

Chapter 2

Overview of reports and reforms in aviation security

2.1 Australian aviation security has been the subject of numerous reports and reviews over many years, particularly since the events of 11 September 2001. The triggers for such reports have varied. Media reports of security breaches and vulnerabilities at airports have led to government reviews aimed at restoring public confidence. Reviews have also been triggered by the emergence of new threat sources and events which have exposed systemic weaknesses in procedures at airports. Others have taken place within the formal risk assessment process. This chapter provides an overview of some of these reviews and their recommendations.

Reviews from 2002

2.2 In 2002 and 2003, Mr Allan Kessing, a member of an ACS covert unit, contributed to a number of reviews of security at Sydney Airport for ACS. The first report considered the risks associated with private security staff employed by a privatised airport corporation, who undertake passenger screening.

2.3 The second report detailed security vulnerabilities of 'sterile areas' of the airport and reviewed security and staff with airport security identification cards. The ASIC provides a card holder access to the airport's sterile areas.¹

2.4 Both reports were subsequently leaked to *The Australian* newspaper, which published articles on 31 May and 1 June 2005 bringing these airport security vulnerabilities to the attention of the public.

2.5 The newspaper articles paraphrased key elements of the two intelligence reports:

Concerns over drug syndicates operating within Sydney Airport which used passenger luggage to transport illegal substances; security camera black spots known and utilised by airport employees; occurrences of lower level criminality, including smuggling stolen property and theft from passengers; and the failure of airport authorities to identify at-risk employees with criminal records, with several employees having known connections to established criminal gangs.²

1 Mr Allan Kessing, private capacity, *Committee Hansard*, 24 November 2016, p. 2. The ASIC scheme is discussed further in chapter 5.

2 Tim Prenzler, Candice Lowden and Rick Sarre, 'Aviation Security Issues in Australia Post-9/11', *Journal of Policing, Intelligence and Counter Terrorism*, Volume 5, Number 2, 2010, p. 12.

2.6 Alongside the two classified ACS reports on aviation security and following the 11 September 2001 attacks, there were a range of other reviews conducted including an Attorney-General's Department (AGD) review of national security which considered the aviation sector. In late 2002, Mr Rex Stevenson AO conducted a classified review of the effectiveness of aviation security measures already adopted in Australia. In 2003 the Australian National Audit Office (ANAO) conducted a performance audit on the response of the Department of Transport and Regional Services to the increased threat to aviation security since 11 September.³

2.7 Airports and airlines often contract to other parties to deliver aviation services, for example, catering, cleaning, and screening of passengers and baggage. Under the regulatory model, the department is required to hold airports and airlines to account for the actions of their contractors and their employees. However, in its 2003 report, the ANAO found that repeat aviation security breaches occurred, many of which were due to the actions of those contractors and their employees. The ANAO concluded that the department should 'properly hold airports and airlines accountable for their actions' and, in turn 'aim to ensure that airports and airlines hold their contractors who breach the security requirements to account for their breaches'.⁴

2.8 In mid-2003, in response to an ASIO Threat Assessment on the risks to the aviation sector, the Secretaries' Committee on National Security initiated a further review of measures and reforms needed. The Parliamentary Joint Committee on Public Accounts and Audit (PJCAA) conducted an inquiry into aviation security in 2004. Following the Madrid bombing the same year, Mr Ken Matthews, the Secretary of the Department of Transport and Regional Services, led an overseas mission on transport security and reported back to the government on the findings.⁵

Wheeler Review 2005

2.9 On 7 June 2005, in response to growing community concerns about reported instances of criminality and security weaknesses at major Australian airports, then Minister for Transport and Regional Services, the Hon John Anderson MP, announced a review of airport security and policing. The Australian government invited the Rt. Hon Sir John Wheeler to head the review.⁶

3 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 26.

4 Australian National Audit Office, *Aviation Security in Australia*: Department of Transport and Regional Services, 2003, p. 12.

5 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 26. Other reviews and research are detailed in the Wheeler Review as well as the ongoing work of the Australian Crime Commission into criminality and policing at Australian airports.

6 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 1.

2.10 The resulting report, *An Independent Review of Airport Security and Policing for the Government of Australia* (Wheeler Review) was published on 21 September 2005. Wheeler affirmed that terrorism, organised crime and opportunistic crime constitute the major security threats to Australian airports.

2.11 In his review, Wheeler noted intelligence material, particularly from Customs, confirming significant threats and vulnerabilities at major airports consistent with the reports in *The Australian* following the unauthorised release of contents from the two classified ACS reports.⁷

2.12 Wheeler recognised a range of initiatives already underway or to be introduced at the time of his review, including:

- tightening up of the ASIC system for employees at airports;
- an extension and improvement of passenger, luggage and freight screening;
- increasing the number of officials with security-related responsibilities; and
- improved coordination amongst airport officials.⁸

2.13 While noting that there is no such thing as 100 per cent security, Wheeler did, however, identify a series of weaknesses that required immediate and longer term address. He found that the airport security and policing culture at most major airports was not conducive to information sharing.⁹

2.14 The Wheeler Review noted that the Act and Regulations provided solid foundations for airport security regulation, but both would benefit from a review to clarify and simplify the provisions. Wheeler advised of a 'danger that airport security could become focused on compliance with regulations rather than on the crucial preventative role' of risk and threat assessment. The legislation should instead support good systems, processes and improved behaviour.¹⁰

Balancing commercial interests and security concerns

2.15 The tension between commercial and security interests at Australian airports was noted by Wheeler. With an estimated 150,000 people then directly employed in connection with airports in Australian capital cities, Wheeler recognised that airports

7 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xi.

8 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 27.

9 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 33.

10 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xv.

are considerably more than just transportation modes as they serve as critical infrastructure and work sites.¹¹

2.16 Wheeler found there was a perception that government decisions imposed additional security-related obligations on industry without absorbing more of the associated costs. Cost issues connected to security appeared to be the most vexatious, with government guided often by the principle of 'capacity to pay' rather than a clear idea of how responsibility for security and ownership of risk were shared. Wheeler suggested that, in the absence of an agreed and documented statement of policy principles for allocating costs amongst federal, state and territory governments and private sector owners/operators, the irreconcilable debates about who should pay would continue.¹²

Agency cooperation

2.17 The Wheeler Review focused on three elements which underpin security at airports. The three 'main security pillars of airports' include the TSP which sets out an airport's goals for maintaining security in the face of its risks, as well as the responsibilities of the Airport Security Committee's members towards meeting those goals. The second pillar is the Airport Security Committee, which comprises representatives of bodies at airports with interest in and responsibility for security. The ASIC system comprises the third pillar.¹³

2.18 Wheeler made a series of recommendations, particularly with regard to information sharing, agency cooperation and airport policing models. He found the relationship between Customs, state and federal police and private airport security highly dysfunctional.¹⁴

2.19 The Wheeler Review identified three key areas of concern relating to airport security and policing culture at major airports. These were:

- a marked inhibition about sharing information with those who need it to make evidence-based decisions;
- a lack of clarity, consistency and alignment between authority and responsibility in decision-making; and

11 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 5.

12 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 35.

13 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, pp. 20-21.

14 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. xi.

- an undue reliance on 'after the event' compliance auditing, rather than 'pre-event planning' as the basis for accountability.¹⁵

Protecting security screening and training

2.20 The screening of personnel, baggage and cargo at Australia's airports is the responsibility of the airline or of the terminal operator and is conducted by private security officers, usually contractors. The Wheeler Review noted that for this job to be performed correctly, and the system to be safe, these officers must be background-checked, trained to an appropriate level, and tested frequently to ensure that their skills and attention to detail do not erode. Wheeler noted that these initiatives were consistent with requirements stipulated in the ICAO Annex 17 Standards 3.4.2 and 3.4.3 regarding training, certification and the setting of performance standards for those implementing security controls.¹⁶

2.21 Wheeler concluded that:

Because of the importance of these screening personnel, and of the private security guards employed at larger airports, it is necessary that realistic but rigorous standards be set for employment in this field. And because of the national interconnections in the airline industry, where screening done in one airport can have serious implications for an airport a great distance away, those standards should be uniform across Australia, and should apply to sub-contractors and part-time guards as well. Some States and Territories (NSW, the ACT and most recently Victoria) have already instituted licensing standards; the work done in preparing those could help in establishing a national licensing regime and be encouraged by COAG.¹⁷

Parliamentary Joint Committee on Public Accounts and Audit 2005

2.22 On 25 May 2005, the PJCAA resolved to review the developments in aviation security since its earlier report on the subject, tabled in June 2004. The PJCAA was concerned by public reports of security breaches at Australian airports, including allegations that baggage handlers had been involved in a syndicate smuggling drugs through Sydney Airport.

2.23 The PJCAA tabled an interim report in November 2005 identifying two areas of aviation security that were the subject of recommendations made by the Wheeler review and where, it believed, further specific requirements should be put forward.

15 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 33.

16 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 77.

17 Rt. Hon Sir John Wheeler, *An Independent Review of Airport Security and Policing for the Government of Australia*, Australian Government, September 2005, p. 77.

These two areas were the proposed review of the Act and the Regulations, and proposed changes to background checking processes of applications for ASICs.¹⁸

2.24 While supporting Wheeler's recommendations, the PJCAA noted that its own inquiry had confirmed the need for a review of the arrangements for issuing and managing ASICs, a need to improve information-sharing across airports, and the need for a single policing authority for all category one and major airports.¹⁹

Commonwealth commitment to aviation security reform

2.25 On 21 September 2005, the Prime Minister, the Hon John Howard MP announced the government's in principal acceptance of the Wheeler Review recommendations along with a commitment of \$200 million to further strengthen security at Australia's major airports. Under the plan, police commanders were appointed to the country's 11 major (or category one) airports while airport staff would be subjected to tougher screening, with the introduction of a streamlined process for the provision of security clearances.

2.26 As part of the expenditure, funds were committed to:

- five new joint airport investigation teams at Sydney, Melbourne, Brisbane, Adelaide, and Perth to fight organised crime;
- customs patrols of tarmac areas at seven airports; and
- boosting technology to detect explosives and upgrade the customs closed circuit television (CCTV) capabilities.²⁰

2.27 In response to the Wheeler Review, a Unified Policing Model (UPM) was instituted with the Commonwealth, through the AFP, meeting the cost of policing. The UPM saw policing of airports undertaken by AFP Protective Service Officers dealing with Counter Terrorism First Responses, and state and territory police officers dealing with community policing.²¹

2.28 In 2006, as part of the government's commitment to implement the Wheeler Review recommendations, amendments were made to the Act.²² These amendments provided for better management of domestic and international cargo handling, before cargo is taken onto aircraft. As part of the amendments, all commercial air cargo

18 Parliamentary Joint Committee on Public Accounts and Audit, *Developments in aviation security since the Committee's June 2004 Report 400: an interim report*, November 2005.

19 Parliamentary Joint Committee on Public Accounts and Audit, *Developments in aviation security since the Committee's June 2004 Report 400: an interim report*, November 2005.

20 'PM Pledges \$200m airport security upgrade', *Sydney Morning Herald*, 21 September 2005.

21 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, pp. 14-15.

22 *Aviation Transport Security Amendment Act 2006*.

would be subject to appropriate secure handling and screening processes along the supply chain, from the initial packing to eventual loading on the relevant aircraft.²³

2.29 The Immigration and Border Protection Portfolio (IBPP) advised the committee of programs implemented as a direct response to the Wheeler Review. These included:

- expanded powers of customs and border officers to 'stop, search, restrain, detain and remove people and vehicles, pending arrival of a law enforcement officer', effective 20 August 2007;
- the establishment of the Airports National Monitoring and Analysis Centre to provide complete, all day CCTV and increased staffing resources to monitor and support passenger processing operations, effective November 2007; and
- the mandatory screening of all air cargo transported on passenger aircraft, where passenger's checked baggage is screened, fully implemented in November 2008.²⁴

2.30 Additionally, the OTS engaged ASIO's protective security advice unit, known as T4, to undertake 'a vulnerability analysis of all major Australian airports, and a selection of regional screened airports during 2008/09'. Some deficiencies were found in security measures aimed at mitigating terrorist attack methods. However, ASIO could not accept and implement any recommended security improvements, as the responsibility for this rests with the client who originally engaged the T4 unit (in this instance, the OTS).²⁵

Beale Review 2009 and changes to policing arrangements at airports

2.31 A federal audit of police capabilities (known as the Beale Review) commenced in 2009 to examine the capabilities of the AFP. As part of the audit, policing at Australia's airports was considered. The Independent Reviewer, Mr Roger Beale AO noted that policing of Australia's principal airports had been a subject of Commonwealth/State controversy since 1970. The Beale Review found that airport policing arrangements comprised a patchwork of federal, state and territory policing responses based on a history of different approaches and agreements.

2.32 The effectiveness of the UPM model at airports was called into question in March 2009 when a member of a criminal gang was bludgeoned to death in a brawl in a Sydney Airport terminal, following an in-flight incident between rival gang

23 *Aviation Transport Security Amendment Act 2006*. See also, Parliamentary Library, Bills Digest No. 157, 2005–06 – Aviation Transport Security Amendment Bill 2006, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd0506/06bd157.

24 Immigration and Border Protection Portfolio, *Submission 19*, pp. 6-9.

25 Australian Security Intelligence Organisation, *Submission 10*, pp. 4-5.

members. Airport security at Sydney became a highly publicised issue when it was revealed that the incident failed to capture the attention of surveillance monitoring staff, and security officers only responded when a bystander phoned emergency services.²⁶

2.33 While recognising that the matter remained contentious, Mr Beale concluded that the best approach would be for the Commonwealth to provide an integrated airport policing capability. He found the UPM was flawed and recommended that all airport police officers be sworn employees of the AFP and capable of undertaking both counter terrorism and policing functions. Beale recommended an 'All In' model whereby the Commonwealth take responsibility for funding and staffing nationally coordinated airport security and policing services, noting this would likely take several years before being fully operational. Further, the Beale review recommended that the Australian Government take measures to ensure that the powers of AFP members policing airports were clear and adequate to the task.²⁷

2.34 In December 2009, the Australian Government announced that it would implement the Beale Review recommendations regarding airport security at Australia's 11 major airports, through a nationally integrated system. As part of the reform, sworn AFP officers would fill the majority of airport policing roles at those airports. Furthermore, the Minister for Home Affairs, the Hon Brendan O'Connor MP noted that:

The existing Counter Terrorism First response function at airports will also be integrated into the new model of aviation security and policing. The joint airport investigation teams and joint airport intelligence groups will remain with a mix of state or territory and federal police officers as this remains the most effective structure. These changes are consistent with the Beale audit's finding that an all-in model of policing will improve the efficiency and effectiveness of airport policing and security services.²⁸

2.35 The process of moving from the 'unified' model to an 'All In' model was complete in June 2013.²⁹ Under current arrangements, AFP sworn officers perform a range of functions at nine of Australia's major airports. The aviation policing function

26 W. Fisher cited in Tim Prenzler, Candice Lowden and Rick Sarre, 'Aviation Security Issues in Australia Post-9/11', *Journal of Policing, Intelligence and Counter Terrorism*, Volume 5, Number 2, 2010, p. 14.

27 Mr Roger Beale AO, *New Realities: National Policing in the 21st Century*. Federal Audit of Policing Capabilities, The Allen Consulting Group, 30 June 2009, pp. 11-12 and pp. 30-31, <https://www.ag.gov.au/Publications/Documents/FederalAuditofPoliceCapabilities/Federal%20Audit%20of%20Police%20Capabilities.pdf> (accessed 1 December 2016).

28 AUSPOL, Australian Federal Police Association, Issue 2/2011, p. 8. <https://www.afpa.org.au/sites/default/files/publications/900.pdf> (accessed 1 February 2017).

29 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, p. 15.

is led by an Airport Police Commander at each of the airports, responsible for the coordination, command and control of aviation security and policing activities.³⁰

2.36 Under the model, which involves a mix of federal, state and territory police, the policing presence includes Joint Airport Investigation Teams (JAIT), Joint Airport Intelligence Groups (JAIG) and Air Security Officers (ASOs).³¹

2.37 In addition to the uniformed police and customs presence at major airports, private security arrangements remain a significant element of airport security. Private security staff are responsible for screening passengers entering 'sterile' secure areas as well as maintaining perimeter security in restricted areas.³²

2009 Aviation and 2010 White Papers

2.38 On 16 December 2009, the Australian Government released Australia's first Aviation White Paper, *Flight path to the future*. It stated that aviation security would continue to be driven by emerging technologies, intelligence, requirements of international bodies, and assessment of security vulnerabilities.³³

2.39 The paper identified 15 areas where security would be improved, including through continuous review of standards, further restrictions on ASIC, and on flight deck access. The review was followed by the *Counter-Terrorism White Paper*, released in January 2010, which involved a \$200 million investment in aviation and border security over four years. As part of the measures introduced with the paper, the role of the National Intelligence Coordination Committee (established in 2009) was strengthened with the establishment of a Counter-Terrorism Control Centre to coordinate intelligence gathering and information sharing between law enforcement bodies and foreign intelligence services.³⁴

Parliamentary Joint Committee on Law Enforcement inquiry 2011

2.40 In June 2011, the Parliamentary Joint Committee on Law Enforcement (PJCLE) tabled a report on the adequacy of aviation and maritime security measures in combating serious and organised crime. In response to mounting evidence regarding the increasing risk of interactions between organised crime and terrorism,

30 Australian Federal Police, *Submission 16*, p. 3.

31 Australian Federal Police, *Submission 16*, p. 3.

32 Security staff and airport security screening processes are discussed further in chapter 3.

33 Department of Infrastructure, Transport, Regional Development and Local Government, *National aviation policy white paper: flight path to the future*, Aviation White Paper, 2009, p. 138.

34 Department of Prime Minister and Cabinet, *Counter-Terrorism White Paper: Securing Australia. Protecting Our Community*, 2010, p. iii.

the PJCLE was informed that criminal and terrorist organisations were able to exploit vulnerabilities within the aviation and maritime sectors.³⁵

2.41 During its inquiry, the PJCLE received evidence which raised concerns about the continued outsourcing of private security, seen as an area of security vulnerability. Concerns raised to the committee included that security firms were subcontracting twice or thrice, and experienced a high staff turnover which undermined any training regime and limited on-the-job experience. These factors, coupled with low wages and poor conditions, produced higher risks in terms of aviation security.³⁶

2.42 A number of submissions made to the PJCLE strongly supported the creation of a government-run, centralised security force at airports. It was hoped such an approach would reduce issues such as high turnover and poor wages, while providing harmonised and improved training to security staff.³⁷ The government did not agree with this approach, noting it would instead continue to work with industry to provide improved training, technology and guidance.³⁸

ANAO audit of policing at Australian International Airports 2014

2.43 The ANAO tabled a performance audit in March 2014, which examined the AFP and its policing of Australian international airports. In its audit report, the ANAO found that the AFP was effectively managing the delivery of policing services at airports.³⁹ It recommended that, as a means to enable AFP officers to maintain appropriate knowledge of state and territory legislative requirements, the AFP and state and territory police review the content, duration and frequency of legislative training courses.⁴⁰

2.44 In its submission to the inquiry, the AFP noted that it had agreed to the recommendation and was working with its state and territory counterparts to implement it.⁴¹

35 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, p. 24.

36 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, p. 35.

37 Parliamentary Joint Committee on Law Enforcement, *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*, June 2011, pp. 36-38.

38 Australian Government Response to the Report of the Parliamentary Joint Committee on Law Enforcement: *Inquiry into the Adequacy of Aviation and Maritime Security Measures to Combat Serious and Organised Crime*, September 2011, pp. 5-6.

39 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, pp. 16, 25.

40 Australian National Audit Office, *ANAO Audit Report No. 23 2013–14, Policing at Australian International Airports*, March 2014, p. 25.

41 Australian Federal Police, *Submission 16*, p. 8.

Enhanced security screening measures 2016

2.45 On 1 December 2016, the Transport Security Legislation Amendment Bill 2016 was introduced with the objective of strengthening security at Australia's major airports by way of new and enhanced security screening.⁴² The Minister for Infrastructure and Transport, the Hon Darren Chester MP, described the measures within the bill:

Specifically, airports will be able to randomly select people, together with their vehicles and belongings, for screening when they are working inside the secure airside area of an Australian airport to make sure they do not have prohibited weapons in their possession.⁴³

2.46 In his second reading speech, the Minister highlighted that the bill was part of a range of measures designed to mitigate the 'insider threat'. He noted in this regard that:

Airport workers such as baggage handlers, caterers, cleaners and engineers have special access to passenger aircraft so they can carry out their important roles. However, there is potential for this access to be exploited, either willingly or through coercion, to facilitate an attack against a passenger aircraft.⁴⁴

2.47 According to the Minister, the new measures comprise the first stage of government plans to strengthen airside security. In addition to screening airport workers, the government is set to introduce stronger access controls for airside areas and security awareness training for airport and airline staff.⁴⁵

Reactions to reforms

Arguments against less regulatory reform

2.48 A number of submissions were made to this inquiry that did not support further reviews and constant changes to the aviation security framework. Mr Robin Darroch, airline training Captain, detailed a number of security inconsistencies between Australian airports, arguing:

42 Explanatory Memorandum, Transport Security Legislation Amendment Bill 2016.

43 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'New measures to strengthen airport security', *Media release DC206/2016*, 1 December 2016, http://minister.infrastructure.gov.au/chester/releases/2016/December/dc206_2016.aspx (accessed 13 December 2016).

44 Minister for Infrastructure and Transport, the Hon Darren Chester MP, Second Reading Speech, *House of Representatives Hansard*, 1 December 2016, p. 51385, http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansardr/b564519e-8c2b-4dbf-a1e8-8c9334a04537/toc_pdf/House%20of%20Representatives_2016_12_01_4632_Official.pdf;fileType=application%2Fpdf (accessed 13 December 2016).

45 Minister for Infrastructure and Transport, the Hon Darren Chester MP, 'New measures to strengthen airport security', *Media release DC206/2016*, 1 December 2016.

...these inconsistencies happen as a direct result of the aviation security regulations we have at present, and ill-considered attempts to "strengthen" them over the past decade or so...those employed to security tasks obsess over things that are specific, measurable and therefore regulated, rather than being encouraged to exercise judgement and collect meaningful information which could be useful to intelligence operations or genuine security improvements.⁴⁶

2.49 The Regional Aviation Association of Australia (RAAA) raised a similar concern, noting that 'any move away from outcomes based legislation to proscriptive legislation will result in diverting resources from actual and/or viable threats to areas where no threat exists'. Further, the organisation argued that:

Proscriptive legislation tends to create an inefficient one size fits all approach which has not only prevented rapid and flexible changes in response to the changing threat environment but also required extensive processes and equipment to be introduced into airports and for aircraft operators where the threat does not warrant such measures. This has resulted in a waste of limited resources for no additional security outcome thus creating an undue burden on the regional aviation industry, including operators and airports.⁴⁷

2.50 Regional Express Holdings Ltd expressed similar critical views. It argued that proscriptive legislation led to a 'one size fits all' approach to aviation security, which, in its view, resulted in misused resources without additional security outcomes.⁴⁸

2.51 The Australian Airports Association (AAA) submitted that the industry and government should continue to approach aviation security in a way that is 'intelligence driven, risk based' and 'outcomes focussed', as a 'one size fits all' approach is not appropriate. The AAA argued for a considered approach to aviation regulation, noting that:

...all airports are unique and taking a more tailored approach to the implementation of security measures is prudent, effective and efficient. The consideration of security regulatory or policy change on any other basis would be counterintuitive to the important progress that both Government and industry has made in improving the aviation security regulatory environment.⁴⁹

2.52 However, the Board of Airline Representatives of Australia (BARA) considered that the OTS has conducted satisfactory consultation with the aviation industry 'in developing risk-based and intelligence driven aviation security requirements'. BARA noted that:

46 Mr Robin Darroch, *Submission 2*, p. 2.

47 Regional Aviation Association of Australia, *Submission 9*, p. 3.

48 Regional Express Holdings Ltd, *Submission 11*, p. 2.

49 Australian Airports Association, *Submission 17*, pp. 1, 5.

It is important the Australian Government continues to support OTS, and ensures it has the flexibility to review and recommend changes to existing security requirements that are consistent with changes to assessed security threats.⁵⁰

2.53 These concerns were subject of the 2014 Aviation Safety Regulation Review (ASRR), which considered the industry reception to various aviation security reforms. The Review Panel noted that communication around aviation security was a concern. It observed that as communication is often delivered from a government perspective it emphasises the security benefits to tighter regulatory controls. The ASRR stated that:

...the [security] 'enhancements' referred to by the OTS are largely increases in regulation, which, from an industry perspective, is not an enhancement, but a step backward.

The Panel recommends that as part of any changes made...the Department needs to ensure that it better communicates the intent and purpose of the scheme, and ensures that the message reaches industry participants 'on the ground' at smaller airports, not just those who attend established aviation security consultation meetings.⁵¹

2.54 Noting concerns with 'reform fatigue' in the aviation industry, the ASRR advised that regulatory maintenance should only occur when change is required to improve safety, or align with international best practice.⁵²

Committee view and recommendations

Ongoing reviews and reforms

2.55 There have been a number of important and timely reviews of aviation security over the past 15 years, addressing serious risks and making valuable contributions to enhance traveller safety. This is reflected in the fact that Australia has not experienced a major security breach at any airport.

2.56 However, the committee was concerned that the volume and regularity of these reviews, many of which have not been canvassed by this inquiry, has resulted in a constant state of change and amendment to aviation security regulation.

2.57 The committee has some sympathy for airport operators striving to provide secure and safe aviation environments, in a context in which the Act and Regulations

50 Board of Airline Representatives of Australia, *Submission 5*, pp. 1-2.

51 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, p. 120, https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf.

52 David Forsyth AM, Don Spruston and Roger Whitefield, *Aviation Safety Regulation Review*, May 2014, pp. 1-2, https://infrastructure.gov.au/aviation/asrr/files/ASRR_Report_May_2014.pdf.

are subject to regular amendment, and numerous reviews make calls for further considerable changes to aviation safety frameworks.

2.58 The committee supports the government in its efforts to address serious threats to safety in the aviation sector in a way that is receptive to changes in the threat level. However, the committee encourages further reviews to be evidence-based and to respond to a specific need. Such reviews should also carefully consider the regulatory burden on airports, particularly in regional areas, with a view to minimising the burden.

Regulatory environment

2.59 It is clear to the committee that a reasonable balance must be struck between regulation of the aviation industry to ensure worker and passenger safety, and being overly proscriptive in setting security parameters for airports.

2.60 The committee acknowledges that the 'one size fits all' approach is not an appropriate way to address the complexities of aviation security. The committee supports changes to the regulatory framework that are commensurate with the assessed threat level, and agrees that this will vary depending on the size and location of an airport.

2.61 Security arrangements for large, international airports will not be appropriate for small and isolated regional and rural operators. Smaller airports in regional areas will suffer the impacts of large, sweeping security reforms due to limited resources, prohibitive costs, and disproportionate responses to the threat level. While it may broaden the regulatory environment, aviation security measures should include degrees of adaptability, thereby providing airports some scope to address their individual level of risk.

Recommendation 1

2.62 The committee recommends that any future reviews of and amendments to aviation security regulation be risk-based and fit for purpose, with consideration given to the unique challenges faced by regional and rural airports and the overall diversity of Australian airports.