

# Chapter 5

## Inquiry into the Performance of Airservices Australia

### Background

5.1 The following report relates to an inquiry undertaken by the Senate Rural and Regional Affairs and Transport Legislation Committee (the committee) under Senate Standing Order 25(2)(a) into the performance of Airservices Australia.

#### *Airservices Australia*

5.2 Airservices Australia (Airservices) is a government-owned statutory authority. It was formed in July 1995 when the Civil Aviation Authority was split into two separate government bodies - Airservices and the Civil Aviation Safety Authority (CASA). The functions of Airservices are outlined in the *Air Services Act 1995* and include the provision of air navigation services, aeronautical information, aviation communications, radio navigation aids and aviation rescue firefighting services.<sup>1</sup>

5.3 Airservices is responsible for the management and monitoring of Australian airspace – an area which covers approximately 20 million square nautical miles and amounts to eleven per cent of the world's total airspace.<sup>2</sup> The area includes the airspace over continental Australia and its territorial waters and the international airspace boundaries over both the Pacific and Indian Oceans. Airservices also manages:

- upper-level airspace (above 30,000 feet) under contract to the neighbouring Pacific Island Flight Information Regions of the Solomon Islands and Nauru; and
- lower-level airspace at five airports in the Pacific Ocean region, for the United States Federal Aviation Administration.<sup>3</sup>

5.4 Each year, Airservices manages air traffic operations for more than four million domestic and international flights, which carry approximately 63 million passengers. The aviation industry relies on Airservices' provision of aeronautical data, telecommunications and navigation services.<sup>4</sup>

5.5 Airservices operates across 600 sites and has approximately 3000 employees – including 900 air traffic controllers working in major centres in Melbourne and

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1 Airservices Australia, <http://www.airservicesaustralia.com/about/> (accessed 30 January 2019) and Department of Infrastructure, Regional Development and Cities, *Australia's Air Traffic Management Plan*, July 2017, p. 3.

2 Sir Angus Houston, Airservices Australia, *Committee Hansard*, 9 September 2015, p. 4.

3 Regional Aviation Association of Australia, Airservices, <https://raaa.com.au/member/airservices/> (accessed 31 January 2019).

4 Regional Aviation Association of Australia, Airservices, <https://raaa.com.au/member/airservices/> (accessed 31 January 2019).

Brisbane and in 26 control towers located at both regional and international airports. The organisation also provides aviation rescue and firefighting services at 19 of Australia's busiest airports – where there are more than 350,000 passenger movements a year.<sup>5</sup>

5.6 Airservices is a government owned statutory authority, which is fully funded by revenue from industry, under a five-year pricing agreement. Airservices charges airlines and aircraft operators for use of its enroute, terminal navigation and aviation rescue and firefighting services. The level of Airservices' charges are based on five year forecasts prepared by the organisation in relation to activity levels (including traffic volumes), operating costs and capital expenditure.<sup>6</sup>

5.7 The priorities for Airservices as outlined by the Minister for Infrastructure and Transport (on behalf of the Commonwealth) are set out in a Statement of Expectations (SOE). Central to these expectations is that Airservices make the safety of air navigation its top priority. As outlined in the SOE, the Government also requires Airservices to:

- progress the implementation of a new national air traffic system;
- work with the Department of Infrastructure, Regional Development and Cities (the Department), CASA and the Department of Defence (Defence) in providing advice on options for enhancing the level of safety and efficiency of Australian controlled airspace, including at major regional airports;
- work with the Department and CASA in modernising airspace protection policy;
- assist in implementing the Government's environmental objectives; and
- undertake effective and ongoing engagement and consultation with the community, industry and government on the development and implementation of any significant changes to air traffic services.<sup>7</sup>

5.8 As a corporate Commonwealth entity, Airservices is responsible for the development and implementation of its own procurement policies and procedures – which are expected to meet general obligations regarding the proper use of resources and effective internal controls.<sup>8</sup>

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5 Regional Aviation Association of Australia, Airservices, <https://raaa.com.au/member/airservices/> (accessed 31 January 2019).

6 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 15.

7 Department of Infrastructure, Regional Development and Cities, *Australia's Air Traffic Management Plan*, July 2017, pp 3–4.

8 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 20.

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## ***Department of Defence***<sup>9</sup>

5.9 As Australia's other Air Navigation Service Provider (ANSP), Defence works collaboratively with Airservices to achieve major reforms. The organisations also work together in the area of airspace design and in developing procedures which strengthen and support a harmonised approach to Air Traffic Management (ATM).

5.10 Defence, through the Royal Australian Air Force (RAAF), provides air navigation services and infrastructure, as well as air traffic services and rescue and firefighting services at military air bases. Defence also maintains a fleet of aircraft which is of comparable size to civil national carriers.

5.11 Defence, together with Airservices, manage required military airspace to meet operational and national security requirements, while at the same time servicing the transit of civilian aircraft safely and efficiently. Defence provides air traffic services for civil aircraft transiting military controlled airspace and restricted areas surrounding all airbases, as well as controlling all aircraft joint-user airports at Darwin and Townsville. It also facilitates civil aviation at the RAAF Base, Williamtown.

5.12 Over recent years, the Australian Defence Force (ADF) has undertaken a significant modernisation of its piloted and unpiloted aircraft fleet. This has been supported by investment in its ATM platforms, which is predicted to lead to significantly greater capability, endurance and range than the ADF currently possesses. It is also envisaged that this investment will facilitate the many military activities which require the integration of multiple high-cost, low endurance aircraft into Australian airspace.

### **Initiation of inquiry**

#### ***Airservices' appearance at Supplementary Budget Estimates 2014–15***

5.13 In October 2014, the committee held hearings in relation to Supplementary Budget Estimates for 2014–15. Representatives from Airservices attended the hearing – held on Monday, 20 October 2014 – and were asked questions about a number of issues, including:

- the risk assessment undertaken by Airservices when seeking a dispensation from CASA from the requirements of the Aeronautical Information Package (AIP) (in order to nominate arrivals into Melbourne runways that exceed 20 knots or 5 knots downwind);
- answers provided to questions on notice put by Senator Nick Xenophon during 2014–15 Budget Estimates (held in May 2014) regarding the Severity Definition Airways System (SDAS), including the categorisation of the severity of an incident, and the independent assessment of the classification of an incident;

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9 This section is based on information contained in Department of Infrastructure, Regional Development and Cities, *Australia's Air Traffic Management Plan*, July 2017, pp 3–4.

- \$96.3 million of expenditure on regional airports – from Port Hedland through to Coffs Harbour, Ballina, Gladstone and Newman – which was not referred to the Parliamentary Standing Committee on Public Works (Public Works Committee);
- an Airservices employee's reported credit card misuse, the employee's dismissal, and subsequent actions taken by Airservices' management;
- Airservices' discussions with the Civil Aviation Safety Authority (CASA) regarding a non-directional landing approach at Rockhampton Airport and the generation of an airspace change proposal (ACP).<sup>10</sup>

5.14 At a private meeting held on 29 October 2014, the committee discussed Airservices' appearance at the Supplementary Budget Estimates hearing, including members' concerns about the responses provided to the committee's questioning. The committee agreed to call Airservices to a public hearing to further examine the operations of the agency.

#### ***Inquiry under Senate Standing Order 25(2)(a)***

5.15 As Airservices is a corporate entity, the committee is empowered, under Senate Standing Order 25(2)(a), to inquire into, and report upon the performance of departments and agencies allocated to it. It is under this power that the committee, in 2014 (during the 44<sup>th</sup> Parliament) initiated its inquiry into the performance of Airservices. The inquiry was subsequently re-adopted in the 45<sup>th</sup> Parliament.

5.16 The inquiry involved five public hearings. The first was held in Canberra on 28 November 2014, with subsequent hearings, also held in Canberra, on 18 August 2015, 9 September 2015, 9 August 2017 and 4 December 2018. Between 2014 and 2019, the committee also received private briefings, held in-camera hearings in relation to its inquiry, and continued its examination of the issues through the Senate Estimates process. A list of those who gave evidence at the public hearings is included in Appendix 5.

5.17 The committee also received four public submissions as part of its inquiry, a list of which is included in Appendix 4.

#### **Issues raised during the inquiry**

5.18 The committee's concerns regarding the probity of Airservices are long-standing. The committee has, for example, long held concerns about the organisation's administration and governance of corporate credit cards. Over the years, the committee has also raised its concerns about the bonuses awarded to senior executives (including termination payments). While some of these matters were explored during this inquiry, the key issues of concern were:

- probity in relation to Airservices' procurement processes, including the initial engagement and retention of the Centre for Complex Project Management

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10 Senate Rural and Regional Affairs and Transport Legislation Committee, Supplementary Budget Estimates 2014–15, *Committee Hansard*, 20 October 2014, pp 202–208.

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(ICCPM) as a consultant to the OneSKY project for the duration of the tender evaluation process;

- the impact of the new Accelerate operating model on the Airservices workforce, the safety of Australia's passenger aircraft and the safety of air traffic control and aviation rescue firefighting operations; and
- the mandate for the implementation of the Automatic Dependent Surveillance Broadcast (ADS-B) system.

### ***OneSKY Project***

5.19 The management of air traffic in Australia is the responsibility of several government agencies and the aviation industry. Airservices uses The Australian Advanced Air Traffic Management System (TAAATS) to provide civilian airspace management, while Defence – through the RAAF – manages military operations and air traffic control.

5.20 In December 2009, the National Aviation White Paper, noted that Airservices and Defence were both due to undergo major equipment upgrades and replacement programs (from 2013). The White Paper described these circumstances as an ideal opportunity to synchronise the ATM capability (to support the requirements of both Airservices and Defence), and argued that:

Enhanced civil and military ATM system harmonisation will produce benefits in terms of improved safety, better investment in personnel and infrastructure, seamless systems compatibility and smarter procurement practices.<sup>11</sup>

5.21 The OneSKY program involves the replacement of Australia's ATM system, under a three year transitional arrangement, proposed to commence from 2018. The process requires the integration of 16 different systems, and delivery of the joint service commenced in 2010 when Airservices put a 'request for information' to the market. The feedback and information provided by the market was used to develop the Request for Tender (RFT).<sup>12</sup> As the lead agency, Airservices was responsible for coordinating the joint procurement of a fully integrated Civil Military Air Traffic Management System (CMATS). The RFT for the joint procurement was released in June 2013, and closed on 30 October 2013, having received six tenders.

5.22 In February 2015, the announcement was made that Airservices, in partnership with Defence, would enter into an Advanced Work contracting

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11 Department of Infrastructure, Transport, Regional Development and Local Government, *National Aviation Policy White Paper*, December 2009, p. 122.

12 Mr Jason Harfield, Airservices Australia, *Committee Hansard*, 18 August 2015, p. 8.

arrangement with Thales Australia to deliver OneSKY.<sup>13</sup> The then Acting CEO of Airservices, Mr Jason Harfield, noted at the time:<sup>14</sup>

The new system, when completed in 2021 will allow us to provide operational efficiency improvements for future growth and ensure we are meeting the demands of our customers and delivering them value for money.<sup>15</sup>

### **ICCPM**

5.23 ICCPM is an unlisted, non-profit public company limited by guarantee under the *Corporations Act 2001*. The company's objective is to facilitate the management and delivery of complex projects around the world. Early in its operation, ICCPM was largely reliant on annual fees paid by its funding partners – including the Defence Materiel Organisation (DMO) and the Thales Group, Boeing, Lockheed Martin and BAE Systems Australia. The latter four organisations all responded to the RFT in relation to CMATS.<sup>16</sup>

5.24 In September 2010, in order to be eligible for representation in advisory groups, Airservices became an ICCPM corporate partner. Under a corporate partnership agreement, Airservices pays ICCPM an annual membership fee – which in 2016–17 – was \$50,000.<sup>17</sup>

### **Issues raised by the committee**

5.25 During the inquiry, the committee raised its concerns about the RFT process – particularly the decision to award the contract to the Thales Group. The committee raised specific concerns about probity in relation to Airservices' procurement processes, including the initial engagement and retention of ICCPM as a consultant to the OneSKY project for the duration of the tender evaluation process.

5.26 The committee also raised concerns about Airservices' management of conflict of interest matters with regard to the procurement of services via ICCPM. Of particular concern was the engagement of a member of the ICCPM Board, Mr Harry Bradford. Mr Bradford undertook the role of lead negotiator during the contract negotiations with the successful tenderer – Thales – whose Managing Director was

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13 The Hon. Warren Truss, MP, Minister for Infrastructure and Regional Development and the Hon. Kevin Andrews, MP, Minister for Defence, Joint Media Release, *Australia's One SKY: the most advanced, integrated air traffic control system in the world*, 27 February 2015.

14 Mr Harfield was subsequently appointed CEO on 9 March 2016.

15 Airservices Australia, *OneSKY Australia – one step closer*, Media Release, 25 February 2016.

16 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, pp 22–23.

17 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 24.

also Chair of the ICCPM Board at the time. The committee was told during the inquiry that the contracting rate for Mr Bradford as lead negotiator was "about a million dollars" but that Airservices was "getting value for money" given the negotiating rates for the size of contracts.<sup>18</sup>

5.27 The committee also raised questions about perceived conflict of interest issues in relation to an Airservices executive – Mr Stephen Hein – who left his position as the CEO of ICCPM in June 2014 and was replaced in this role by his spouse – Ms Deborah Hein. Thereafter, when acting as Airservices' Executive General Manager of Future Service Delivery, Mr Hein recommended approval of a substantial extension to a contracting arrangement with ICCPM.<sup>19</sup> The quote had been provided by Ms Hein in her capacity as CEO of ICCPM.

### **Engagement with the Australian National Audit Office (ANAO)**

5.28 On 20 August 2015, following its second hearing with Airservices, the committee wrote to the Australian National Audit Office (ANAO) to raise its concerns about the administration of corporate governance within Airservices. Following discussions, and correspondence with the committee, the ANAO initiated two performance audits in relation to the matters raised.

5.29 The ANAO's first performance audit report (ANAO Report No. 1 2016–17) was tabled in August 2016. The objective of the first audit was to examine whether Airservices had effective procurement arrangements in place, "with a particular emphasis on whether consultancy contracts entered into with the International Centre for Complex Project Management (ICCPM) in association with the OneSKY Australia program were effectively administered".<sup>20</sup>

#### ***Airservices' procurement governance framework***

5.30 During the period reviewed by the ANAO – 2012 to the end of 2015 – a procurement governance framework was in place at Airservices. The ANAO found however, that this framework did not:

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18 Mr Jason Harfield, Airservices Australia, *Committee Hansard*, 18 August 2015, p. 7.

19 Mr Jason Harfield informed the committee that the executive signed off an approval 'that went to the chief executive to sign off the contractual arrangements and payments for services rendered', *Committee Hansard*, 18 August 2015, p. 3. The ANAO provided further detail in relation to this matter in *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program, ANAO Report No. 1, 2016–17*, August 2016, p. 65.

20 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program, ANAO Report No. 1, 2016–17*, August 2016, p. 7.

- address Airservices entering into strategic partnerships and alliances;<sup>21</sup> or
- adequately contemplate, or regulate, non-competitive approaches being adopted for procurement with a value of \$50,000 or more.<sup>22</sup>

5.31 In May 2013, Airservices and ICCPM entered into a strategic partnership for the duration of the OneSKY program. It was noted that the partnership was commenced without any approach to the market (to identify other possible strategic partners) and it was one for which:

- no business case had been prepared;
- no performance indicators had been established (to enable monitoring and evaluation);
- there was no documentation regarding the nature of services Airservices intended to obtain from or through ICCPM; and
- there was no documentation regarding expected costs, or how Airservices would satisfy that sole sourcing consulting assistance (from or through ICCPM) would provide value for money.<sup>23</sup>

5.32 The ANAO noted that it was common for Airservices to use the relationship with ICCPM to engage individuals to undertake particular roles, and highlighted Airservices' extensive use of ICCPM to assist with the delivery of OneSKY:

Since 2012, there were 42 engagements of ICCPM employees and sub-contractors through 18 procurement processes. The engagements were given effect through six contracts, 10 contract variations and four uses of an on-call services schedule under one of the contracts. Under the various contractual arrangements, Airservices agreed to pay ICCPM total fees of more than \$9 million.<sup>24</sup>

5.33 The ANAO observed that Airservices' approach to its own procurement policies and procedures was to regularly depart from them for various ICCPM procurements. It was noted that internal controls intended to promote compliance were

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21 In response to an internal audit conducted in 2009, Airservices had agreed to develop a considered approach to managing strategic partnerships. However, a draft management instruction which had been approved on 1 July 2010 by the then acting CEO was not issued. Airservices informed the ANAO that it could not locate any documentation which would explain why the instruction had not been issued.

22 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program, ANAO Report No. 1, 2016–17*, August 2016, p. 8.

23 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program, ANAO Report No. 1, 2016–17*, August 2016, p. 26.

24 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program, ANAO Report No. 1, 2016–17*, August 2016, p. 8.

regularly bypassed and even when they were applied, they tended to be ineffective. Further, the ANAO noted that often the records kept by Airservices (in relation to procurement decisions) were perfunctory.

5.34 Airservices' approach to contracting ICCPM was also found to be ineffective in providing value for money outcomes. The ANAO described Airservices as price takers: noting that the organisation accepted quotes from ICCPM without comparing proposed rates to similar services, or actively negotiating reduced rates. The ANAO reported that Airservices' approach to recording decisions to spend money, and the bypassing of internal controls also contributed to a "lack of transparency over the decisions to procure services from, or through ICCPM".<sup>25</sup>

5.35 The ANAO reported that between 2012–13<sup>26</sup> and December 2015, Airservices paid ICCPM a total of \$5.8 million in consultancy fees and expenses. Between 2012–13 and 2014–15, the payments from Airservices amounted to 75 per cent of the revenue reported by ICCPM as derived from consulting work.<sup>27</sup>

### ***Allens Probity Review***

5.36 The committee also raised specific concerns about probity arrangements (in relation to the OneSKY program) during a hearing held in August 2015. Following the August hearing, the Airservices Board commissioned an external review of these probity arrangements. The review was undertaken by legal firm Allens Linklaters (Allens). Allens provided the Airservices Board with a draft report on 9 September 2015, and a final report on 27 October 2015.

5.37 Airservices Board Chair, Sir Angus Houston, told the committee at a hearing held on 9 September 2015, that the Allens draft report contained three key findings:

- the probity framework for the OneSKY procurement process was adequate, robust, sound and consistent with market practice;
- there is a possible perception of conflict which requires additional management, but this possible perception did not have any actual effect on the tender process (including the evaluation of tenders and selection of a preferred tenderer); and
- there is no evidence that the issues raised by the Senate resulted in any improper influence, bias, favour or breach of confidence or any incompatibility between duties to the program and the personal and financial interest of those involved.<sup>28</sup>

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25 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 9.

26 2012–13 was when Airservices started obtaining consulting services through ICCPM.

27 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, pp. 22–23.

28 Sir Angus Houston, Airservices Australia, *Committee Hansard*, 9 September 2015, p. 4.

***ANAO findings – Airservices' probity management framework***

5.38 Airservices' procurement framework requires that probity be a key consideration. This includes the requirement to effectively identify and manage potential, actual or perceived conflicts of interest.

5.39 The ANAO's investigation found that the probity plan and protocols established by Airservices for the CMATS joint procurement process, together with the engagement of an external probity advisor and external probity consultant, provided a "reasonable basis for managing the probity aspects of the tender process". Airservices did not, however, commission independent probity audits of any phase of the tender process following the release of the RFT.<sup>29</sup>

***ANAO findings – probity management in engaging ICCPM and its subcontractors***

5.40 The ANAO also found that in its decision to enter into a strategic relationship with ICCPM (for the duration of the OneSKY program or in relation to any of the 18 sole-sourced procurements that occurred prior, and subsequent to the establishment of the relationship) Airservices did not address matters of probity. Further:

...on no occasion was there documented consideration as to whether the engagement would give rise to potential actual or perceived conflicts of interest that should either be avoided (by not proceeding with the procurement) or for which a specific management strategy could be established.<sup>30</sup>

***ANAO's findings related to Allens report***

5.41 The ANAO's initial audit also found that Airservices had not provided all material (relevant to its relationship with ICCPM) to Allens. It was noted that Airservices had failed to provide Allens with:

- advice or documentation regarding the May 2013 decision to establish a strategic partnership with ICCPM for the duration of the OneSKY program; and
- documentation concerning the role played by ICCPM sub-contractors in the evaluation and contract negotiation processes.<sup>31</sup>

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29 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 9.

30 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 10.

31 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 16.

5.42 It was also found that:

- in conducting its review Allens did not engage with ICCPM; and
- the review did not address the question of advice provided to the Airservices Board of any conflict of interest matters caused by ICCPM's involvement in the OneSKY project.<sup>32</sup>

5.43 The ANAO's first report, published in August 2016, contained six recommendations which were all agreed to by Airservices. A complete list of the ANAO's recommendations are included at Appendix 3.

#### *Airservices' response*

5.44 In its response to the ANAO's initial report, Airservices acknowledged that improvements could be made to its procurement framework. The organisation accepted the ANAO's findings, and initiated actions to address each of its recommendations. At the same time, Airservices indicated that it still had significant concerns about commentary in the report (regarding the management of probity in relation to the overall OneSKY tender process) which could lead the reader to draw conclusions about the integrity of the process, which were not supported by evidence.<sup>33</sup>

5.45 Airservices argued that the tender evaluation arrangements that were in place were robust, and denied any suggestion that "perceived conflicts of interest at any stage created, or had the potential to create, an actual conflict of interest that could adversely impact the integrity of the OneSKY tender process".<sup>34</sup>

5.46 The ANAO's second performance audit report (ANAO Report No. 46 2016–17) was tabled in April 2017. The objective of the second audit was to assess whether the OneSKY tender was conducted "so as to provide value with public resources and achieve required timeframes for the effective replacement of the existing air traffic management platforms".<sup>35</sup>

5.47 The committee's concerns about probity (in relation to the involvement of ICCPM contractors in the tender evaluation and contract negotiation process) were considered by the ANAO, which found that:

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32 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 17.

33 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 12.

34 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 12.

35 Australian National Audit Office, *Conduct of the OneSKY Tender*, ANAO Report No. 46 2016-17, April 2017, p. 17.

Airservices did not apply any consideration to potential actual or perceived conflict of interest matters in deciding to engage the Lead and Deputy Lead Negotiator via ICCPM. Actual or perceived conflicts of interest could have been effectively contemplated and managed had Airservices combined competitively tendering these two long-term, high cost roles with active consideration of any conflicts as part of the procurement process. Airservices also did not consider conflict of interest matters before the Lead and Deputy Lead Negotiator became involved in the evaluation of tenders ahead of the contract negotiation phase of the tender process. These were significant failings by Airservices.<sup>36</sup>

5.48 The committee's concerns in relation to Mr Hein's recommendation (approving a substantial extension to a contracting arrangement with ICCPM) and the perceived conflict of interest, were also addressed by the ANAO. The ANAO found that Mr Hein signed a memo recommending that the Airservices' CEO approve the contracting via ICCPM of the lead and deputy lead negotiations for a further eight months at a total expected cost of \$1.247 million, which the Airservices' CEO approved on 6 October 2014.

#### *Airservices' response*

5.49 Airservices accepted the findings of the ANAO's 2017 report into the conduct of the OneSKY tender, noting its conclusion that the tender process "was appropriate for the scale, scope and risk of the project". Airservices also stated, however that:

With any complex procurement of this scale and scope, there will always be some potential improvements that, with hindsight, can be identified and we acknowledge and accept these and we will incorporate them in our future operations.<sup>37</sup>

#### **Committee comment**

5.50 The committee notes that its concerns about probity (in relation to the involvement of ICCPM contractors in the tender evaluation and contract negotiation process) were considered by the ANAO. The committee notes the ANAO's finding that any actual or perceived conflicts of interest could have been more appropriately managed by Airservices.

5.51 The committee is also pleased to note that the ANAO's investigation highlighted the problems that can arise from a situation whereby sub-contractors (with links to tenderers) became involved in the evaluation of competing tenderers. The committee is of the view that Airservices should be more aware of the attendant

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36 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 69.

37 Airservices Australia, *Airservices statement to ANAO Report on the conduct of the OneSKY Tender*, 10 April 2017, <http://newsroom.airservicesaustralia.com/news/airservices-statement-to-anao-report-on-the-conduct-of-the-onesky-tender> (accessed, 22 March 2019).

probity risks which can arise in these circumstances.<sup>38</sup> The committee is also of the view that Airservices needs to actively engage in future processes to ensure that attention is drawn to potential conflicts of interest and they are dealt with in a consistent manner.

5.52 The committee is pleased to note that, in its response to the ANAO's initial report, Airservices did acknowledge that improvements could be made in relation to its procurement framework. The committee is also of the view that Airservices' acceptance of the ANAO's findings, and the fact that it has initiated actions to address each of the ANAO's recommendations, reflects positively on the organisation.

### ***Structural reform and privatisation***

#### *Productivity Commission report*

5.53 In a report published in 2014, the Productivity Commission noted that governments had "successfully privatised airports, major ports and electricity infrastructure and services" and recommended that the Government determine whether there are net benefits to privatising organisations such as the Australian Rail Track Corporation (ARTC), Snowy Hydro and Airservices.<sup>39</sup>

5.54 The Government's response to the Productivity Commission's report indicated that it supported, in principle, the privatisation of public assets, particularly when it results in increased economic efficiency and better services for the community. The Government also noted that it would be giving consideration to the sale of Commonwealth-owned assets – including public infrastructure assets.<sup>40</sup>

#### *Department of Finance – Functional and Efficiency Review*

5.55 During the Senate's Budget Estimates – held in May 2016 – the committee was told that the Department of Finance's Functional and Efficiency review – undertaken by KPMG – had been completed in February 2016.

5.56 Mr Mike Mrdak, Secretary of the then Department of Infrastructure, informed the committee that the review had identified areas where the Government could consider major structural changes, including in relation to Airservices. The committee was told that the review had looked at international examples where governments had placed their air traffic control provider (and air services provider) in different governance structures. Mr Mrdak noted, for example, that in the United Kingdom and

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38 Australian National Audit Office, *Procurement of the International Centre for Complex Project Management to Assist on the OneSKY Australia Program*, ANAO Report No. 1, 2016–17, August 2016, p. 10.

39 Productivity Commission, *Public Infrastructure, Productivity Commission Inquiry Report Vol. 1, No. 71*, 27 May 2014, p. 18, [https://www.pc.gov.au/\\_data/assets/pdf\\_file/0003/137280/infrastructure-volume1.pdf](https://www.pc.gov.au/_data/assets/pdf_file/0003/137280/infrastructure-volume1.pdf) (accessed 21 March 2019).

40 Australian Government Response – Productivity Commission Inquiry Report into Public Infrastructure, 2014, p. 5.

Canada these providers had been placed in either 'part-private ownership' or within a 'not-for-profit government agency' structure.<sup>41</sup>

#### *Australian Aviation Associations' Forum*

5.57 In late April 2016, the Australian Aviation Associations' Forum (TAAAF) – chaired by former Airservices Chief Executive Officer, Mr Greg Russell – called for the privatisation of Airservices. TAAAF argued that Airservices' partially corporatised model, which had operated for approximately 20 years, had become increasingly "incapable of delivering efficient and affordable air traffic services in a growing aviation market".<sup>42</sup> TAAAF also argued that the move to privatise Airservices could raise as much as \$1 billion, and that a model similar to the not-for-profit one used in Canada would make air traffic control more efficient.<sup>43</sup>

#### *Aircraft Owners and Pilots Association of Australia*

5.58 In April 2016, the Aircraft Owners and Pilots Association of Australia (AOPA) expressed similar views, and suggested that Airservices was underperforming and should be privatised. AOPA argued that the proceeds from the sale of Airservices should be used to set up an industry trust fund to finance new technology and university research and development.<sup>44</sup> It was also argued that the privatisation of Airservices would improve productivity and provide capital to invest in the General Aviation industry – while at the same time helping to reduce the budget deficit.<sup>45</sup>

#### *Community and Public Sector Union*

5.59 In contrast, the Deputy National President of the Community and Public Sector Union (CPSU), argued that the job losses and restructures at Airservices could be seen as a possible precursor to privatisation.<sup>46</sup> The CPSU urged the Government to rule out privatising Airservices, and noted that given there is no competitive market for air traffic control services:

...Airservices Australia is a natural monopoly providing a public good and there is no business incentive to improve services. The privatisation of such

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41 Mr Mike Mrdak, Department of Infrastructure, Senate Rural and Regional Affairs and Transport Legislation Committee, *Estimates Hansard*, 5 May 2016, p. 106.

42 Australian Aviation Associations Forum, *Aviation Policy 2016*, p. 9.

43 Sydney Morning Herald, *Aviation industry players call for \$1b privatisation of Airservices Australia*, 28 April 2016, <https://www.smh.com.au/business/companies/aviation-industry-players-call-for-1b-privatisation-of-airservices-australia-20160428-gogqsc.html> (accessed 21 March 2019).

44 Aircraft Owners and Pilots Association of Australia, *Project Eureka: A Brief to Government to Revitalise the General Aviation Industry in Australia*, April 2016, p. 7.

45 Aircraft Owners and Pilots Association of Australia, *Project Eureka: A Brief to Government to Revitalise the General Aviation Industry in Australia*, April 2016, p. 12.

46 Canberra Times, *Staff at Airservices Australia fight for 600 voluntary redundancies in major restructure*, 4 July 2016, <https://www.smh.com.au/public-service/staff-at-airservices-australia-fight-for-600-voluntary-redundancies-in-major-restructure-20160704-gpy9uk.html> (accessed 21 March 2019).

an essential public service is not in the public interest and should be opposed.<sup>47</sup>

## Air Traffic Control

### *Land and Hold Short Operations*

5.60 The committee examined issues around the Land and Hold Short Operations (LAHSO) being used at Melbourne, Darwin and Adelaide airports. LAHSO involves the simultaneous use of two crossing runways in situations where the runway intersection is a long distance from the landing threshold such that pilots are able to ensure they can 'hold short' of the crossing runway when landing. The procedure is only available to operators who have provided specific training to pilots and received authorisation from CASA.<sup>48</sup>

5.61 The committee raised concerns about a specific incident that occurred at Melbourne Airport on 5 July 2015.<sup>49</sup> Shortly after one aircraft commenced take-off, two other aircraft conducted simultaneous missed approach/go arounds, during a night LAHSO operation.<sup>50</sup>

5.62 Shortly after the incident, Airservices conducted a review of LAHSO and issued 'minor improvements to the procedure'.<sup>51</sup> After a number of delays, the ATSB's final report in relation to the incident – AO-2015-084 – was released on 6 August 2018. The ATSB found that:

...since 2011, Airservices Australia had been aware of the hazard associated with the inability to separate aircraft that were below the appropriate lowest safe altitude at night but had not adequately mitigated it. This resulted in a situation where, in the event of a simultaneous go-around at night during LAHSO at Melbourne Airport, there was no safe option available for air traffic controllers to establish a separation standard and to ensure a mid-air collision did not occur when aircraft were below minimum vector altitude. Though Airservices Australia had implemented a number of preventative controls prior to this occurrence in response to concerns

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47 Committee Correspondence from Mr Alistair Waters, National President, Community and Public Sector Union, received 15 December 2016, pp 4–5.

48 Airservices Australia, Answers to Questions Taken on Notice from 28 November 2014 hearing, Question No. 16, received 12 December 2014.

49 Airservices Australia, *Committee Hansard*, 9 September 2015, pp. 16 and 18.

50 Australian Transport Safety Bureau, *Unsafe proximity and radar vector below minimum vector altitude involving two Boeing 737-800s, VH-VXS and VH-VYE, Melbourne Airport, Victoria, 5 July 2015*, Australian Transport Safety Bureau, [https://www.atsb.gov.au/publications/investigation\\_reports/2015/aair/ao-2015-084/](https://www.atsb.gov.au/publications/investigation_reports/2015/aair/ao-2015-084/) (accessed 22 March 2019).

51 Airservices Australia, *Changes to AIP Land and Hold Short Operations (LAHSO)*, *Safety Bulletin*, 23 October 2015, <http://www.airservicesaustralia.com/wp-content/uploads/SB23October2015-LAHSO-AIP-Changes.pdf> (accessed 22 March 2019).

expressed by the Civil Aviation Safety Authority (CASA), a recovery control was not implemented until 2016.

Additionally, the compromised separation recovery training provided to the air traffic controllers employed in the Melbourne ATC Tower did not include a night scenario for missed approaches during LAHSO.<sup>52</sup>

5.63 As a result of the ATSB's investigation, Airservices Australia received an exemption from CASA "to radar vector aircraft below the minimum vector altitude at night at Melbourne Airport under certain conditions". Airservices also instigated a safer procedure for land and hold short arrival pairs "such that aircraft will not come into unsafe proximity in the event of a missed approach". Training in compromised separation recovery at night during LAHSO was also introduced for Melbourne ATC Tower controllers.<sup>53</sup>

#### *Automatic dependent surveillance broadcast system*

5.64 According to Airservices, the Automatic Dependent Surveillance Broadcast (ADS-B) system involves the fitting (on-board aircraft) of electronic equipment which automatically broadcasts the precise location of the aircraft via a digital data link. The data can be used by other aircraft and air traffic control to show the aircraft's position and altitude on display screens without the need for radar. By using the system, an aircraft uses GPS to determine its position and a transmitter then broadcasts specific information to dedicated ground stations that receive the information and relay it to air traffic control for precise tracking.<sup>54</sup>

5.65 It was noted that the United States' Federal Aviation Administration (FAA) has mandated, that by 1 January 2010, aircraft must be fitted with ADS-B technology. In Australia, the mandate for all aircraft operating under Instrument Flight Rules (IFR) to be fitted with serviceable ADS-B equipment came into effect on 2 February 2017.<sup>55</sup>

5.66 At an August 2015 hearing, Mr Greg Hood, Executive General Manager of Airservices, was asked about the costs of fitting aircraft with ADS-B technology. Mr Hood told the committee that the minimum cost for fitting general aviation (GA) aircraft with the new technology would be approximately \$10,000.<sup>56</sup>

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52 Australian Transport Safety Bureau, *Unsafe proximity and radar vector below minimum vector altitude involving a Boeing 777-31HER, A6-EBU, and two Boeing 737-838s, VH-VXS and VH-VYE, Melbourne Airport, Victoria, 5 July 2015*, 6 August 2018, p. ii.

53 Australian Transport Safety Bureau, *Unsafe proximity and radar vector below minimum vector altitude involving a Boeing 777-31HER, A6-EBU, and two Boeing 737-838s, VH-VXS and VH-VYE, Melbourne Airport, Victoria, 5 July 2015*, 6 August 2018, p. ii.

54 Airservices Australia, *How ADS-B Works*, <http://www.airservicesaustralia.com/projects/ads-b/how-ads-b-works/> (accessed 22 March 2019).

55 It is noted that CASA has granted authorisation to a limited number of non-equipped aircraft to fly without ADS-B under specific conditions until 2020.

56 Mr Greg Hood, Executive General Manager, Airservices Australia, *Committee Hansard*, 18 August 2015, p. 20.

5.67 In a submission to the inquiry, Mr Dick Smith raised concerns about the use of ADS-B in non-controlled airspace, and argued that there was "no present safety problem" that would require small aircraft be fitted with ADS-B technology ahead of the United States. Mr Smith also argued that if Australia headed down this path, it would likely result in economic damage to the general aviation industry.<sup>57</sup>

5.68 The issue was raised again during Senate Estimates hearings (held in May and October 2016). The committee questioned both CASA and Airservices about the mandate for implementing ADS-B technology. Specifically, questions were asked about the timing of ADS-B adoption in Australia, given that the adoption would not take place in the United States – which is the market leader – until at least 2020.

5.69 Airservices Chief Executive Officer, Mr Jason Harfield, argued that one of the major benefits associated with the introduction of ADS-B would be that, for the first time, there would be complete surveillance coverage across Australia.

5.70 The committee raised industry concerns in relation to the impact ADS-B technology would have on general aviation, and noted that the implementation of ADS-B was originally intended to achieve savings from the closure of secondary surveillance radar. Further, it was suggested to Airservices that the long delay in implementing the technology had led to some contracts having to be renewed which thereby negated the savings:

**Senator Xenophon:** I spoke to Dick Smith, a former Chairman of CASA, earlier today in relation to this. He expressed serious concerns about the impact on general aviation and the necessity of the rollout of ADS-B at this time. In the continental United States, which is similar but a bit bigger than Australia in terms of land mass – is that right?

**Mr Harfield:** It is about the same.

**Senator Xenophon:** It has about 600 ADS-B, compared with 70 here.

**Mr Harfield:** They also have 300 radars and we have 15. So there are economies of scale in how they actually run their airspace. They deal with 18 million flights a year and we deal with four million. It is a completely different premise. The ADS-B mandate that is being introduced in the United States is for IFR in the VFR aircraft, whereas here in Australia it is only for IFR aircraft. Their mandate is timed for the end of life of their radar coverage so that they do not have to replace their radars. Ours is actually increasing surveillance across the country, because we have a different need and it is a different issue we are trying to resolve.

**Senator Xenophon:** But, as I understand it, the ADS-B implementation was supposed to achieve savings from the closure of the secondary surveillance radar. Is that right?

**Mr Harfield:** Originally. The [late] mandate was to replace all the radars up and down the east coast. However, that was based on the industry – the broader aviation industry – not have to pay for the replacement of radars,

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57 Mr Dick Smith, AC, *Submission 2*, p. 2.

and using that money to fund the equipage of ADS-B. But industry did not agree with that, and we had a range of mandates that were agreed by industry, starting back in 2013. The first one was about all aircraft above 29,000 feet, working through to Perth and then to next year, which is all IFR aircraft.

**Senator Xenophon:** For whatever reason, the ADS-B implementation took too long, so instead of achieving savings from the closure of the secondary surveillance radar, Airservices had to renew the service contracts. Is that right?

**Mr Harfield:** Some radars. We are actually decommissioning two radars next year after the mandate for ADS-B –

**Senator Xenophon:** But will some contracts renew?

**Mr Harfield:** Some contracts renew, but we still need that surveillance coverage and we do not have ADS-B in that area because people up and down the east coast still want to use radar, and it helps supplement the surveillance coverage across the nation.<sup>58</sup>

## The Accelerate program

5.71 As the mining boom ended, Airservices reported a plateauing of revenue, flat growth domestically, and increasing costs. Air traffic contracted during 2014–15, and this, combined with weak traffic growth in some international markets, led to Airservices' decreased profitability. Airservices told the committee that:

In the 2015 financial year, Airservices generated revenue of \$1.012 billion, and had costs of \$1.006 billion. Costs have grown faster than revenue for most of the previous ten years. Staff numbers have increased from 2996 employees in 2006 to 4468 employees in 2016, but our workforce planning has not kept pace with the changing technological environment to deliver us the capability we need into the future. We were consistently overpromising and under-delivering on our capital works program, with the gap between our promised and actual expenditure growing out to around \$100m by June 2015.<sup>59</sup>

5.72 Airservices acknowledged that its underperformance had been recognised by the committee, the Commission of Audit, the Productivity Commission and the Harper Review. These organisations had also raised concerns about the efficiency of the organisation's investment program, its operating efficiency and its pricing structures. Mr Harfield told the committee that Airservices was an organisation that "was doing less with more and understandably the airlines, our fee-paying customers, expected something to change".<sup>60</sup>

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58 Mr Jason Harfield, Chief Executive Officer, Airservices Australia, *Estimates Hansard*, 17 October 2016, p. 106.

59 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 1].

60 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 1].

5.73 It was in the context of poor financial performance, that Airservices launched the Accelerate program, which commenced on 1 July 2016, The proposed program included three work streams:

- a new operating model 'with less bureaucracy and more accountability';
- project and asset refocus – managing assets and projects to commercial standards; and
- technology – making better use of current systems.<sup>61</sup>

5.74 Airservices Chief Executive, Mr Harfield, described the Accelerate program as a "short transformation to reposition the organisation to focus on our core business of air traffic control, aviation rescue and firefighting".<sup>62</sup>

5.75 Under the new operating model, Airservices proposed a reduction of 900 full-time equivalent staff from its 4500-strong workforce, through the use of both voluntary and involuntary redundancies.<sup>63</sup> In October 2016, Mr Harfield told the committee that of the 900 redundancies under the Accelerate program:

- 580 people left Airservices at the end of September 2016 under a voluntary redundancy process;
- 709 people were expected to leave the organisation by the end of 2016 (under the voluntary redundancy process); and
- approximately 200 staff would leave the organisation by 30 June 2017, by means of voluntary or involuntary redundancies – which would reduce the total of Airservices staff by 20 per cent.<sup>64</sup>

5.76 At the time, Mr Harfield was reported as saying that the proposed job cuts would not compromise the safety of Australia's passenger aircraft, because a "detailed and rigorous assessment" had been conducted to determine any potential impact on the safety of Airservices traffic control or aviation rescue firefighting operations. He also argued that a workforce of 3600 was the appropriate capacity for the organisation to move towards.<sup>65</sup>

5.77 In early July 2016, the media reported that in a letter to Airservices' staff, Mr Harfield had indicated that those working in operational roles such as air traffic control and rescue firefighting could not apply for one of the 600 redundancies on offer at the time. Reports suggested that more than 600 staff applied for the

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61 Airservices Australia, *2015–16 Annual Report*, p. 29.

62 Mr Jason Harfield, Airservices Australia, *Estimates Hansard*, 17 October 2016, p. 89.

63 Australian Aviation, *No plans to privatise Airservices: Minister*, 2 November 2016,

64 RAAA, transcript of address by Jason Harfield, CEO, Airservices Australia, *The new Airservices – supporting regional aviation*, p. 7, Mr Jason Harfield, Airservices Australia, *Estimates Hansard*, 17 October 2016, p. 89, and *The Australian, Airservices Australia to slash staff by 20 per cent*, 26 August 2016.

65 *The Australian, Airservices Australia to slash staff by 20 per cent*, 26 August 2016.

redundancy packages, with union officials and senior Airservices management acknowledging a decline in workforce morale.<sup>66</sup>

5.78 During an Estimates hearing held in October 2016, CASA officials confirmed that the proposed cuts to the Airservices' workforce would involve reductions in engineering and technical support services.<sup>67</sup> At the same time, media reports also suggested that as many as 50 jobs would be cut from the IT department as part of Airservices' cost reduction program.<sup>68</sup>

### ***Fair Work Commission***

5.79 On 30 October 2016, the Community and Public Sector Union (CPSU), the Electrical Trades Union of Australia (ETU) and Professionals Australia (PA) raised concerns about the proposed cuts and requested an immediate suspension of the Accelerate program.

5.80 In late October 2016, the CPSU, PA and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU, incorporating the ETU) lodged a dispute over the Accelerate program with the Fair Work Commission. The parties contended that Airservices had not complied with the consultation, redeployment and redundancy provisions of the organisation's enterprise agreement (*Airservices Australia Enterprise Agreement 2013–2017*).<sup>69</sup>

5.81 Following a number of conferences between the parties, it was agreed that Airservices would, among other things:

- advertise available vacant positions to which potentially surplus employees could be redeployed;
- for a limited time, accept expressions of interest (EOI) from potentially surplus employees for the available vacant positions;
- consider potentially surplus employees who have submitted an EOI in an available vacant position for redeployment to such positions in isolation from any other applicants;

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66 Canberra Times, *Staff at Airservices Australia fight for 600 voluntary redundancies in major restructure*, 4 July 2016, <https://www.smh.com.au/public-service/staff-at-airservices-australia-fight-for-600-voluntary-redundancies-in-major-restructure-20160704-gpy9uk.html>, (accessed 19 February 2019).

67 Mr Andrew Tiede, Manager, Air Navigation, Airspace and Aerodromes Branch, Civil Aviation Safety Authority, *Estimates Hansard*, 17 October 2016, p. 86.

68 itnews, *Airservices to cut 50 IT jobs*, 31 October 2016, <https://www.itnews.com.au/news/airservices-to-cut-50-it-jobs-440455> (accessed 12 February 2019).

69 *CPSU v Airservices Australia* (C2016/6423), *CEPU v Airservices Australia* (C2016/6433) and *Professionals Australia v Airservices Australia* (C2016/6444), Fair Work Commission, Statement of 17 November 2016, p. 1.

- upon request from an individual employee, provide an employee with the result of Airservices' assessment of their capability;
- after the redeployment process, make offers of voluntary redundancy to any potentially surplus employees who were not redeployed to a vacant position, and who are in a class of employees considered excess to the efficient and economical working of Airservices;
- allow four weeks for an employee to make a decision on whether to accept the voluntary redundancy offer. If an offer is not accepted, termination via involuntary redundancy will occur after a specified time period; and
- consider a job swap proposed by a potentially surplus employee and another employee.<sup>70</sup>

5.82 During its inquiry, the committee sought and received submissions from a number of organisations which raised specific concerns about the Accelerate program, and the impact it could have on various aspects of aviation safety and security. These included: Civil Air Australia (Civil Air), Airservices, Australian Federation of Air Pilots (AFAP), Australian and International Pilots Association (AIPA), Electrical Trade Union (ETU), Community and Public Sector Union (CPSU) and the United Firefighters Union of Australia (UFUA). On 1 December 2016, the committee also held a private briefing with Civil Air and Airservices.

### ***Impact of, and response to, Airservices' redundancies***

#### *Operational impacts*

5.83 During the committee's inquiry, Airservices maintained that the Accelerate program would only affect back office staff and operations, and would not have a direct impact on front line air traffic controllers and aviation rescue and firefighting services.<sup>71</sup>

5.84 A number of stakeholder groups did, however, raise various concerns about the impact the Accelerate program would have on Airservices' employees and the organisation as a whole. Stakeholders told the committee:

- While it was proposed that staff cuts would only apply to back of house and support staff in non-safety critical areas, these supporting positions are vital to the proper functioning of air traffic control systems.
- Even though operational air traffic controllers and aviation rescue firefighters were specifically excluded from applying for voluntary redundancies, up to 25 air traffic controllers had been approved for voluntary redundancies. It was explained that while these line managers may have been performing other

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70 *CPSU v Airservices Australia* (C2016/6423), *CEPU v Airservices Australia* (C2016/6433) and *Professionals Australia v Airservices Australia* (C2016/6444), Fair Work Commission, Statement of 17 November 2016, pp. 2–4.

71 Mr Jason Harfield, Airservices Australia, *Estimates Hansard*, 17 October 2016, p. 89 and Airservices Australia, correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 2].

duties (or were on leave at the time) they still held current authorisations to operate air traffic control equipment.

- Should air traffic control units in Cairns and Adelaide be consolidated during 2017, it would result in the loss of 10 air traffic controllers in Cairns. It was argued that this negated the message that frontline operational staff would not be affected by job cuts.
- The complex ATM system requires engineering and other technical knowledge to ensure its efficient and safe operation. It was argued that Accelerate (and other cost reduction programs) could have impact a direct impact on the ability of Airservices to maintain and operate a national ATM system.
- The Accelerate program had the potential to impact frontline ATM functions. It was argued that some type of divide between regulatory functions within Airservices (such as ATM) and its commercial interests may provide a clearer focus on the provision of frontline services.
- Despite excluding 'core operational' air traffic controllers and aviation rescue firefighters from voluntary redundancies, staff cuts to 'non-core non-operational' maintenance and corporate services were significant, and ignored the fact that technical staff also service core functions, for example, keeping infrastructure up-to-date and conducting detailed analysis of data.

#### *Safety issues*

5.85 Stakeholder groups also raised concerns about the loss of staff with the essential specialist skills needed in the areas of air traffic control and engineering as well as technical and software areas. Stakeholders also told the committee that there was no evidence to suggest that the necessary safety risk assessments were being conducted, so it was not possible to assess the consequences of removing these skills and experience from the organisation.

5.86 Concerns were also raised regarding:

- the level of Airservices' consultation with stakeholders;
- reports of untrained staff being used in technical positions;
- problems with staffing projects which identify and manage safety risks; and
- reports that critical hazard alerts (based on Bureau of Meteorology warnings and known as AIRMET) had, over a three week period in November 2016, not been transmitted by Airservices to crews of affected aircraft within Australian airspace.

5.87 The committee followed up on stakeholders' concerns during an October 2016 Estimates hearing. The committee asked the then temporary CEO of CASA, Mr Shane

Carmody, what impact the loss of Airservices' jobs would have. Mr Carmody told the committee that it would have "no impact on aviation safety".<sup>72</sup>

5.88 On 17 November 2016, however, it was revealed that at Sydney Airport – during the period between late November and early January – air traffic controllers needed to fill more than 50 additional vacancies in the roster. This included up to seven vacancies on one day in December. It was reported that:

The holes in the roster for air traffic controllers at Australia's busiest airport come after at least five line managers – four of whom were licensed to operate as air traffic controllers – took redundancy as part of 900 nationwide job cuts at Airservices...<sup>73</sup>

5.89 Further, it was noted that the concerns raised about gaps in the roster emerged "despite Airservices' insistence for months that job cuts announced in July would not impact operationally rostered air-traffic control".<sup>74</sup>

5.90 At the time, Airservices acknowledged that while some Sydney line managers had applied for – and been offered – voluntary redundancy, the organisation still had the capacity to manage the provision of air traffic control "with a more efficient management structure". Airservices also asserted that safe and efficient air traffic control would be maintained across the holiday period.<sup>75</sup>

5.91 Airservices also refuted a number of claims about Accelerate's adverse impact on safety, service delivery and support functions. Airservices asserted that of the approximately 640 employees who had departed the organisation in 2016, almost 400 performed human resources, legal, financial and communication functions – which would have no impact on safety operations. Airservices attributed the remaining departures to natural attrition in areas such as management, training design and delivery (as well as approximately 100 engineering and maintenance staff).<sup>76</sup>

5.92 Airservices maintained that redundancies were not available to operational and rostered air traffic controllers or aviation firefighters, and the committee was told

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72 Civil Aviation Safety Authority, Mr Shane Carmody, *Estimates Hansard*, 17 October 2016, p. 82.

73 The Sydney Morning Herald, *Big holes in Sydney air traffic control roster threaten busy holiday travel*, 17 November 2016, <https://www.smh.com.au/national/nsw/big-holes-in-sydney-air-traffic-control-roster-threaten-busy-holiday-travel-20161116-gsqaf5.html> (accessed 21 February 2019).

74 The Sydney Morning Herald, *Big holes in Sydney air traffic control roster threaten busy holiday travel*, 17 November 2016, <https://www.smh.com.au/national/nsw/big-holes-in-sydney-air-traffic-control-roster-threaten-busy-holiday-travel-20161116-gsqaf5.html> (accessed 21 February 2019).

75 The Sydney Morning Herald, *Big holes in Sydney air traffic control roster threaten busy holiday travel*, 17 November 2016, <https://www.smh.com.au/national/nsw/big-holes-in-sydney-air-traffic-control-roster-threaten-busy-holiday-travel-20161116-gsqaf5.html> (accessed 21 February 2019).

76 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [pp. 1 and 3].

that approximately 100 applications from these classifications of employees had been rejected as ineligible. Airservices refuted claims that operation air traffic controllers had taken redundancies, and stated that these employees were actually line managers, with a broad range of management responsibilities, and duties were accounted for before these staff departed, "with no operational impact".<sup>77</sup>

5.93 Airservices maintained that all staff changes were carefully considered to:

...ensure potential safety risks were identified, understood and appropriately mitigated. This is due to the safety critical nature of our organisation. We have taken a robust and risk-based approach to staff departures and have implemented a comprehensive safety program in accordance with the requirements of our Safety Management System (SMS) that has been oversights by CASA.<sup>78</sup>

5.94 Airservices also implemented an Accelerate Program Safety Plan. The aim of the safety plan was to assist in safety assessments for each phase of Accelerate and to ensure that 'safety critical activities are not impacted', there are no changes to operational air traffic control or aviation firefighting roles, and the appropriate mitigation strategies are put in place to manage redundancies.<sup>79</sup>

5.95 During the inquiry, Airservices provided the committee with a number of documents which outlined the organisation's commitment to staff welfare, safety and the maintenance of service delivery. The documents provided related to:

- the Accelerate Program Safety Plan;
- the Voluntary Redundancy Program Safety Case; and
- statements in relation safety and the transition to a new operating model and senior leadership structure.

### **Ongoing issues at Airservices**

5.96 As part of its oversight of Airservices, a number of issues have been brought to the attention of the committee over recent months – specifically, issues relating to workplace culture and community consultation.

#### ***Workplace culture***

5.97 In early 2019, media reports suggested that conflict between Airservices employees, had "been blamed for undermining the operation of Sydney's air traffic

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77 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 2].

78 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 2].

79 Airservices Australia, Correspondence from Chief Executive Officer, Mr Jason Harfield, dated 1 December 2016, [p. 2].

control tower".<sup>80</sup> It was noted that in late 2018, Airservices had commissioned Converge International to do a 'workplace wellbeing assessment', following an incident in which a number of flights were cancelled at Sydney airport (because two air traffic controllers called in sick at late notice). This situation was repeated when, in January 2019, three of nine rostered controllers indicated they were unavailable for duty – which forced a slower rate of landings at the airport.

5.98 It was noted that the Converge International assessment had found that:

- 93 per cent of employees had experienced or observed disrespectful behaviour, including sexist and racist comments, undermining and derogatory remarks and discrimination;
- employees when asked to rank their primary issues of concern, listed the behaviour of team members first, conflict between team members second, staff turnover and then work schedules fourth; and
- the staff situation had resulted in an extended period of additional duties and staff turnover has impacted work-life balance and also negatively impacted morale.<sup>81</sup>

5.99 As a Commonwealth authority, Airservices is bound by various legislation, including the *Equal Employment Opportunity (Commonwealth Authorities) Act 1987* (EEO Act) as well as the *Australian Human Rights Commission Act 1986*, the *Racial Discrimination Act 1975*, and the *Sex Discrimination Act 1984*.

5.100 Airservices noted in its 2016–17 Annual Report that in accordance with the requirements of the EEO Act, the organisation continues to "work towards a more inclusive and diverse workforce through a range of initiatives which are implemented across the business".<sup>82</sup>

5.101 Airservices' 2017–18 Annual Report noted that as part of its responsibilities under the EEO Act:

- Airservices' employees are responsible for ensuring their behaviour complies with the Airservices Code of Conduct, which sets the standard for treating staff with dignity, respect, courtesy, fairness and equity at all times; and

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80 The Australian, *Air traffic controllers report racism and sexism*, 19 February 2019, [https://www.google.com/search?q=Air+traffic+controllers+report%5C&rlz=1C1GCEA\\_en&oq=Air+t&aqs=chrome.69i59j69i57j014.11996j0j8&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Air+traffic+controllers+report%5C&rlz=1C1GCEA_en&oq=Air+t&aqs=chrome.69i59j69i57j014.11996j0j8&sourceid=chrome&ie=UTF-8) (accessed 22 March 2019).

81 The Australian, *Air traffic controllers report racism and sexism*, 19 February 2019, [https://www.google.com/search?q=Air+traffic+controllers+report%5C&rlz=1C1GCEA\\_en&oq=Air+t&aqs=chrome.69i59j69i57j014.11996j0j8&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Air+traffic+controllers+report%5C&rlz=1C1GCEA_en&oq=Air+t&aqs=chrome.69i59j69i57j014.11996j0j8&sourceid=chrome&ie=UTF-8) (accessed 22 March 2019).

82 Airservices Australia, *Annual Report 2016–17*, p. 105.

- Airservices' National Consultative Council provides a mechanism for ensuring ongoing dialogue with our employee organisations about specific employee-related issues.<sup>83</sup>

### ***Community consultation***

#### *2018 – Inquiry into the Air Services Amendment Bill 2018*

5.102 In early 2018 the committee conducted an inquiry into the Air Services Amendment Bill 2018 (the bill).

5.103 The bill had two primary aims. The first was to provide a consultation and reporting structure around aircraft noise, including:

- requirements that Airservices to consult with local communities affected by aircraft noise and to report on aircraft noise;
- requirements that Airservices minimise the impact of aircraft operations on the human and natural environment, community amenity and residential areas;
- the establishment of an Independent Aircraft Noise Ombudsman (ANO/Ombudsman); and
- the establishment of an independent Community Aviation Advocate (CAA/Advocate).

5.104 The second aim of the bill was to require Airservices to engage with the flight paths over Melbourne Airport, and to provide for a review of flight paths. To this end, the bill sought to empower Airservices with the authority to prepare a plan for management of flight paths and air space in central Melbourne. As part of this plan, the flights of helicopters and fixed wing aircraft below 2,000m above sea level within five kilometres of central Melbourne would be prohibited, with exemptions for emergency services, hospitals, defence and related purposes.

5.105 The committee noted in its bill report that the management of aircraft noise is a matter of seeking to balance the needs and interests of an extensive range of parties and affected groups including:

- pilots who want easier access to airports;
- passengers who want shorter flights;
- airlines which seek to minimise the levels of fuel consumption and greenhouse gas emissions;
- local communities who do not want to have their health and lifestyle disrupted;
- airports which want to maximise flight numbers;
- local businesses which enjoy the economic benefits of local airport growth; and

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83 Airservices Australia, *Annual Report 2017–18*, p. 106.

- all parties who want to ensure the safety of passengers and local communities alike.<sup>84</sup>

5.106 The committee tabled its report on the bill in August 2018. The committee noted at the time that while it recognised that there was significant scope for improvement in the way in which Airservices engages with affected communities:

...it takes the view that the bill before it will not provide the effective consultation mechanism as envisaged. Therefore, the committee does not support the passage of this bill.<sup>85</sup>

5.107 The committee's report on the bill did, however, raise its concerns about the way in which Airservices had engaged with the local community regarding Hobart flight path changes, and noted that it would:

...continue to monitor the effectiveness with which Airservices engages with affected communities on aircraft noise and is more transparent with regard to proposed changes.<sup>86</sup>

#### *Correspondence regarding Hobart Airport*

5.108 One of the primary characteristics of many airports in Australia is that they operate in close proximity to residential areas. In recent times there has been considerable population growth near and around a number of Australian airports.

5.109 Over the years, the committee has, at various times, received complaints from members of the public about aircraft noise and its impact on local communities. The committee has often taken up these concerns and raised them directly with the relevant agencies at Senate Estimates hearings.

5.110 Since November 2018, the committee has received correspondence from a number of Hobart residents raising concerns about the change of flight paths into and out of Hobart Airport, which residents claim took place, unannounced, in September 2017.

5.111 The committee replied to this correspondence, and indicated that while it does not currently have an inquiry into these specific issues, it is:

...responsible to oversight the performance of Airservices Australia. Prior to the release of the Aircraft Noise Ombudsman (ANO) investigation report into complaints about the introduction of new flight paths in Hobart, the committee was informed by Airservices Australian in October 2017 that it had not consulted local communities appropriately in Hobart.

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84 Senate Rural and Regional Affairs and Transport Legislation Committee, *Report on Air Services Amendment Bill 2018*, August 2018, p. 5.

85 Senate Rural and Regional Affairs and Transport Legislation Committee, *Report on Air Services Amendment Bill 2018*, August 2018, p. 52.

86 Senate Rural and Regional Affairs and Transport Legislation Committee, *Report on Air Services Amendment Bill 2018*, August 2018, p. 52.

5.112 Recently, the committee also became aware of the ANO's Quarterly Report (for July–September 2018), which was published on October 2018, and which sets out the progress made by Airservices in implementing the ANO's 13 recommendations. After considering the ANO's report, and the concerns raised by members of the public about the Hobart flight path matter, the committee wrote to Airservices and requested an update on its implementation of the 13 recommendations.

5.113 Airservices provided a response to the Legislation Committee's request on 30 November 2018. The committee published Airservices' response and also brought it to the attention of Hobart 'submitters' in correspondence sent out in December 2018.

5.114 The committee continues to receive written material and submissions from residents regarding the impact of changes to the Hobart flight path.

### **Committee comment**

5.115 As noted above, the committee undertook this inquiry into the Performance of Airservices Australia under Senate Standing Order 25(2)(a). The inquiry, which was initiated during the 44<sup>th</sup> Parliament, was subsequently re-adopted in the 45<sup>th</sup> Parliament, which reflects the fact that the committee's concerns regarding the probity of Airservices are long-standing.

5.116 As previously noted, the committee has long held concerns about the organisation's administration and governance, and the inquiry came about as a result of specific concerns in relation to the use of corporate credit cards. Historically, the committee has also asked questions of Airservices regarding termination payments paid to senior executives, community consultation and workplace and safety issues.

5.117 The committee explored a variety of issues during this inquiry. The primary focus of the committee's concerns, however, centred around:

- the issue of probity in relation to Airservices' procurement processes;
- the impact of the new Accelerate operating model on the Airservices workforce;
- the safety of Australia's passenger aircraft and air traffic control; and
- the implementation of the Automatic Dependent Surveillance Broadcast (ADS-B) system.

5.118 The committee's decision to refer its concerns about administration and corporate governance within Airservices, is evidence of just how seriously the committee takes these matters. The committee is pleased that by alerting the ANAO to these concerns, the ANAO initiated two performance audits and have published the results of its inquiries in two detailed reports.

5.119 The committee notes that Airservices has agreed to all six of the recommendations made in the ANAO's first report and has initiated actions to address each of the ANAO's recommendations. Airservices also acknowledged the issues raised in the ANAO's second report and agreed to take the matters raised into consideration, and incorporate them into future operations.

5.120 The committee is pleased to note that Airservices is also taking the issues raised by the ANAO seriously. The committee views Airservices Board's commissioning of Allens to undertake an external review of probity arrangements, and Airservices' pro-active response to the Allens report as a positive sign.

5.121 As noted above, during the course of this inquiry, additional issues such as workplace culture and the quality of community consultation have been raised with the committee. The committee notes, however, that it is satisfied that in relation to the issues that initially triggered the inquiry – use of corporate credit cards, issues of probity in relation to the procurement process, the impact of the Accelerate program, and the implementation of the ADB-S system – some positive progress has been made by Airservices to improve its performance.

5.122 The committee will, however, continue to maintain a watching brief in relation to Airservices, engage with Airservices' stakeholders and ask questions of Airservices in relation to its performance.

**Senator Barry O'Sullivan**

**Chair**

