

**SENATE STANDING COMMITTEE ON  
RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

**Tuesday, 19 February 2008**

**Members:** Senator Sterle (*Chair*), Senator Siewert (*Deputy Chair*), Senators Heffernan, Hutchins, Hurley, McGauran, Nash, O'Brien

**Senators in attendance:** Senators Abetz, Adams, Boswell, Bob Brown, Bushby, Heffernan, Hutchins, Hogg, Hurley, Ian Macdonald, McGauran, Milne, Nash, O'Brien, Scullion, Sterle and Trood.

**Committee met at 9.00 am**

**INFRASTRUCTURE, TRANSPORT, REGIONAL DEVELOPMENT AND LOCAL GOVERNMENT  
PORTFOLIO**

**In Attendance**

Senator Conroy, Minister for Broadband, Communications and the Digital Economy

**Department of Infrastructure, Transport, Regional Development and Local Government**

**Departmental Executive**

Mr Mike Taylor, Secretary  
Mr Mike Mrdak, Deputy Secretary  
Ms Susan Page, Deputy Secretary  
Mr Andrew Tongue, Deputy Secretary

**Corporate Services**

Mr David Banham, Acting Chief Operating Officer  
Mr Paul Wood, Chief Financial Officer

**Bureau of Infrastructure, Transport and Regional Economics**

Mr Phil Potterton, Executive Director, Bureau of Infrastructure, Transport and Regional Economics  
Dr Gary Dolman, General Manager, Regional Research and Transport Statistics  
Mr Robert Stewart, General Manager, Infrastructure and Transport Research

**AusLink**

Ms Leslie Riggs, Executive Director, AusLink  
Mr Robert Hogan, General Manager, NSW and Investment Coordination  
Ms Heather White, Acting General Manager, Policy and QLD/NT  
Ms Joan Armitage, General Manager, Victoria/Tasmania and Strategic Process  
Mr Jim Wolfe, General Manager, Rail  
Mr Simon Atkinson, Infrastructure Australia Coordination  
Mr Ned Rokvic, Acting General Manager, WA/SA and Local Roads

**Maritime and Land Transport**

Mr Andrew Wilson, Executive Director, Maritime and Land Transport  
Mr Peter Robertson, General Manager, Vehicle Safety Standards  
Mr Michael Sutton, General Manager, Maritime  
Mr Stewart Jones, General Manager, Transport Integration and Reform

**Australian Transport Safety Bureau**

Mr Kym Bills, Executive Director, Australian Transport Safety Bureau  
Mr Joe Motha, General Manager, Road Safety  
Mr Alan Stray, Deputy Director, Information and Investigations  
Mr Julian Walsh, Deputy Director, Aviation Safety Investigation  
Mr Peter Foley, Deputy Director, Surface Safety Investigation  
Ms Kerryn Macaulay, Deputy Director, Technical and Projects

**Australian Maritime Safety Authority**

Mr Graham Peachey, Chief Executive Officer  
Mr David Baird, General Manager, Emergency Response Division  
Mr Gary Prosser, General Manager, Maritime Standards Division  
Mr Mick Kinley, General Manager, Maritime Operations Division  
Mr Yew Weng Ho, General Manager, Corporate Services Division

**Aviation and Airports**

Mr John Doherty, Executive Director, Aviation and Airports  
Mr Mike Ford, General Manager, Aviation Regulation  
Mr Neil Williams, General Manager, Airports  
Mr Stephen Borthwick, General Manager, Aviation Markets  
Mr Stuart Sargent, General Manager, Airspace Policy  
Ms Maureen Ellis, General Manager, Aviation Services

**Civil Aviation Safety Authority**

Mr Bruce Byron, Chief Executive Officer  
Mr Shane Carmody, Deputy Chief Executive Officer, Strategy and Support  
Mr Mick Quinn, Deputy Chief Executive Officer, Operations  
Mr Peter Boyd, Head, Planning and Governance Office  
Ms Julie Fox, General Manager, Corporate Relations  
Dr Jonathan Aleck, Head, Legal Services Group  
Ms Betty Edwards, Chief Financial Officer  
Mr Gary Harbor, Head, Human Resources  
Mr Rob Wight, Air Transport Operations Group  
Mr Greg Vaughan, Group General Manager, General Aviation Operations Group  
Mr Greg Hood, Group General Manager, Personnel Licensing, Education and Training Group  
Mr Jim Coyne, Head, Airworthiness Engineering Branch  
Mr Chris Farrelley, Chief Information Officer  
Dr Ian Hosegood, Principal Medical Officer  
Mr Peter Cromarty, Manager, Office of Airspace Regulation

**Airservices Australia**

Mr Alastair Hodgson, Acting Chief Executive Officer  
Mr Jason Harfield, General Manager, Air Traffic Control  
Mr Ken McLean, General Manager, Safety Management

**Inspector of Transport Security**

Mr Mick Palmer, Inspector of Transport Security  
Mr Peter Pearsall, Director, Office of the Inspector of Transport Security

**Office of Transport Security**

Mr Paul Retter, Executive Director, Office of Transport Security  
Mr James Collett, Acting General Manager, Aviation Security Operations  
Mr Richard Windeyer, General Manager, Aviation Security Policy and Legislation  
Ms Patricia Georgee, Acting General Manager, Analysis and Operational Support  
Ms Rhyan Bloor, General Manager, Governance and Operations  
Ms Philippa Power, General Manager, Maritime and Surface Security

**Regional Services**

Ms Carolyn McNally, Executive Director, Regional Services  
Mr Tony Carmichael, General Manager, Regional Partnerships Branch  
Ms Karen Gosling, General Manager, Sustainable Regions and Networks Branch  
Mr Marcus James, General Manager, Regional Policy Branch

**Local Government**

Mr John Angley, Executive Director, Local Government  
Mr Michael Pahlow, General Manager, Local Government Branch

**CHAIR (Senator Sterle)**—I declare open this public hearing of the Senate Standing Committee on Rural, Regional Affairs and Transport. On Wednesday, 13 February 2008 the Senate referred to the committee for examination the particulars of proposed additional expenditure for 2007-08 and certain other documents for the Infrastructure, Transport, Regional Development and Local Government portfolio. The committee will now further examine the particulars of proposed expenditure through these additional budget estimates hearings. The committee may also examine the annual reports of the departments and agencies appearing before it. The committee is due to report to the Senate on 18 March 2008 and has fixed Wednesday, 9 April 2008 as the date for the return of answers to questions taken on notice.

Under standing order 26 the committee must take all evidence in public session. The Senate by a resolution in 1999 endorsed the following test of relevance of questions at estimates hearings. Any questions going to the operations or financial positions of the departments and agencies which are seeking funds in the estimates are

**CHAIR**—For a complete fit-out?

**Mr Robertson**—Yes.

**CHAIR**—Of new seating and—

**Mr Robertson**—New seating or retrofitting.

**CHAIR**—Take it on notice Mr Robertson, but if you do have figures, could it be made available to the committee?

**Mr Robertson**—Senator, I could probably give you the \$25,000 as a best average. We did take into account the experience of the Western Australian government, for example, in fitting out buses and others, so it is reasonably good.

**Mr Wilson**—Senator, in regard to the costings associated with the applications that we have received, there is a significant variance between the lowest level of cost and the highest level of cost—around \$10,000 out to \$34,000 that the bus operator would face.

**Senator McGAURAN**—What are the legal requirements of each state for new buses coming on line? Obviously this program is barely going to touch the edges. Is there a legal requirement for seat belts for school buses?

**Mr Robertson**—The short answer is that it is not a question of school buses; it is an issue of what the ADR requires for buses that are classified as route service buses—the ones that people get on and off regularly like you find in suburban Sydney or Melbourne—and buses that offer coach-like services. Buses that are not route service buses are required to meet Australian design rule 68 which requires seatbelts. Route service buses are not. The school buses are generally provided under arrangements determined by the state governments and the state governments can decide whether those school buses can be used in the way of route service buses or they require buses with belts.

**Senator O'BRIEN**—Last year I tabled some documents in the Senate which were agreements between Ansett Australia, East-West, British Aerospace and an American engineering entity whose name escapes me, with regard to agreements for compensation in relation to contamination of cabin air due to oil bleeds into the air-conditioning units of aircraft operated by those operators within Australia. Given that there have been longstanding complaints from flight crew about this problem and given that in Europe there have been instances reported of pilots being affected by cabin fumes during flight, and incapacitated, what role has or can ATSB play in relation to the investigation of such matters?

**Mr Bills**—Senator, a number of years ago you may recall that we did do an investigation on the BAe146 aircraft and the cabin fumes issue that had arisen in those particular instances. That led to a parliamentary inquiry into the matter. I should say that it is primarily a regulatory matter, but in respect of your question as to what role the ATSB could play into the future and is playing, whenever there is an instance of cockpit crew being incapacitated, we investigate, I think on almost every occasion, because that is regarded as a serious incident. Mr Walsh will correct me if I am wrong. Certainly we have investigated a number of fumes-type incidents where often there are fumes coming through the air-conditioning system because maintenance has not quite been accomplished as intended and there are other issues as well where there is incapacitation relating to fumes of that kind. We will certainly continue to do that.

In terms of the broader issue as to whether there is anything systemic internationally regarding aircraft with cabin fumes, certainly at the time of that earlier inquiry it was the case that BAe146 aircraft had higher rates of these sorts of fumes incidents than some other aircraft, although all jet aircraft that use bleed air are prone to fumes of some kind and there can be fumes from other sources other than the engine as well. So it is possibly a matter to follow up with the regulator in terms of the broader issue, but our role is as I think I have stated. Mr Walsh may wish to add something.

**Mr Walsh**—On the regulatory side, the only thing I am aware of is that the cabin air quality working group has now reconvened. That working group is run essentially by CASA with a range of industry participants. So I am aware that that process has been regenerated and it would probably be a question for CASA as to where that particular working group is at the moment. I also understand they were waiting for some standards to be published. They were looking for some international standards for filtration and things like that, so there were a number of aspects that they were looking at.

**Senator O'BRIEN**—Given the documents which were tabled, which indicated (a) agreements for compensation in relation to this bleed air problem and (b) that the Senate inquiry you referred to, Mr Bills, was

effectively lied to by Australian operators, particularly Ansett—in other words, they claimed there was no problem yet, on the other hand, they were signatories to an agreement to be compensated for the problem—presumably it is fair to say that ATSB would have received the same sort of evidence from Ansett that the Senate committee received—that is, that the problem was not able to be determined by their own inspections and they were not aware of a significant bleed air problem.

**Mr Bills**—I think that is a fair statement, Senator. Clearly we will check to make sure there is nothing that we are not aware of that we should be aware of, but I am sure that we would not have been aware of that type of arrangement or agreement that you have referred to.

**Senator O'BRIEN**—What are the consequences for an entity or individuals deliberately misleading a body such as ATSB in its inquiries in relation to a matter?

**Mr Bills**—At the time we would have been operating under the former legislation. Concerning my memory of exactly what the consequences are and depending on who said what to whom, we would have to check into that.

**Senator O'BRIEN**—Are there consequences under the current legislation?

**Mr Bills**—Under the current legislation, if someone misleads us or deliberately interferes with an investigation, there are consequences of up to two years imprisonment.

**Senator O'BRIEN**—Could you advise the committee—perhaps on notice—whether similar provisions existed under previous legislation.

**Mr Bills**—I am sure that they are not exactly the same, but yes, we will take that on notice.

**Senator O'BRIEN**—Would ATSB have records of the evidence provided to its inquiries in relation to the cabin bleed air problem?

**Mr Bills**—Yes. All of that should be on the files in archives and, subject to retrieving them, it will be there.

**Senator O'BRIEN**—Is ATSB aware of the documentation that I have been referring to?

**Mr Bills**—I was not aware that you had tabled that documentation, but I am aware from media articles that there was that type of information around.

**Senator O'BRIEN**—Has ATSB taken it upon itself to investigate the nature of the evidence provided by the operators and individuals at that time?

**Mr Bills**—No, Senator, we have not. We had closed the earlier investigation on the BAe146s. It is certainly possible to reopen an investigation but we have made no decision to do that. I am not sure whether the Senate is intending to do anything either. That may be of influence.

**Senator O'BRIEN**—Why should the Senate have to do something if the matter is drawn to ATSB's attention and there is a potential breach of the law?

**Mr Bills**—I am not saying that it should. I did not want to be potentially treading on the same ground.

**Senator O'BRIEN**—I do not think it falls to the Senate to investigate a matter that was in the hands of ATSB when that capacity lies with the ATSB, the matter having been drawn to its attention.

**Mr Bills**—I agree with that, Senator. It was merely that you had indicated correctly that there was a Senate Inquiry and that you believed that the Senate Inquiry was misled. Thus, I thought it possible that you may be intending to do something in that context.

**Senator O'BRIEN**—That is a possibility, but whilst it is a contempt of the Senate to mislead a Senate inquiry, if it is a breach of the law to which significant penalties attach, it would be preferable if that matter was dealt with in accordance with the law, would it not, Mr Bills?

**Mr Bills**—I will undertake to consult with my colleagues. We will look at the evidence at the time and see if it is possible or reasonable to take that matter forward.

**Senator O'BRIEN**—I am sure you would be aware that the documentation tabled in the Senate is available, should you so wish.

**Mr Bills**—Yes.

**Senator O'BRIEN**—In relation to the substance that is often complained about—tricresyl phosphate—has ATSB done any work in relation to the capacity for that substance to have an effect on flight crew, cabin crew, if injected into the cabin air?

**Mr Bills**—I cannot recall what was in our earlier report. Certainly we have looked at hazardous chemicals in cabin air before, but we have not done any particular work on that compound that I am aware of. We will certainly check that.

**CHAIR**—Thank you.

**Proceedings suspended from 1.00 pm to 2.00 pm**

**CHAIR**—Mr Bills?

**Mr Bills**—I had a follow-up to part of Senator O'Brien's question that I took on notice before lunch in relation to the cabin fumes and the legislation. Firstly, with the previous legislation, which was part 2A of the Air Navigation Act, the only relevant section we could find was section 19CC, which was about compelling information and not being provided it. The penalty was 30 penalty units, so alas that is no longer possible to follow up. In terms of the current legislation, the equivalent section is section 32—also 30 penalty units. For a corporate body normally it is up to five times that, but it is still below the threshold for criminal law. As a lawyer, you know this much more than I do. I think I mentioned a two-year penalty; I should have said six months because it is section 24, which is the one about frustrating an investigation. The two years was in relation to leaking a draft report. So, apologies, I got that wrong.

**Senator O'Brien**—Is it possible for you to advise the committee what the nature of the response was, particularly from Ansett and EastWest, to inquiries about the cabin air contamination at that time?

**Mr Bills**—Certainly we can take it on notice, Senator.

**Senator O'Brien**—Whatever response you had you would be able to access it in your archives I presume.

**Mr Bills**—That is correct. We will have to look at what is on the files.

**Senator O'Brien**—Have ATSB been involved in any investigation of what has been reported as a very heavy landing of a Qantas owned and national jet system operated aircraft in Darwin recently?

**Mr Bills**—Yes, Senator.

**Senator O'Brien**—Some talk of wrinkling of the fuselage to the point where it might be a write-off?

**Mr Bills**—We are certainly investigating that. There is no doubt it was a very heavy landing and the damage was significant—substantial in fact. We have classified it on our website as an accident, so the damage level was sufficient to meet that threshold. As to any commercial decision, I am not aware that the operators have made any yet in terms of the future of that aircraft.

**Mr Walsh**—All of the information that we have been privy to at this stage would indicate that the aircraft is likely to be repaired. So I think at the moment suggestions of writing the aircraft off are speculative.

**Senator O'Brien**—Do you have any idea what caused this very heavy landing?

**Mr Walsh**—It is still very early in the investigation. Our team have only just this weekend gone and come back from Darwin having conducted some on-site activities. We are still looking at the flight data record information, but we will certainly have a preliminary report out on that in that 30-day time frame.

**Senator O'Brien**—Was there a weather factor?

**Mr Walsh**—I cannot comment on that at the moment to be quite honest. It is still being looked at. We will obviously look at all of those aspects—look at the environment in terms of the weather conditions, look at the facilities at the airport in terms of the runway infrastructure and those sorts of things. We will certainly look at all of those issues.

**Senator O'Brien**—Can someone give the committee an update on ATSB's role with Transair and those associated with it and the Lockhart River disaster?

**Mr Bills**—Perhaps I can attempt to start. So you are interested in the legal action. Is that correct?

**Senator O'Brien**—Yes, I am, and the coronial proceedings.

**Mr Bills**—In terms of the coronial proceedings, the Queensland state coroner reported on 17 August 2007. So his report, which is reasonably extensive—54 pages—is on his website. So that is publicly available. In terms of legal action, we are not aware of any legal action that has been initiated by any of the blame bodies that potentially could do so in terms of the accident itself. In terms of unrelated occurrence reporting that we have spoken about here before, the AFP is still preparing a brief of evidence on that. There has been quite a lot of interviews undertaken, I understand, but that matter is still with the Australian Federal Police.