation in salary levels.

**Mr Grant**—Certainly, but when you have got a database—

**Senator O'BRIEN**—Some would be related to possibly the extreme profitability of a particular group of businesses, and some might be totally inexplicable, for want of better terminology.

**Mr Grant**—But when you have got a large database of several thousand companies, you even out those anomalies that might be in there, and you actually get to what the particular attributes of the jobs are worth. That is the theory behind the approach that they adopt.

**Mr Smith**—Senator, I think also that those organisations look at a number of weighting factors in their determination. One is the number of employees, I would presume. Another would be profit/non-profit.

**Senator O'BRIEN**—Yes, that is what I was aiming at—whether there was a group of companies that you had been pitched at in terms of saying, 'Well, here are some relevant sources of data with which Airservices as a business can be compared.'

**Mr Smith**—That is true, but they have to make judgments within that. Some companies can have thousands of people on their books, but there is no direct responsibility: they are under a contracting arrangement. I should point out that we also have a board remuneration committee, so this is not simply a matter of Mr Grant getting information from this organisation and making a decision. He comes to me, I have a look at that and do a sanity check on it. I then have to take it to the board. We have a one-over-one governance rule, which means that I cannot make the decision for the people below me; it has got to go one above me, and so on through the system. So I believe that we have pretty good governance.

**Senator O'BRIEN**—What sort of average salary package applies to the executive managers? I am not asking for individual figures, just for an average.

**Mr Grant**—I would prefer to answer that by referring you to the annual report. Under department of finance rules, we report within the salary ranges that companies report on. I do not actually have an annual report with me, but if you check the last annual report I think you will find the information you are after.

**Senator O'BRIEN**—The last annual report will not have the current salaries in it.

**Mr Grant**—It will have last year's salaries.

**Senator O'BRIEN**—You have just restructured.

**Mr Grant**—But this year's annual report will have that information for you.

**Senator O'BRIEN**—In September.

**Mr Grant**—I am afraid I do not have that information.

**Senator O'BRIEN**—It has not been done?

**Mr Grant**—No, we do that when the financials are put together.

**Senator O'BRIEN**—What is the problem with an average? I am not asking for any individual to be identified.

**Mr Grant**—I do not think you are going to find that it is very different from last time, but I guess we could take that on notice. I just do not have that information with me.

**Senator O'BRIEN**—I am happy for you to provide that information if you do not have it with you. You could probably do it pretty quickly, I would imagine. How many middle management staff are on contracts?

**Mr Grant**—About 210, roughly. I think we might have provided that information in answer to a parliamentary question from you last year. It is of about the same order.

**Senator O'BRIEN**—I thought it was 180, but maybe I have got it wrong. Presumably their salary structure is set in the same way?

**Mr Grant**—It is not the same as it is for the executive managers. The terms of the contracts are broadly similar and we use the same work value approach, but the performance pay is determined in a different way. It depends on the level.

**Senator O'BRIEN**—Can you explain how the performance pay is determined in each case?

**Mr Grant**—In terms of the most senior managers—not just the executive but a group of probably 40 or 50 managers at the top end—there is a certain performance pay allocation. Each manager sits down with their supervisor and determines a performance agreement; at the end of the year an assessment is made of how they went against that. The executive managers, for example, would sit down with the CEO and go through that performance appraisal, and their bonus would be determined on the basis of that performance appraisal. That is a dollar amount. For the more junior managers it is based on a range of percentages. So there are larger bonuses at the top end than there are at the bottom end of the structure.

**Senator O'BRIEN**—What is the range of bonuses available? From zero, obviously, to—

**Mr Grant**—In percentage terms, around 22½ per cent would be the top of the range.

**Senator O'BRIEN**—What does that mean in dollar terms? It is a pretty meaningless figure without dollars.

**Mr Grant**—I would have to take a look at that, Senator.

**Senator O'BRIEN**—Do you mean that you do not know?

**Mr Grant**—I am not privy to all of the salary information of my peers. I am certainly privy to that information for the people in the levels below me, but I would have to go and look at the file to establish the information that you are after.

**Senator O'BRIEN**—You know that it is 22 per cent. Is a figure struck somewhere that you have seen?

**Mr Grant**—Yes, that is the structure that we have.

**Senator O'BRIEN**—That is common at the top level, is it?

**Mr Grant**—For the senior managers, yes.

**Senator O'BRIEN**—What is the maximum available at the next level down?

**Mr Grant**—There are some that range up to 15 per cent. As for the most junior managers, some have bonuses that are in the order of about seven per cent, at the maximum. They range from zero to about seven, so it does depend on where you are in the structure.

**Senator O'BRIEN**—What is the justification for having a higher proportionate bonus available at the top end of the scale factored against what I assume is a higher salary than is available lower down the scale on what I assume is a lower salary level?

**Mr Grant**—It is basically in line with the advice we received from Mercer Cullen Egan Dell.

**Senator O'BRIEN**—Is their advice that that is how bonus schemes operate across industry?

**Mr Grant**—I think you would find that would be the case, yes.

**Senator O'BRIEN**—It does not seem very equitable.

**Mr Grant**—I am not sure that it is designed to be equitable. It is designed to be an incentive. It relates to the responsibility of those people. You have got to consider it as at risk money. You may be considering it as a top-up amount of money, but it is actually at risk money. So you could argue that it is probably less equitable than it is for people who have less money at risk.

**Senator O'BRIEN**—That is an interesting proposition. I do not think you would want to put that one to a vote amongst the people who are on seven per cent.

**Mr Grant**—I suggest to you that the fact that a bonus of 22 per cent is available for one class as against a bonus of seven per cent for another outweighs the question of whether you are going to miss out on 22 per cent if you fail to perform, and that somehow that is less equitable than missing out on seven per cent if you fail to perform.

**Mr Smith**—Perhaps I could comment there, because I have had the advantage of working in a number of private companies. I do believe it is a very sensible way to function. Bonuses are set at a level that encourages the performance that is required and reflect the ability of the person concerned to effect the outcomes. It is not always necessarily related to status in the company. It often follows that course but, as an example, some very junior sales people that I have had working for me in the past have earned bonuses of 50 per cent and 60 per cent because we have remunerated them in a way that incentivates them to really get out there and sell.

**Senator O'BRIEN**—They do not get much money if they do not sell in all of those cases.

**Mr Smith**—Exactly.

**Senator O'BRIEN**—But that is not the case at the top of the executive pile at Airservices, I suggest.

**Mr Smith**—No, it is not, but what Tom has said is quite valid; that is, Mercer Cullen Egan Dell say, 'We think the package ought to be this much for this individual.' We then say, 'That is fine, but we require you to put 22½ per cent of that at risk.' The same methodology might

be used for somebody further down the scale, but less is put at risk, so they are more certain of earning a greater proportion of their salary than somebody at the higher level is. Admittedly, the dollar figure is higher at the higher level, but there is a greater percentage of risk. I think it is much more beneficial to people who are on a lower risk element.

**Senator O'BRIEN**—Your salary package is worth 100 per cent and you are actually paid that less a percentage, which is your potential bonus. Is that how it works?

**Mr Smith**—Yes. You are paid your package less a number of things, one of which is the bonus element and another of which is the cost of your motor vehicle, including fringe benefits tax.

**Senator O'BRIEN**—And your super and things like that?

**Mr Smith**—Yes, and then there is the cash component, which is way down here. And I liked your reference to BHP, Senator; I am encouraged.

**Senator O'BRIEN**—I am sure you did. However, I do not want to be seen to be encouraging you to a view that that was a reasonable salary level

**Proceedings suspended from 9 p.m. to 9.21 p.m.**

**Senator O'BRIEN**—Mr Smith, in December last year you were reported as saying that the aviation sector would save at least \$28 million in en routed air traffic control costs this calendar year, and that there would be savings of \$18.5 million in the six months to June and a further \$9.5 million in the following six-month period. Are you on track to achieve those savings?

**Mr Smith**—Yes.

**Senator O'BRIEN**—Can you tell us how you have gone about achieving those savings?

**Mr Smith**—It is a combination of three factors: good cost control; growth that was beyond our expectations—international in particular was higher; and reasonably solid growth in our external revenue that I alluded to earlier, the new business.

**Senator O'BRIEN**—I can understand the effect of spreading the costs across a greater number of landings and take-offs, et cetera. What proportion of your savings arise out of that?

**Mr Smith**—We have approached it from another perspective. I cannot give you a definitive answer to that now. We have said, 'There are our costs, and we have contained them. We have done a bit better than we had anticipated, therefore any additional revenue is either pure profit or should be returned to our customers.' We negotiated with the department of finance a rate of return that was the expectation of the government and returned the balance of that additional growth to our customers in the form of price reductions.

**Senator O'BRIEN**—I turn to your business transformation process. In your recently published *Annual Review 2000*, you indicated that Airservices had all but completed the business transformation project begun in 1997. Has it been completed now?

**Mr Smith**—I did allude to that earlier in terms of the IT program yet to be finished.

**Senator O'BRIEN**—I take it then that there is an intention to have a post-implementation review when you have completed that aspect?

**Mr Smith**—We have not looked at a post-implementation review as being a necessity as this point in time. It was a business activity that we undertook and the measure of success or

otherwise is whether or not we hit our targets, and we have—in fact, we have exceeded our targets.

**Senator O'BRIEN**—Do you know how much has been spent on the project to date?

**Mr Smith**—Yes, it is in the order of \$8 million.

**Senator O'BRIEN**—Is that all in-house or do you have consultants?

**Mr Smith**—No, that is the external expenditure—\$8.576 million. That is, of course, to achieve in the context of ongoing savings of \$140 million per annum.

**Senator O'BRIEN**—With such significant expenditure, why wouldn't a post-implementation review be warranted?

**Mr Smith**—Because the measure of success is whether or not we have hit our targets. We said that we will spend a certain amount of money—and we budgeted for that—to achieve cost reductions in terms of cost versus price. Price reductions are \$140 million; cost reductions are of \$100 million per annum. In fact, we projected a little less than that. We have overachieved. Therefore to do a PIR—a post-implementation review—would be superfluous.

**Senator O'BRIEN**—What has been the effect on your number of jobs?

**Mr Smith**—The number of jobs has come down to about 2,900. It is a little under that.

**Senator O'BRIEN**—How much of the saving is attributable to reduced staff?

**Mr Smith**—A significant percentage. I cannot give you a fixed percentage but it is a very high percentage of it.

**Senator O'BRIEN**—In terms of performance and other issues, wouldn't that be one area that you might want to review? Achieving your numbers might be one positive aspect but there may be other aspects that you would want to be aware of.

**Mr Smith**—We look at our KPIs on a regular monthly basis and we have gone to the balanced scorecard methodology. The concept there is to balance the business results against the other performance indicators, the key one of which for us is safety. That is measured also on a monthly basis. We can tell you accurately where our statistics are heading in terms of safety, and they are heading in the right direction. There has been a noteworthy improvement in a number of measures. I believe that to conduct a PIR would only confirm what we know by looking at these results month after month after month. Quite frankly, I would rather put our resources into something that will add value to our organisation and to our customers.

**Senator O'BRIEN**—Time will tell. Over the next three years the same annual review lays out a number of planned changes. I note you expect staff numbers to stabilise at around the level you just mentioned.

**Mr Smith**—That is correct.

**Senator O'BRIEN**—Are there any particular areas of skills that have been removed from the organisation?

**Mr Smith**—I would have to think about that. Obviously, when people leave an organisation you lose corporate memory and experience. We have lost a whole set of experienced people in the flight service offices, for instance, but their skills have been replaced by technology, and the new process is working very well. We have lost some good people but, as always, that is balanced by giving opportunities to other good people who have risen to the occasion. I am very pleased with the results we are achieving.

**Senator O'BRIEN**—A further stated outcome over the next three years is that prices will reduce overall by more than 20 per cent in real terms.

**Mr Smith**—No, that is what we have achieved to date. We have reduced prices by over 25 per cent in real terms.

**Senator O'BRIEN**—That is what your document *Annual Review 2000* says on page ix in the fifth dot point, in the second lot of dot points in the first column.

**Mr Smith**—Senator, you have got me; I do not have the document with me. I will have a look at that. Mr Grant is saying that we had a five-year target of 20 per cent plus and we have achieved that early, within 2½ years. That could be what it is referring to. I would have to read the context.

**Senator O'BRIEN**—It might be. I am happy to accept your explanation. I did not expect you to say, 'No, that wasn't what the document said,' but that is how I interpreted your comment.

**Mr Smith**—I am questioning the context. It could be the five-year issue. I am saying that we do not have plans for price reductions of 20-plus per cent over the next couple of years.

**Senator O'BRIEN**—So the reduced charges to industries, such as they are, have declined as much as they will decline over the three year period?

**Mr Smith**—Basically that is correct. We are saying that we have gone through a great deal of hard work and pain to get to the cost level that we are at. We think that we have reached about the right position. Our focus is now moving on from reducing costs to adding that value to our customers that I talked about earlier. That is not just a set of words; that is a very real aim. We have already started this work through Mr Fleming and his people. Our intention is to say to our customers, 'What can we do for you that we aren't doing now that you'd like us to do that will add value in your books rather than in our books?' They might be things that improve fuel efficiency or reduce fuel burn or reduce taxiing time and those sorts of things. They might be the provision of data that can help organisations to better manage their own affairs.

**Senator O'BRIEN**—I see in the Airservices Australia annual review document at page 24 that your staff numbers fell by over 782 in the year to 30 June 2000. What proportion of your charge reduction regime is attributable to that staff reduction?

**Mr Smith**—We would have to do that calculation. It is a mix of revenue growth and cost reduction and I could not give you exact figures for that particular frame of time.

**Senator O'BRIEN**—So staff numbers have declined by over 1,000 since 30 June 1999?

**Mr Smith**—That is correct.

**Senator O'BRIEN**—Which would mean a reduction in staff numbers of over 25 per cent in that period. Have they enabled you to cut charges by about 20 per cent with other things?

**Mr Smith**—In combination with other things, yes.

**Senator O'BRIEN**—How has that affected your overall salary bill? What has been the real reduction in your salary bill over the same period?

**Mr Grant**—There is actually not a very significant reduction in the salary bill because the certified agreement pay increases each year tend to be quite significant. I would like to take it on notice, but I think you would find that there is not a massive drop in the salary bill.

**Senator O'BRIEN**—I did say 'real'.

**Mr Grant**—Even in real terms, because inflation has been quite low during that period, it is certainly not a 25 per cent reduction. There is probably a less than 10 per cent reduction in the salary bill in real terms, but I would like to take that on notice.

**Senator O'BRIEN**—Something like 90 per cent of the staff are on certified agreements, aren't they?

**Mr Grant**—Yes, it would be a very large proportion. They have been receiving four per cent, plus a productivity payment as well, which this year, for example, is an additional three per cent.

**Senator O'BRIEN**—So it is about seven per cent this year?

**Mr Grant**—Actually this year was different from the other two years. In the first two years—

**Senator O'BRIEN**—Could you set that out for me, on notice, please? We can fiddle about on this and not really get anywhere.

**Mr Grant**—Yes.

**Senator O'BRIEN**—Airservices Australia provided a report to the industry on 1 May on its performance, and I want to ask some questions about that. On 'Environment' in the second dot point you say:

An air traffic services environmental standard was developed, to enable the business risk assessment of flight path changes. This standard is believed to be a world first.

What information can you provide on this particular document?

**Mr Smith**—I do not recall that we developed a standard.

**Senator O'BRIEN**—No, I did not say you did. It says, 'An air traffic services environmental standard was developed.'

**Mr Smith**—I think that is AS 2021. I do not have the full details on that, but I do know that is an Australian standard which is, through the department, being updated to include some new parameters. It is not something that we have driven ourselves, if that is what you are referring to.

**Senator O'BRIEN**—The question is: what were you referring to?

**Mr Smith**—I would have to look at the context of the document you have. I am not sure.

**Senator O'BRIEN**—I think it was on page 8.

**Mr Smith**—Page 8 of what?

**Senator O'BRIEN**—Page 8 of the document under the heading 'Environment'.

**Mr Smith**—That is our marketing document. I do not have that with me.

**Senator O'BRIEN**—In relation to new customers and markets, in the final dot point you say:

The consultation phase for a user pays charging framework for Defence and Airservices was concluded and a draft report has been submitted to the Ministers for Transport and Regional Services and Defence for consideration.



What was involved in this, who is going to be charged for what, and what level of revenue is expected by Airservices? Alternatively, what level of payments do Airservices expect to pay?

**Mr Smith**—The consultation was carried out in the areas that are primarily affected by this. They are areas where the military currently carry out the air traffic control responsibilities.

**Senator O'BRIEN**—Isn't that at two bases?

**Mr Smith**—That is at Darwin, Townsville and Williamtown. The intent is to allow us to move on in the future to remove the concerns about charges when we are considering airspace changes. Just to enlarge on that a little bit: the idea is that aircraft travelling through military airspace would pay for air traffic control services to the military as they do to Airservices in other areas. Equally, the military would pay Airservices for the services that we provide to military aircraft through the space in which we provide those services. I could only give you estimates off the top of my head at the moment, unless someone has the figures with them. The benefits to Airservices are not great. It is in the order of hundreds of thousands of dollars, probably around \$400,000 or \$500,000, I think. The military actually end up a net beneficiary out of this and the airlines, primarily those who pay en-route charges, are in net terms worse off. But of course they gain the benefit back to a large degree from the Airservices component, which goes into the price considerations.

**Senator O'BRIEN**—Is there any intent to consult with the private sector airline operators about this?

**Mr Smith**—That consultation has been carried out.

**Senator O'BRIEN**—What is their view?

**Mr Smith**—Mixed. Basically, people who are not paying for a service at the moment and who will be required to pay are not overly enthused about it. But most of them are fairly pragmatic and say they accept that that is the way the world is going, and they will have to be part of it. Some object strongly, but at least they all understand why, how, when and where.

**Senator O'BRIEN**—What is the Northern Territory government's view on the matter?

**Mr Smith**—I would have to seek advice from the people who went up and consulted in that area. We did meet with the stakeholders generally up there through the RAPAC committee. I am not sure whether the NT government was part of that consultation.

**Senator O'BRIEN**—It would seem to me that that would be the key area for cost implications.

**Mr Smith**—The NT government do not pay any charges to Airservices.

**Senator O'BRIEN**—No, but the tourism sector would be the most affected, and that is a significant sector for the Northern Territory, I would have thought.

**Mr Smith**—We went to all the operators concerned up there and we discussed the changes with them.

**Senator O'BRIEN**—Could you take that on notice and let me know whether you did actually consult with the Northern Territory government?

**Mr Smith**—Yes.

**Senator O'BRIEN**—Under the heading 'Employees', the second and fourth dot points mention a leadership development program for contract managers and a performance

enhancement system for contract managers. What do you mean by ‘contract managers’—is that managers on contracts or people who manage contracts?

**Mr Smith**—No, managers who are employed under a contract.

**Senator O’BRIEN**—There are no plans worth speaking of regarding other employees, training-wise?

**Mr Smith**—Yes, there are a number of plans for training in the organisation. The activity to which you are referring there is one that came out of the business transformation process which recognised that, as we go forward into a more commercial world, we need to have the skills amongst our managers necessary to adequately cope in that world, and this addresses that particular need as distinct from the other training needs that we have throughout the organisation.

**Senator O’BRIEN**—The report says you conducted an organisation-wide employee opinion survey in October 2000. Were those results published?

**Mr Smith**—Yes.

**Senator O’BRIEN**—Are they publicly available?

**Mr Smith**—We published them to our employees—we published them on the Intranet.

**Senator O’BRIEN**—Could we have a copy of that, please?

**Mr Smith**—Yes.

**Senator O’BRIEN**—Has any follow-up of the survey been conducted? Are there any matters in the survey that required follow-up?

**Mr Smith**—Yes, a number.

**Mr Grant**—Each manager has held briefing sessions with their employees to go through the results. The results were actually segmented by group, division, branch—that sort of thing—to enable face-to-face discussions. Whilst they may not have occurred everywhere, I think they have been completed throughout a large part of the organisation.

**Senator O’BRIEN**—Under the heading ‘Employees’, the document says:

A network of equity and diversity champions was established. The champions, including representatives of the Executive, encourage and support equity and diversity practices.

How is the organisation going on this front? Do you still provide a report to the minister or parliament on equity and diversity?

**Mr Fleming**—I am the actual sponsor of the equity and diversity program. Yes, we do provide a program to the minister. There is a new program due this June. The previous one was over the past three years.

**Senator O’BRIEN**—Is there a current active plan?

**Mr Fleming**—Yes, there is.

**Senator O’BRIEN**—Does the board receive a progress report on that?

**Mr Smith**—No, I do not think it is provided to the board.

**Mr Fleming**—I do not think we provide it to the board. I would need to check on that.

**Senator O’BRIEN**—Is it a document that can be supplied to this committee?

**Mr Fleming**—Yes, it is.

**Mr Smith**—It is also an issue that is discussed fully at our national consultative council.

**Senator O'BRIEN**—What are the latest details of gender breakdown by salary strata—is that the sort of document that is published for supply to the minister? It is not salary, by—

**Mr Grant**—We do it by discipline, if you like. Unfortunately, I do not have the figures with me tonight, but we can certainly provide those.

**Senator O'BRIEN**—Is the list of equity and diversity champions an extensive one?

**Mr Fleming**—No, it is not. It is really designed to be a fairly smallish group of key people in the organisation who can promote the principles of equity and diversity and have influence throughout the whole organisation. We are in the process of refreshing that group of people at the moment. I think it is about eight or nine people, but they tend to be in positions where they can really influence what we do within the organisation; they tend to be in the senior manager realm.

**Senator O'BRIEN**—That, by necessity, means they are not very widely distributed and not necessarily in contact.

**Mr Fleming**—We try to make sure that they are distributed across the workforce as far as we can, certainly in the major centres, and try to get people, as I say, who can influence our practices across the whole organisation.

**Senator O'BRIEN**—In relation to new pilot briefing procedures, I asked CASA about the answer to question on notice 3230 regarding the safety case relating to new pilot briefing procedures, and in that answer you advised that you had forwarded the safety case to CASA on 16 November last year. CASA says that they have responded—quite promptly actually—which is a request for further information.

**Mr Smith**—Yes, there was a request sent by CASA to us.

**Senator O'BRIEN**—Six months ago.

**Mr Smith**—Yes, and we responded within a day or so.

**Senator O'BRIEN**—That is not the impression they gave me today. Could you supply the exchange of correspondence? I was very definitely told today that they had not heard from you.

**Mr Smith**—I think I have a copy of the letter here. We sent this 'safety case part B technical', which I think was what was required by CASA, on 29 November.

**Senator O'BRIEN**—I suppose we have a problem in that CASA were very clear in their evidence that they have not received anything back from you. They have had no response. I take it that it has not been followed up in any other way and therefore you did not know that they had not received your document.

**Mr Smith**—I am a bit confused about that. In addition to this, we wrote through our director of safety, David Adams, on 15 May—

**Senator O'BRIEN**—That is quite recently, yes.

**Mr Smith**—and said, 'Is there anything further you want?'

**Senator O'BRIEN**—So you followed it up recently?

**Mr Smith**—That is right, because we wanted to bring closure to the whole thing.

**Senator O'BRIEN**—Unless I am mistaken—and I do not think I am—that is the state of play with regard to the evidence CASA has given to this committee about this matter.

**Mr Smith**—I am sorry, I cannot explain that.

**Senator O'BRIEN**—You may not be able to help, as I am telling you something that you did not know. But I am quite clear in my recollection, and provided there is not some slightly different matter that we are confused on, they were indicating that they had responded in November and had not heard from you. There is a bit of a difficulty there. What are the outstanding issues that require resolution before the safety case can be closed off?

**Mr Smith**—We are not aware of any issues. We did write to CASA and ask them whether there were any issues. That is what this letter of 15 May is about. We have not had a reply to that letter at this point in time.

**Senator O'BRIEN**—They say they wrote to you in about November asking for a response on certain matters, and you say you have responded to that.

**Mr Smith**—That is right.

**Senator O'BRIEN**—Could you supply us with copies of that exchange of correspondence?

**Mr Smith**—Yes, we have them here.

**Senator O'BRIEN**—You advised me that there were two hazard analysis workshops held in 1999 and that 22,000 pilots, aviation firms and interest groups were invited to inspect and provide feedback on the results of the workshop to identify any other problems. Did you get any feedback and, if you did, how much?

**Mr Smith**—I will ask Mr Deavin to respond to that.

**Mr Deavin**—We did put out the invitation to about 22,000 people, as I recall. I seem to think the response rate was extremely low. I do not recall what those numbers were precisely, but it was not a great deal. That became an iterative process as the project moved forward and as other matters were unearthed.

**Senator O'BRIEN**—You say in the answer to the question on notice that you were 'encouraged by the wide industry acceptance to date of the new charging proposal'. I take it you are interpreting what might be called an uninterested response as acceptance?

**Mr Deavin**—No, not quite, if I have understood your question. We have gone back and done a post-implementation review, given the level of interest in this matter that was going on. What we are encouraged about is the things we set out to do in terms of the changes to user behaviour to move people across to very simple to use electronic access through NAIPS pilot access and the Internet. We have seen growth in that area, understandably, and a decline in more traditional areas such as the fax-out. So we are encouraged by that. We believe that the figures are showing a good sign that there are more people entering the system. We expect that will taper off at some point as people become more familiar with it but, because of the nature of the way that people can get into it, we believe that is the case.

**Senator O'BRIEN**—Is there any way in which you can identify areas where support varies between, say, high capacity RPT, low capacity RPT, charter and general aviation?

**Mr Deavin**—Not with the current numbers we have. We just have a general trend that looks at the system on an overall basis.

**Senator O'BRIEN**—You advised that, since the new system was put in place on 30 November, there were no issues raised on the help line that had not been able to be readily addressed. You also advised that you are not aware, or were not at the time of the drafting of the answer, of any pilots being unable to access the briefing office service. Is that still the case?

**Mr Deavin**—As far as we are aware, yes. We do have a help desk that runs 24 hours a day, seven days a week. If the user is unable to get through via the Internet, the phone or whatever methods we have in place, they can default to the help desk and the help desk will put them through as need be.

**Senator O'BRIEN**—In relation to movement cap outcomes, the last quarterly statement came out on 23 January—the movement cap for Sydney airport. When is the next statement due, or is it already out?

**Mr Fleming**—The report is on a quarterly basis, so the next quarter will be through to the end of June 2001.

**Senator O'BRIEN**—So there is one in between that is out, if it is quarterly?

**Mr Fleming**—There is one that is to the end of March and then the next one will be to the end of June. That would come out some time in July.

**Senator O'BRIEN**—How many cap breaches were there in January, February and March of this year?

**Mr Fleming**—In January there were nil, there were four in February and nine in March.

**Senator O'BRIEN**—Can you give me an explanation for the breaches? It is actually significantly more breaches than occurred in the previous quarter.

**Mr Fleming**—Generally, the breaches occurred because of small movements in the arrival or departure times of various aircraft. The actual quantum of the cap is measured on a quarter-hour basis. So from 8 o'clock to 9 o'clock, 8.15 to 9.15. Due to weather or other operational reasons, there may be slight movements in the arrival or departure time that causes a breach in the cap.

**Senator O'BRIEN**—So in February there were four hourly periods within which the cap was exceeded?

**Mr Fleming**—Yes, there were actually two days. The first one was on 12 February. Between 7.45 and 8.45 in the morning there were 81 movements, and then between 8 o'clock and 9 o'clock, 82 movements. Then the other two occasions occurred on 22 February, and again it was between 7.45 and 8.45 and 8 and 9 o'clock. So the two periods—

**Senator O'BRIEN**—What were the numbers in those periods?

**Mr Fleming**—81, 82, 82, and 81.

**Senator O'BRIEN**—The next month was March with nine?

**Mr Fleming**—There were two on 16 March, again in the same time periods, with 86 movements between 7.45 and 8.45 and 83 movements between 8 and 9. Then on 19 March, there were 84 movements between 7.45 and 8.45. On 20 March, there were 83 movements in the same time period; on 22 March, there were 82 movements in the same time period; on 23 March, 85 movements, in the same time period; and then on 29 March, 82 movements between 7.45 and 8.45 and between 8 and 9; and on 30 March, 85 movements between 8 and

9 a.m. As you can see, some of it is between 7.45 and 8.45 and 8 o'clock and 9 o'clock—I do not know but it is conceivable that it is the same movement that is covering two time periods.

**Mr Smith**—Senator, it may be worthwhile clarifying Airservices' position on this. Our responsibility is to report this. We have no responsibility beyond that.

**Senator O'BRIEN**—Yes.

**Mr Smith**—So the slot management company allocates the slots. We take them as they come, land them or take them off, and count them.

**Senator O'BRIEN**—I am trying to understand how your hypothesis would work—it would seem that if movements are sliding into the 8 to 9 period, they would be in the 7 to 8 period; yet in most cases that is the one that has gone up. So they must be sliding from an earlier period, must they not?

**Mr Fleming**—Between 7.45 and 8.45 overlaps with the period from 8 to 9. So it may well be the same movements in that period which are causing the breach in an hour, just moved on quarter of an hour.

**Senator O'BRIEN**—Anyhow, nothing turns on it from Airservices' point of view. I do not think your hypothesis is quite logical. In the last report, most breaches resulted from adjustments to traffic flows—that is what your report to the minister was. What did you report to the minister for the March quarter?

**Senator Ian Macdonald**—Have you reported to the minister yet?

**Mr Fleming**—For that March quarter, yes. I do not have the report in front of me.

**Senator O'BRIEN**—Can you provide that on notice? We have the December quarter report. Perhaps you can supply us with the March quarter report.

**Mr Smith**—We will do so.

**Senator O'BRIEN**—Air traffic services to East Timor: I asked a question on notice, 2862, about a bid by Airservices to provide an air traffic service in East Timor. You advised that you did 'some preparatory work in anticipation of a request for tender being issued but that did not happen'. Was a request for tender ever issued?

**Mr Smith**—Yes, it was.

**Senator O'BRIEN**—Did Airservices lodge a bid?

**Mr Smith**—We did jointly with another organisation.

**Senator O'BRIEN**—Has there been an outcome yet?

**Mr Smith**—There has—not good for us. We did not win that tender.

**Senator O'BRIEN**—Given there cannot be any cross-subsidisation with Airservices, how was the bid funded?

**Mr Smith**—The funding of the bid was not an issue. We did that out of existing resources. It was not a particularly onerous task. We have a marketing budget each year and we make sure that that fits into the overall process; in other words, that the money we are spending on sales and marketing is proportional to the benefits that we return to our customers and shareholder or owner.

**Senator O'BRIEN**—How much revenue is generated by these external activities?

**Mr Smith**—In year one of our five-year plan—I can only give you approximate figures—it was about \$5½ million. In year two—we are in year two now—we expect to generate revenue of around \$12 million to \$13 million.

**Senator O'BRIEN**—Is that money quarantined out or fed back into reducing overheads?

**Mr Smith**—It is treated as revenue in the same way as any other revenue is treated in the organisation. So we budget by business unit. If it is our support group that win the job, then the revenue comes to them, the costs come to them, the profit margin is identified and then it becomes part of the accounting process that we have. There is no issue about quarantining it, any more than there is for any other revenue.

**Senator O'BRIEN**—Could you supply the committee with a list of the activities that generate external revenue?

**Mr Smith**—Yes, we can do that. I would just caution that we can tell you what we are currently doing and what we want to do; some of those things are a bit speculative until they come off. But we will give you a list.

**Senator O'BRIEN**—That is fine. In relation to the ATC refresher training, what training programs have you in place for air traffic controllers? Am I right in saying there is a need for refresher training courses for these officers from time to time?

**Mr Smith**—You are correct in saying that. Mr Faulkner, you may care to comment further.

**Mr Faulkner**—I missed the initial question.

**Senator O'BRIEN**—I am generalising about training programs. What training programs do you have in place for air traffic controllers?

**Mr Faulkner**—Specifically with respect to refresher training, which is training to address non-routine events, we have a national program in place which addresses policy, development of the particular modules and implementation of the training. We have a number of mediums for delivering this training: some of it is done within the simulator; some of it is done online; and some of it is done in classroom activities on what we refer to as team days.

**Senator O'BRIEN**—In particular, what training programs have you in place and what is the extent of the utilisation of these programs that relate to in-flight emergency response?

**Mr Faulkner**—We have a number of modules. I have here 10 modules that relate to the management of in-flight emergency responses by controllers. I can list those for you or—

**Senator O'BRIEN**—Yes, please, if you would.

**Mr Faulkner**—Okay. We have one which is described as the in-flight emergency management process. When an in-flight emergency occurs, the controller who is on the spot has a task to actually manage the event that is going on. But, in fact, there are other activities that have to be put in place to support that controller, and that is what we call the management process. That is generally managed by a team leader or a room supervisor of one degree or another.

We have another module called intercept and escort. That is one that provides guidance to the controller on the way to bring another aircraft in to that aircraft that is in difficulty. Generally speaking, these are aircraft operating under the visual flight rules that are in difficulty because of marginal weather conditions or whatever. There is quite a skill—which is almost opposite to what an air traffic controller does—where in fact they have to bring them into close proximity.

There is the VFR or visual flight rules for in-flight emergencies which normally relate to assistance for navigation because of, for example, reduced visibility in smoke haze or something like that, aircraft requesting assistance to avoid military restricted areas or whatever. With respect to instrument flight rules for aircraft with navigation problems, this normally relates to an equipment failure of one sort or another. With respect to aircraft communication problems where there is either a transmitter receiver failure or a complete communications failure, this would often tie in with the intercept and escort scenario.

Another one is aircraft malfunctions, which can relate to an altimetry problem for the aircraft, loss of a navigation aid—any number of malfunctions that might go on. Obviously, air traffic controllers are not expected to have the expertise in detail to address all these issues, but we have a process in place which allows us to seek assistance from the airline or the flying school involved. Forced landings in instrument conditions is another one—these are few and far between, I might say, and that is why we do all this refresher training. The forced landing in instrument conditions might occur when an aircraft has, say, very low oil pressure. There is advice within this module provided to the controller from a sense of safety once they put the aircraft on the ground in almost any circumstances.

**Senator O'BRIEN**—Can I take you to an ATSB air safety occurrence report, 1999 01012, which relates to an incident at Cairns Airport on 12 March 1999. The incident involved a near miss involving an SD360-300 aircraft and a Cessna 208. The investigation of the incident found in part that Cairns air traffic control had not received regular training in emergency or unusual situations. It found that tower controllers had last undertaken refresher training in October 1997, that the controller involved in the incident missed the October 1997 training but had received training in December 1997 and January 1998. One of the recommendations flowing from that investigation, recommendation 1999 0227, recommended that Airservices review ongoing refresher training for all staff. It stated:

In particular, to ensure that adequate discussion and simulation of unusual situations pertinent to specific locations is included in the syllabus.

Airservices accepted that recommendation on 7 February 2000. Can you tell me how many IFER training programs have been offered since the beginning of that year?

**Mr Faulkner**—No, Senator, I cannot—not with any accuracy. If I can address the Cairns issue in particular, I know that we were very prompt in addressing that particular scenario. In fact, over two consecutive years, the ATSB investigator involved and I attended safety seminars in Cairns which involved the tower and terminal area controllers to address this issue—and other issues, I might say, but specifically these seminars occurred because of this particular incident. I do acknowledge it was a catalyst for us to address generally a number of IFER issues that perhaps we had not comprehensively addressed before.

**Senator O'BRIEN**—What you are saying is that, since that incident and certainly the recommendation, you have provided more courses than you had been providing before?

**Mr Faulkner**—Certainly.

**Senator O'BRIEN**—Have you any statistics on the number of courses participated in by staff members on average or in aggregate?

**Mr Faulkner**—I have some information available but, to specifically answer that, I would need to take it on notice.

**Senator O'BRIEN**—I would appreciate it, if you have to take it on notice.



**Mr Faulkner**—If I can just confirm: how far back?

**Senator O'BRIEN**—7 February 2000 is the point at which Airservices accepted the recommendation. It was issued on 23 December 1999. If you tell me that you have increased response since before that date, I am happy for you to go back even further.

**Mr Faulkner**—Okay, and this is generally or addressing specifically Cairns?

**Senator O'BRIEN**—Addressing the issues particularly raised in the ATSB report—

**Mr Smith**—IFER refresher training.

**Mr Faulkner**—Thank you, I will.

**Senator O'BRIEN**—Are you saying that the training programs that you were outlining were specific to the TAAATS program or air traffic controller specific or both?

**Mr Faulkner**—It is pretty well one and the same—

**Senator O'BRIEN**—Tower control, yes.

**Mr Faulkner**—We have non-routine activities or scenarios that occur within TAAATS—or any ATC environment but certainly within TAAATS—where we have a system that has a number of redundancies built into it. We can therefore operate in what we refer to as the graded mode of operations at various levels. We have a number of modules available at the moment. We have a development program in place now to develop—I think I have here—

**Mr Smith**—While Mr Faulkner is looking, I can comment that we have a number of non-radar towers throughout the country that do not use TAAATS at all and they also have IFER training.

**Senator O'BRIEN**—Yes, I appreciate that. I was trying to make sure that what we are talking about went across TAAATS and the variety of towers that you operate.

**Mr Faulkner**—And team resource management, the human factor specific issues, aircraft performance—I have 72 modules.

**Senator O'BRIEN**—There is a big group of people you would want to put through these courses.

**Mr Faulkner**—What we do is define the currency period for each module. The more complex ones are effective for a year, say. That is a minimum-maximum.

**Senator O'BRIEN**—Sorry, minimum or maximum?

**Mr Faulkner**—I am sorry. You have a currency period for some of them of a year, a currency period for others of three years, say. We then have a schedule in place which ensures that each controller goes through a number of these modules—not all 72 because, as Mr Smith said, some are TAAATS specific, some are non-TAAATS tower specific and some are specific to team leaders only. There are, I guess, a good number of variations. We identify those aspects.

**Senator O'BRIEN**—How many members of staff would need to go through these training programs? While you are getting the other information, can you give me the particular groupings—TAAATS, tower based, et cetera?

**Mr Faulkner**—Yes.

**Senator O'BRIEN**—And how the training is applied to those groups. This is a tower situation we are talking about, not TAAATS.

**Mr Faulkner**—Yes.

**Senator O'BRIEN**—Obviously you would need to differentiate some of the training?

**Mr Faulkner**—I cannot remember when that event happened, whether Cairns tower was in TAAATS or not, but it was not an issue. It was what we call a radar tower, as compared to, say, a non-radar tower like Mackay. Just to confirm the question I am taking here: are you looking for our operational training schedule, say, for next year?

**Senator O'BRIEN**—No, I am looking for what you have actually done in the period we are talking about.

**Mr Faulkner**—Okay.

**Senator O'BRIEN**—I am looking to see how it is applied to the tower groups and the TAAATS group—just to see what the penetration has been.

**Mr Faulkner**—I have bits and pieces of information here, but I do not think there is much point—

**Senator O'BRIEN**—No, it would be better to do it as a block.

**Mr Faulkner**—Yes.

**Senator O'BRIEN**—Thank you for that. The Archerfield Airport safety case—what is happening about that? Has that gone to CASA for review yet, and do they know about it?

**Mr Smith**—Yes. The safety case has been completed for Archerfield. It is going through internal quality assurance checks now, and we have sent drafts out to some of our staff members and stakeholders for comment so that they can give some input before we sign it off internally and send it over to CASA.

**Senator O'BRIEN**—I want to ask some questions about the power failure at KSA. The last dot point on page 7 of the report prepared by Quiggin Cook and Associates states:

Due to the current systems being substantially reliant on manual operation, the report finds that manning levels (for unplanned emergency procedures) during the peak periods are not sufficient.

It further states:

If two failures occur outside the day work period, there is a problem. The after-hours emergency call-out time is not compatible with the UPS battery autonomy.

I understand there is now some dispute between Quiggin Cook and Airservices management about exactly what minimum manning levels are required at the power plant. Is that correct?

**Mr Howell**—No, that was resolved with Quiggin Cook.

**Senator O'BRIEN**—How was it resolved?

**Mr Howell**—We came to an agreement about the change to the system.

**Senator O'BRIEN**—What was that agreement?

**Mr Howell**—The agreement was that, provided we made the changes that we were talking about, we would not need to proceed with those staff changes.

**Senator O'BRIEN**—What were the changes you were talking about?

**Mr Howell**—The introduction of dual UPSs and the other changes to the power systems that Quiggin Cook recommended.

**Senator O'BRIEN**—You are satisfied that the weakness identified by Quiggin Cook has been overcome by those technological changes?

**Mr Howell**—It will be overcome when we finish the project, which is scheduled for the end of September.

**Senator O'BRIEN**—So there is a potential incapacity until then?

**Mr Howell**—There is a potential incapacity, but that has been discussed and negotiated with the operational people at Sydney airport and they believe that their contingency procedures will accept that risk.

**Mr Smith**—We should point out that there was a range of recommendations made by Quiggin Cook and we are not waiting until September to do them all. A number have already been completed, and the risk reduces as we go through this process.

**Mr Howell**—One of the main changes that we did do was to not do the switching that caused the failure on 6 July last year and we have changed that switching procedure so that we do not put all of the load onto one UPS. We now leave the load on a separate UPS or back onto the mains and generator so that we reduce that risk.

**Senator O'BRIEN**—Have there been reviews in terms of the integrity of power supplies at Melbourne and Brisbane?

**Mr Howell**—Yes. That was covered in stage 2 of the Quiggin Cook work. They came to the conclusion that those systems were effectively at industry best practice. They made a few minor recommendations, which are being or have been implemented.

**Senator O'BRIEN**—Can you give the committee details of the list of recommendations that have been implemented? I take it all their recommendations have now been implemented, subject to the staffing issue being replaced with a new agreed factor, the UPS factor. Do not ask me to recite exactly how you related it.

**Mr Howell**—In terms of the Quiggin Cook recommendation?

**Senator O'BRIEN**—Yes.

**Mr Howell**—Besides the Quiggin Cook recommendations there was a DSEA report internally plus an ATSB report. In terms of Quiggin Cook, there were something like 75 recommendations in the two reports. Of those, about 25 have been totally closed off or cleared, about 25 are well under way in terms of the project and the work occurring, and there are about another 25, most of which are fairly minor, that are ongoing and being addressed.

**Senator O'BRIEN**—The 75 recommendations that you are talking about have been accepted?

**Mr Howell**—No, they have not all been accepted. Some of those we do not believe are necessary and are fairly minor; on others we have had discussions with Quiggin Cook and have agreed alternative ways to achieve Quiggin Cook's intent of best practice. We are still using Quiggin Cook as a consultant to make sure that we do achieve their intent with the power supply system.

**Senator O'BRIEN**—Is there any problem supplying us with details of the recommendations made and those which have been accepted and implemented?

**Mr Howell**—For Quiggin Cook?

**Senator O'BRIEN**—Yes.

**Mr Howell**—I do have a database that you can have which lists those recommendations.

**Senator O'BRIEN**—Okay, that would be good. I want to ask some questions about the feasibility study that has been prepared as part of the consideration of the terminal control unit consolidation. In the executive summary, the section entitled 'Rationale and objectives' states:

The rationale for conducting this feasibility study is in direct alignment with Airservices' corporate objectives and offers potential benefits in all of the key result areas identified in Airservices' business plan.

Where can I find and identify Airservices' corporate objectives?

**Mr Smith**—Our corporate objectives are laid out broadly in our corporate plan.

**Senator O'BRIEN**—Is that something that has been publicly available to date?

**Mr Smith**—We prepare a corporate plan each year and we forward that to the department and the minister. Beyond that, I am not sure what the process is. I would have to check.

**Senator O'BRIEN**—If we could have a copy of the latest one, that would be useful in the context of this matter. How does this particular proposal for the terminal control unit consolidation fit with the corporate plan?

**Mr Smith**—Broadly, it fits very well. Part of our corporate plan is to utilise the benefits of the TAAATS system. Having got into TAAATS quite successfully, we now have the opportunity to optimise the efficiency of our organisation and use that technology to the maximum. Therefore, we are seeking through what is known as the ATM Benefits Program. What you are referring to is one module of the ATM Benefits Program to obtain those efficiencies. So it fits with the corporate plan which says, 'Let us use the efficiencies of the system that we have.'

**Senator O'BRIEN**—In terms of the key result areas in your corporate plan, how would this proposal offer benefits in each case?

**Mr Smith**—I am sorry, Senator, I do not understand the question. In each case?

**Senator O'BRIEN**—In each of the key result areas.

**Mr Smith**—I do not have that detail. What that statement is referring to is that our corporate plan says, 'Let us use the efficiency of the system, let us seek ways that we can give better service to our customer—more seamless service, more efficient service.' We have not come at it from the perspective of saying, 'Let us look at our KRAs and compare this activity with them.'

**Senator O'BRIEN**—The last page of the body of the report, page 40, says that 'Consolidation of TCUs will require new business continuity strategies to be developed.' Can you expand on that point for me? Exactly what are business continuity strategies in this context and what time frame would you be looking at for their development? Have you done any preliminary work on their development?

**Mr Smith**—Do you know specifically what that refers to?

**Mr Fleming**—I recall that this relates to the issue of were you to consolidate some of the remote TCUs, one would need to look at the potential impact on business continuity should a failure occur in one of our centres. At that stage, it is just flagging the issue as one that needs to be worked through in quite some detail. Clearly, by relocating some of the remote terminal control units, we are reducing the number of facilities we have. Therefore, one would need to

be completely assured that one was not affecting the continuity of our service in the event of some failure at one of the centres that the units were consolidated to.

**Senator Ian Macdonald**—Senator O'Brien, there is no way in the world you are going be finished with Airservices in the next 25 minutes, is there? We might as well send ATSB home.

**Senator O'BRIEN**—I already have.

**Senator Ian Macdonald**—Good, excellent.

**Senator O'BRIEN**—I did that at 9 o'clock, but Mr Bills was desperate to stay. I could not persuade him to leave. I was not in a position to offer him any inducements so he is still here. That section goes on to say that 'it is uncertain at this time that the present level of redundancy can be maintained.' It refers to appendix E, and that appendix refers to there being considerable redundancy in the TAAATS design but says in part that the 'failure of a key TAAATS is unlikely to cause the system to shut down but may impact upon system capacity and therefore air traffic management efficiency.' When that report says it is uncertain how much redundancy could be maintained, that appears to mean how much redundancy would be lost through the consolidation of the TCUs in Melbourne and Brisbane. Are you now in a position to indicate just how much redundancy would be lost as a result of that change?

**Mr Smith**—No, Senator. As you may or may not be aware, that is an initial document which was designed to do a sanity check as to whether we should proceed any further or not. As Mr Fleming has pointed out, it raises issues that require further analysis and, no, that has not been completed.

**Senator O'BRIEN**—Can you confirm that the TCU will remain in Cairns?

**Mr Smith**—We can.

**Senator O'BRIEN**—Was that a decision made entirely by Airservices or was it as a result of ministerial direction or intervention?

**Mr Smith**—It was as a result of ministerial direction.

**Senator O'BRIEN**—When was that decision made?

**Mr Smith**—By the minister?

**Senator O'BRIEN**—I call it a decision. When did you alter your plans with regard to the TCU at Cairns?

**Mr Smith**—The day I received the minister's letter. If you just give me a moment, I will see if I can find that.

**Senator Ian Macdonald**—I think it was publicly announced by the minister at the time, was it not? I thought I saw it in the QTBs.

**Mr Smith**—I think it was. I thought I had that information, I do not.

**Senator O'BRIEN**—That can come through to us on notice.

**Mr Fleming**—I believe it was around the end of March or the beginning of April.

**Senator O'BRIEN**—Was it a direction from the minister or a request?

**Mr Smith**—I cannot recall. They both fall into the same category as far as I am concerned.

**Senator O'BRIEN**—Legally they do not, do they?

**Mr Smith**—No.

**Senator O'BRIEN**—Is it a problem getting a copy of the minister's request/direction?

**Senator Ian Macdonald**—I will take that on notice. In the meantime, I will keep looking. I know it was in my QTB file, which I do not have with me. But I will take it on notice anyhow and see if we can find it for you.

**Senator O'BRIEN**—In terms of remoteness, I would have thought Perth would have been in the same boat regarding TCUs. Is it correct to say that Perth is also off the list because of linkages with the Jandakot RAAF base?

**Mr Smith**—No, Senator, that is not off the list.

**Senator O'BRIEN**—I understand it is likely that the Sydney TCU will remain; is that so?

**Mr Smith**—The Sydney TCU, we have yet to do a full analysis on, and the minister requires that we come back to him with a proposal. He will then consider that proposal.

**Senator O'BRIEN**—Have any decisions been made about Adelaide?

**Mr Smith**—No decision has been made about anything other than Cairns will not be on the agenda.

**Senator O'BRIEN**—On the question of reduced vertical separation minimum, I understand that Airservices intended to introduce RVSM over Australia earlier this year and I have been given to understand, although I concede Mr Toller does not agree with this, that airlines and other aircraft operators spent considerable sums of money to equip their aircraft and train crews to fly in the airspace to be covered by RVSM?

**Mr Smith**—My recollection was that most modern aircraft are already equipped, but Mr Faulkner may have a better idea.

**Mr Faulkner**—Once again, I missed the beginning of your comment. The major operators—all but say the corporate jet sector, business type jet sector—have been following a process for nearly two years to ensure they went through an airworthiness process to get RVSM approval from CASA. There were issues with a number of aircraft because of a worldwide shortage—for example, for the Boeing 737-400 series there was an issue there for a while. But for the likes of some of the corporate jets that have been around for a while, some of the manufacturers do not even intend to provide what I will call a kit to enable airworthiness approval for those aircraft. The later generations, say up to 10 years old, of those aircraft kits should be on the market in the next two plus years. That is from the likes of Cessna and Bombardier which now look after the Learjet business.

**Senator O'BRIEN**—So there has been an ongoing program?

**Mr Faulkner**—Yes, a notice of proposed rule making went out—I think it is over two years ago. It was initiated by CASA. Since that time, there has been an active program within the industry to meet the proposed rule. Perhaps I should be leaving some of that for CASA but, from my understanding of it, that is the case. As Mr Smith said, the modern aircraft coming out are already capable.

**Senator O'BRIEN**—The introduction of this was deferred until further notice, as I understand it, in March. Can you tell me what the exact reasons for the deferral were, and which organisation made that decision that the implementation should not go ahead as planned?

**Mr Faulkner**—I guess Airservices made the decision to not go ahead. But we had a safety case with CASA that they endorsed 'not accepted'. There were a number of outstanding

issues, a few process issues and, in fact, CASA had some concerns about the head of power to enable the airspace to be declared exclusive. So there were a number of issues not solely within Airservices that caused the decision to be made.

**Senator O'BRIEN**—So CASA rejected the safety case—I think that is what you said; I just wanted to be sure.

**Mr Faulkner**—Yes, they did not endorse it. I do not know that rejected is what occurred; they just did not endorse it at that time.

**Mr Smith**—If I could clarify that a little: my recollection is that CASA said at the time they were not convinced that the processes that we had in place for conducting safety cases had been completely followed. So they were not saying, 'We think this is unsafe.' They were saying, 'You have not followed the processes that you yourselves have said you should follow.' That was part of the basis, as I recall.

**Senator O'BRIEN**—Were there other bodies opposing the date of implementation?

**Mr Smith**—Yes, the Civil Air union had some concerns and there were some aircraft owners that had some concerns. Again, this is off the top of my head, but I think there were 44 aircraft that were not fully equipped for RVSM. We were going to make other arrangements for them to facilitate things and give them an opportunity. But they had some concerns about it.

**Senator O'BRIEN**—When is it proposed that the RVSM will be implemented?

**Mr Faulkner**—We have in place a project now to implement. We are looking at early September this year. We have a joint project with Defence on this one—and our project involves CASA too, of course—but at this stage we are looking toward 5 September. There are a number of requirements we need in place for that, one is that the TAAATS HMI, human-machine interface, has to be appropriate and effective for our purposes. They are issues we are working on now.

**Senator O'BRIEN**—Thanks for that. I want to ask about Airservices advertising. Over the last few weeks, a number of advertisements have appeared in national magazines and airline in-flight magazines promoting Airservices. Can you tell me what the purpose of the advertising campaign is and what the cost of the campaign is? I take it Airservices is paying for it out of its own budget, is it?

**Mr Smith**—Yes. I cannot tell you the cost off the top of my head, I do not have that. I would have to take it on notice. I can tell you what the purpose is. We have had a couple of surveys conducted. We recognise the fact that if we were to go forward in a commercial world, then we needed to have our brand better recognised and this came out in the surveys, which I might add were conducted with our traditional customers and, to some degree, with our customers' customers. The advertisements are part of a basket of things that we have agreed need doing and that our board have agreed to. These are aimed at getting the right market positioning for our organisation and complementing that revenue generation that I talked about earlier, which I am pleased to say is working very well. With the cost of it, we will have to take it on notice and get it for you.

**Senator O'BRIEN**—The last issue I want to deal with this evening for Airservices is the minimum safe altitude warning. One of the selling points for TAAATS is the number of automatic alerts that would be provided for air traffic controllers. It is understood that one of

the alerts TAAATS can provide is a minimum safe altitude warning. Can you tell me as of April this year in what areas of the Australian continent was the MSAW active?

**Mr Faulkner**—MSAW is a functionality that only works within radar coverage. In the Melbourne area of responsibility, that is the Melbourne TAAATS centre area of responsibility, generally speaking in any area of radar coverage they had an MSAW database that was active. In the Brisbane centre area of responsibility, they had an MSAW database effective within roughly 35 nautical miles around the three major radar ports, which were Coolangatta, Brisbane and Cairns.

**Senator O'BRIEN**—So a very small area of the country is covered by MSAW?

**Mr Faulkner**—Correct.

**Mr Smith**—Just to expand on that, the system requires a database that recognises the topography. It is quite a detailed database.

**Senator O'BRIEN**—So it is a capability but it is not enabled to a great extent.

**Mr Smith**—There is no point to it without a radar service anyway. But, even if you had it, you would require a database in addition to service the MSAW capability.

**Senator O'BRIEN**—So it cannot work with any other form of aircraft positional tracking than radar?

**Mr Smith**—It will in the future certainly be able to work with ADS-B. Not procedural?

**Mr Faulkner**—No.

**Mr Smith**—No, it cannot.

**Senator O'BRIEN**—There have been allegations in the media that, in the case of the Aerocommander crash to the north of Cairns on 10 April, MSAW was not operating in the area of the crash at that time. Is that one of the areas in which MSAW would normally operate?

**Mr Smith**—No, it is not one of the areas. We were most aggravated by that bad reporting and, as a result, sent a letter to the coroner making sure the facts were set straight.

**Senator O'BRIEN**—So essentially there is no difference between the operational centres, it is functional in both where it is aligned with radar operations around—

**Mr Smith**—In the terminal areas.

**Senator O'BRIEN**—In the terminal areas. It would be helpful, if it is easily done, for the committee to be supplied a map with an indication of where it is actually operational; is that a big task?

**Mr Faulkner**—We can certainly do that, yes.

**Senator O'BRIEN**—Thank you very much for that. I do not think I have any more questions for you, unfortunately. I am sure you are disappointed.

**CHAIR**—Given it is five to 11, I think we might give ourselves an early mark. Tomorrow morning we will start with ATSB and Mr Bills. Thank you, Minister, Mr Smith and Mr Matthews.

**Committee adjourned at 10.54 p.m.**