



Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
Canberra ACT 2600
Via email: pjcis@aph.gov.au

13 February 2025

RE: Review of the Transport Security Amendment (Security of Australia's Transport Sector) Bill 2024

Dear Senator Ciccone,

Airlines for Australia & New Zealand (A4ANZ) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Intelligence and Security's review of the *Transport Security Amendment (Security of Australia's Transport Sector) Bill 2024*.

As the Committee may be aware, A4ANZ is an industry group representing airlines based in Australia and New Zealand, including international, domestic, regional, full service, and low-cost carriers. Established in 2017, A4ANZ's members include Qantas, Virgin Australia, Regional Express (Rex), Jetstar and Air New Zealand.

A4ANZ recognises that the aviation security environment is constantly evolving, and as such requires the continual development and refinement of proportionate, practical, and timely security measures. A4ANZ's member airlines are supportive of measures to enhance aviation security.

As such, we support the Department of Home Affairs' intent to reform the *Aviation Transport Security Act 2004* and the *Aviation Transport Security Regulations 2005* so that they remain fit-for-purpose and align with the *Security of Critical Infrastructure Act 2018*.

However, A4ANZ – and the industry more broadly – has previously raised concerns regarding the overall approach to reform, the impact of the proposed reforms, the potential for the duplication of obligations under the proposed reforms, and Home Affairs' engagement and consultation with industry on the proposed reforms.

To this end, we have attached A4ANZ's previous submissions to the Department of Home Affairs on these reforms, for the Committee's information and reference.

Yours faithfully,



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[REDACTED]
A/g Director – Transport Security Reform Section
Industry Partnerships and Infrastructure Policy Division
Cyber and Infrastructure Security Group
Department of Home Affairs
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21 June 2024

RE: Transport Security Reforms – Consultation Paper and Impact Analysis

[REDACTED],
Airlines for Australia and New Zealand (A4ANZ) welcomes the opportunity to provide comment on the proposed Transport Security Reforms outlined in the consultation papers recently released by the Department of Home Affairs.

A4ANZ is an industry group representing airlines based in Australia and New Zealand. A4ANZ's members include Air New Zealand, Qantas, Virgin Australia, Regional Express (REX), and Jetstar. A4ANZ's main purpose is advocacy on key public policy issues relevant to airline operations.

A4ANZ recognises that the aviation security environment is constantly evolving, and as such requires continual development and refinement of proportionate, practical, and timely security measures. All A4ANZ's member airlines are supportive of measures to enhance aviation security. They have, and will continue to, work cooperatively and collaboratively with Government, airports, and the travelling public, to ensure that any measures put in place are informed by evidence and have the best chance of success.

A4ANZ's submission to this consultation is intended to provide high-level commentary on the proposed transport security reforms. It focuses on the approach to reform, concerns regarding cost and the potential for duplication of obligations, and the Department's engagement with industry on the proposed reforms. A4ANZ member airlines will be making their own submissions regarding the specific reforms outlined in the consultation papers.

Approach to Reforms

A4ANZ notes that the twenty reforms proposed by Home Affairs aim to reflect the following security objectives, to:

- ensure that Government and industry are resilient to current and emerging threats;
- promote an effective system testing program that is risk-based and responsive to intelligence;
- implement robust and fit-for-purpose compliance and enforcement frameworks; and
- identify and address modernisation and deregulation opportunities within the legislative frameworks.

Unfortunately, at this stage, the broad industry consensus seems to be a lack of clarity as to how the reforms were chosen for consultation and how they will practically assist industry to achieve these objectives.

A4ANZ notes that, on questioning from industry, Home Affairs advised that the twenty reforms were developed out of previous industry consultation undertaken after the release of the Hartland Review in early 2023. However, the twenty reforms slated in the recent consultation papers and impact analysis appear to be quite separate to the issues previously consulted on, with only one reform, *Measure 20 - Modernising the security program framework*, opening the door for the exploration of moving to risk-based security management systems – a topic which was covered in the previous consultation.

While A4ANZ welcomes – in principle – Measures 1 and 2, which seek to align the *Aviation Transport Security Act (ATSA) 2004* with the *Security of Critical Infrastructure (SOCI) Act 2018*, it remains unclear what the overall benefits of this suite of proposed reforms are expected to be, particularly to industry and to furthering the above objectives. Many of the proposed reforms appear to deal with issues relating to Home Affairs' own administrative challenges with systems testing, and it is not clear what will be gained from selecting some of the measures for consultation with industry (e.g. while no doubt necessary for modernisation, consulting on the removal of the word "fax" from the Act).

Additionally, as A4ANZ noted in a response to the previous consultation in early 2023, it is disappointing to see the Department has approached reform in such a piecemeal manner, and we again urge the Department to consider adopting a more comprehensive approach to legislative and regulatory reform moving forward.

As detailed by the Hartland Review, there is broad agreement within industry that a window of opportunity exists for change, as Government and industry reset operations following the disruptions of COVID-19. Moreover, with the concomitant development and implementation of the Aviation White Paper, there is an opportunity to examine whether the existing aviation security systems, agencies, and regulations are fit-for-purpose. A4ANZ's view is that it would be a shame to squander these opportunities for industry and Government to align on reform and set a pathway forward.

Alignment with SOCI Act – Cost and Implementation Concerns

As noted above, A4ANZ broadly supports the aims of Measures 1 and 2, better aligning the ATSA with the SOCI Act. However, we do have concerns about the cost impact of these measures and the efficiency of implementing all-hazards security obligations.

Cost Impacts

Even prior to the pandemic, there was a growing awareness of the significant costs of enhanced security measures, with the Department publishing a series of case studies recognising the financial impacts.¹ Whilst we welcome Home Affairs seeking to understand the potential cost impacts on industry, through the provision of an Early Impact Analysis and the impact analysis costing template, we are concerned that some of the assumptions made in the Early Impact Analysis demonstrate a lack of understanding of the complexity of the economics and market dynamics of the Australian aviation sector, despite the work already undertaken.

Commentary on Option 3 in the Early Impact Analysis notes that *"While these costs do not directly consider the potential costs of compliance for Australia's transport sector, it is expected that costs would fall within the range indicated [by other sectors' during consultation on the Critical Infrastructure Risk Management Program]."* While there is an acknowledgement that future versions of the Impact

Analysis would consider transport specific costs, the simplicity of this initial analysis does not recognise the complexities of security charges and the impact of costs more broadly in the Australian aviation sector.

Along with other industry stakeholders, A4ANZ has consistently raised the issue of the costs of enhanced measures and reforms, and the impact of this on the viability of regional air services in particular – noting the potential for unintended negative consequences arising from the increased costs.

Historical evidence and behaviours indicate that airports pass the cost of these operating expenses through to airlines in full or, in some cases, with the addition of a commercial profit margin, and often without consultation or documentation. On regional routes where services are already marginal due to the poor economies of scale, there is no ability for airlines to pass on such costs to passengers without fares becoming unaffordable, and the result is that services may be reduced or ceased.

As such, in the final Impact Analysis, we would expect that consideration is given to these market dynamics and the potential impact on regional communities and travellers.

To ensure that essential air services to regional communities are not adversely impacted by the increased costs associated with the Government's mandated security measures, A4ANZ has previously proposed several solutions – detailed in submissions to the 2020-21 Federal Budgetⁱⁱ and the Department of Home Affairs' Industry Discussion Paper *Sustainable Security Screening at Regional Airports*, and in our response to the recent Aviation Green Paper.ⁱⁱⁱ

Implementation of All Hazards Security Obligations – Potential for Duplication

A4ANZ also notes the existence of concerns from industry on the potential for duplication of obligations relating to the implementation of *Measure 2 – Introduction of an All Hazards Security Framework*.

While Home Affairs has stated in the consultation paper under *Measure 1 – Expanding the definition of unlawful interference* that “*Noting the SOCI Act also contains mandatory cyber incident reporting requirements, the Department will ensure there are no duplicative obligations requiring entities captured within the SOCI Act to report the same incident under two legislative frameworks*”, this same consideration for potential duplication has not been noted in the Department's commentary on the introduction and implementation of all hazards security obligations.

A4ANZ members have noted that there are several potential areas for duplication under an All Hazards Security Framework, as a number of the hazards captured by the framework are already regulated under the Civil Aviation Safety Authority (CASA).

As such, A4ANZ would recommend that the Department work to ensure that there are no duplicative obligations for aviation industry participants when introducing and implementing an All Hazards Security Framework.

Engagement with Industry

A4ANZ, our member airlines, and the industry more broadly continue to have concerns about how the Department conducts consultations in this important area with the aviation sector.

The Hartland Review acknowledged that industry participants have historically been dissatisfied with the Department of Home Affairs' approach to consultation on, and co-design of, aviation security policy.^{iv} While

industry has welcomed the approach taken by the Minister for Home Affairs and her acknowledgement that that aviation security outcomes are a result of shared effort between Government and the sector, there continues to be significant room for improvement in how the Government actually engages with industry.

For example, A4ANZ and our member airlines do not believe that the Department has provided the necessary detail – or adequate time – for industry to respond to the consultation paper and provide accurate cost data to inform the impact analysis, given how complex and far-reaching some of the proposed reforms are. We anticipate that this is also true for smaller airlines and airport operators. The outcome of this is that it will impact the ability of the Department to undertake an accurate and high-quality impact analysis.

Additionally, while A4ANZ recognises that it is important to achieve alignment between ATSA and the SOCI Act and the modernisation of ATSA more broadly, we note that the Exposure Draft package for these reforms is expected to be released in late July or early August. This timeframe appears incongruous with the deadline of 23 June 2024 for submissions from industry stakeholders, bringing into question the genuine nature of this aspect of the consultation. Finalisation of the Exposure Draft must be deferred until the feedback from the industry has been properly considered and the final impact analysis has been completed.

As previously noted by the Hartland Review, the Department clearly values the principle and strategy of co-design but unfortunately has yet to effectively implement it during consultations with the aviation sector. A4ANZ believes that there is room for improvement in how the Department approaches regulatory reform; not only in terms of taking a more systematic, rather than piecemeal approach, but also in taking the steps necessary to achieve genuine and effective co-design moving forward.

Kind regards,



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ⁱ Australian Government Department of Infrastructure, Transport, Regional Development and Communications, May 2020. *Passenger security screening enhancements – case studies on financial impacts at six regional airports* https://www.aph.gov.au/-/media/Committees/rfat_ctte/Other_Committee_Activities/Hearings/Dept_of_Infrastructure_Regional_Aviation_Security_Screening_Case_Studies_Final_Report.pdf?la=en&hash=F87120FF5D349048A72144B619F3972DF7C72C7E

ⁱⁱ A4ANZ. 2020. Submission to the 2020-21 Federal Budget. At: https://a4anz.com/documents/A4ANZ_Pre-Budget_Submission_2020-21.pdf

ⁱⁱⁱ A4ANZ. 2023. A4ANZ Submission to Aviation Green Paper. At: <https://a4anz.com/documents/231201-A4ANZ-Green-Paper-Submission.pdf>

^{iv} Hartland, K. 2023. Review into Australia's Aviation and Maritime Transport Security Settings – Phase III.



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24 October 2024

RE: Transport Security Reforms: First Pass Impact Analysis

[REDACTED],
Airlines for Australia and New Zealand (A4ANZ) welcomes the opportunity to provide comment on the First Pass Impact Analysis of the proposed Transport Security Reforms that the Department of Home Affairs consulted on earlier this year.

A4ANZ recognises that the aviation security environment is constantly evolving, and as such requires continual development and refinement of proportionate, practical, and timely security measures. A4ANZ's member airlines are supportive of measures to enhance aviation security.

To this end, we support the Department's intent to reform the *Aviation Transport Security Act 2004* and the *Aviation Transport Security Regulations 2005* so that they remain fit-for-purpose and align with the *Security of Critical Infrastructure Act 2018*.

However, A4ANZ, our member airlines, and the broader aviation industry continue to have concerns about how the Department conducts consultations on aviation security policy. As such, we wish to place on record the airline industry's concerns regarding the Department's consultation on the First Pass Impact Analysis.

Concerns on Approach to Consultation and Reform

A4ANZ appreciates that the Department is attempting to progress the reforms to the Act within a limited period – however, we are concerned that in providing industry with 5.5 business days to provide feedback on the First Pass Impact Analysis, the Department is severely limiting the sector's opportunity to fully engage with the final version of the reforms and the analysis of their anticipated impact.

A4ANZ members have also expressed concern that the reforms as outlined in the First Pass Impact Analysis do not fully reflect industry feedback provided during the initial consultation on these reforms – particularly Measure 2, the introduction of all hazard security obligations.

A4ANZ member airlines made detailed and comprehensive submission to the initial consultation on the proposed reforms in June this year, and it is disappointing that the key concerns and suggestions from these submissions are not clearly reflected in the proposed reforms and associated impact analysis.

Concerns on the First Pass Impact Analysis

Given the limited consultation period, we are unable to verify if the assessment of cost impacts and expected net benefits are reasonable.

As noted by the Department, only four industry participants – across both the aviation and maritime sectors – provided input to the Early Impact Analysis. Additionally, in the absence of draft regulations, there is a lack of detail on the exact requirements for industry. As a result of these factors, industry is concerned that the First Pass Impact Analysis may not reflect the true cost of delivering these reforms.

A4ANZ urges the Department to undertake further work with industry to ensure that the true impact of delivering the reforms is reflected in the final Second Pass Impact Analysis.

The Hartland Review noted that the Department clearly values the principle and strategy of co-design but has yet to effectively implement it during consultations with the aviation sector – unfortunately, industry's experience of the consultation on the proposed reforms and associated impact analysis demonstrates that this continues to be the case.

As we have noted in previous submissions to the Department, A4ANZ believes that there is room for improvement in how the Department approaches regulatory reform; not only in terms of taking a more systematic – rather than piecemeal – approach, but also in taking the steps necessary to achieve genuine and effective co-design with the aviation sector.

We would welcome the opportunity to further discuss the airline industry's concerns with the Department.

Sincerely,



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