



Australian Government
Department of Home Affairs

Aviation Green Paper

**Department of Home Affairs
Submission**

November 2023

The Department of Home Affairs

The Department of Home Affairs (Home Affairs) welcomes the release of the Aviation Green Paper and the opportunity to provide a submission for consideration in development of the Aviation White Paper.

Home Affairs is responsible for the security regulation of Australia's aviation sector through its administration of transport and critical infrastructure security legislation—including policy development and reform, stakeholder engagement, program management, and the performance of regulatory and compliance functions.

This regulatory framework is established under the *Aviation Transport Security Act 2004* (ATSA) and *Aviation Transport Security Regulations 2005* (ATSR). The ATSA and ATSR, enacted for the primary purpose of preventing acts of unlawful interference with aviation, set the minimum security requirements for civil aviation in Australia. These standards are achieved by imposing obligations on entities engaged in civil aviation related activities, known as aviation industry participants. Such participants include airports conducting international or domestic ticketed passenger services, airlines operating such services, and certain entities operating within the aviation cargo sector.

The ATSA also provides the regulatory framework required to meet Australia's international aviation security obligations under the *Convention on International Civil Aviation* (Chicago Convention).

Home Affairs also regulates a defined cohort of aviation industry participants through the *Security of Critical Infrastructure Act 2018* (SOCI Act), which complements the aviation security framework under the ATSA and ATSR by establishing an all-hazards framework to uplift the security capabilities of Australia's critical infrastructure assets.

Security is an intrinsic part of aviation activity

Aviation is a critical part of Australia's transport infrastructure, facilitating international trade and travel, moving passengers and cargo across Australia's vast continent, and connecting remote and regional communities. A safe and secure aviation industry is vital to the Australian economy and way of life.

This importance is demonstrated by the nearly 30.1 million domestic and 3.3 million international passengers that departed on a flight from an Australian airport in 2021/22,¹ and the 977,168 tonnes of international air freight, and 19,238 tonnes of international mail, which passed through Australia's airports in the same period.

This level of activity, and the economic and social benefit that it supports, can only occur when the public and businesses have confidence and trust that the aviation system is safe and secure.

To ensure Australia remains a world leader in aviation security, it is vital that security measures and a positive security culture are seen by the sector as intrinsic to core business. Security should not be considered an additional or 'bolt-on' task or simply as a legislative requirement that has to be complied with, but rather as a fundamental element of what it is to be an aviation industry participant. Home Affairs is strongly of the view that the Aviation White Paper considers this when outlining the future policy vision for Australia's aviation industry.

'All Hazards' and aviation security

Threats to Australia's critical infrastructure are increasing in scope, scale, and speed. As well as traditional physical and national security concerns, increasing risks with respect to foreign interference, sabotage, climate change, malicious insiders and cyber incidents must all be managed and mitigated.

¹ Aviation Passenger and Freight Data – Bureau of Infrastructure, Transport and Resource Economics (BITRE) – Airport Traffic Data 1985/86 to 2021/22

The SOCI Act has established an all-hazards framework to uplift the security of Australia's critical infrastructure assets, including critical aviation assets. As a preliminary step to encourage uplift of the aviation sector, an obligation to provide mandatory cyber incident reports has been applied under Part 2B of the SOCI Act to designated airports,² as well as aircraft and cargo terminal operators operating at these airports.³ Home Affairs is working with aviation industry participants on the implementation of further all-hazards risk management obligations, without any unnecessary regulatory duplication between the ATSA/ATSR and SOCI Act frameworks.

To continue improvements in the security posture within the aviation sector, Home Affairs is committed to meaningful engagement with the aviation sector. Government-industry partnerships and collaboration will be central to supporting industry's capability and ability to understand and manage the broad scope of security risks as they continue to evolve.

Home Affairs will continue to work closely with aviation industry participants through bilateral and multilateral channels to understand operating challenges and develop practical, outcomes-based options to mitigate security risks.

This approach is intended encourage aviation businesses to factor in mitigations against all hazards as part of their core business, not just as a regulatory compliance exercise, will help to foster a secure and resilient aviation sector into the future.

National Security and Resilience

The National Resilience Taskforce (the Taskforce) within Home Affairs is leading the development of options that will enable Australia to remain resilient in the face of a dynamic strategic environment and concurrent and competing domestic crises. The Taskforce's priority lines of effort include:

- exploring alternative Commonwealth capabilities to support state and territory-led crisis response efforts due to natural-induced crises to reduce reliance on the Australian Defence Forces for domestic response and recovery efforts;
- developing a National Resilience Framework to bolster Australia's ability to anticipate, prevent, absorb, adapt and evolve from crises;
- identifying and assessing the domestic security impacts and risks resulting from or exacerbated by climate change, and developing policies to address critical national security vulnerabilities; and
- undertaking a non-statutory review of the Commonwealth's emergency management powers with a particular focus on the effectiveness of the *National Emergency Declaration Act 2020* (NED Act).

Section 10 of the NED Act outlines existing Commonwealth 'national emergency laws' from across the statute book, which contain Commonwealth powers that may be enlivened or their operation modified while a national emergency declaration is in force. This includes powers that may be used in relation to regional and remote aviation. For example, sections of the *Airports Act 1996*, the *Air Services Regulations 2019*, the ATSA and the *Civil Aviation Safety Regulations 1998* are national emergency laws for the purposes of the NED Act.

Regional and remote communities will face growing challenges as the threat of climate change grows and the prevalence of severe weather events increase. This will have a significant impact on the aviation industry, particularly in its ability to provide transport for isolated and remote communities during emergencies.

² These are Australia's major international airports assigned as 'designated airports' under section 28 of the ATSA: Adelaide, Brisbane, Cairns, Canberra, Darwin, Gold Coast, Melbourne, Perth and Sydney.

³ See section 5 of the *Security of Critical Infrastructure (Application) Rules (LIN 22/026) 2022*.

As noted in the Green Paper, Australia imports over 90 per cent of its liquid fuels (based on imports of refined products and domestic production based on imported crude) through long supply chains exposed to various risk factors.

The changing strategic environment and increasing threat of climate change means that this risk is becoming more prominent and largely unpredictable. These supply chain pressures also have the potential to impact on lead-time acquisition of critical aviation assets.

In August 2023 Home Affairs released a discussion paper for stakeholder feedback on how Commonwealth crisis response and recovery capabilities could be enhanced into the future. Industry feedback on the future direction of the sector included:

- there is a need for regulatory reforms that will improve surge capacity for emergency management aerial capabilities, especially during crises of national significance;
- it is critical for airports to remain open and operational amid crises due to their essential role in supporting aviation-based response and recovery efforts;
- accelerated implementation of satellite-based navigation capabilities at airports is needed to assist in airborne response and recovery efforts when ground-based communication nodes are impacted; and
- it is important to define how enhanced security obligations would manage risks from natural hazards and enhance crisis response capabilities within the aviation sector.

Security screening

Security screening is in place to keep travellers safe and secure, and is an important part of the overall passenger facilitation process and travellers' journey through an airport.

While fundamental security screening processes are similar across all Australian airports, each airport will have its own procedures in place to conduct passenger screening in a way that achieves the required security outcomes. Each airport may also use slightly different security screening equipment, which may result in different screening experiences between airports.

Home Affairs understands that some travellers may have special circumstances or require additional assistance when passing through a security screening point. While airports have the flexibility to manage passenger facilitation in the way that best suits their operations, all aviation security screening must be performed in a respectful manner that preserves the dignity of the individual. To support this, Home Affairs provides for alternative screening methods to be used to ensure that all travellers are afforded respect and dignity throughout the screening process.

As passenger facilitation evolves, Home Affairs will continue to work closely with aviation industry participants, advocacy groups and representative organisations to ensure that security screening processes and policies accommodate the needs of all travellers while maintaining robust security outcomes.

Home Affairs will also consider how together government and industry participants can ensure that security obligations can be met and enhanced across Australia's metropolitan and regional aviation network. Home Affairs will continue to explore with industry new and innovative ways to build a more robust and mutually beneficial compliance framework that will enhance security outcomes and help to grow Australia's reputation as a world leader in aviation security.

Aviation Security Identification Cards and the role of AusCheck

Home Affairs is also responsible for administering the AusCheck scheme. The Government has recently committed to the strengthening AusCheck's background checking services in the aviation sector, protecting security-sensitive critical infrastructure sectors in Australia from trusted and malicious-insider risks. These risks may arise from espionage, foreign interference, terrorism and serious and organised crime threats to Australian interests. The aviation security identification card (ASIC) scheme ensures that:

- those who require unescorted access to secure areas of security controlled airports have passed mandatory background checks; and

- do not present a significant risk to transport infrastructure and operations.

In January 2021, the Minister for Home Affairs announced the creation of a centralised AusCheck Single Issuing Body for ASICs and equivalent cards issued for the maritime sector, known as Maritime Security Identification Cards (MSICs). The Single Issuing Body will replace the existing network of issuing bodies – with transition to be complete by 1 July 2025. Home Affairs is leading the implementation of this reform, which will establish a cyber-secure, effective, efficient, economical, and ethical Single Issuing Body for the ASIC scheme.

Coupled with the Single Issuing Body reforms, Home Affairs is looking to enhance the ASIC scheme to better detect instances of fraud and identity theft by improving the security and processing time of AusCheck’s identity verification process. To support this, Home Affairs is exploring the introduction of biometric capture and anchoring capability into the identity verification process.

As AusCheck continues to broaden its role, advances in technology, processes and lessons from other sectors will lead to strengthening of the ASIC regime. AusCheck was initially created to undertake background checking in the transport sector. AusCheck now provides background checking services across Australian critical infrastructure sectors under security of critical infrastructure legislation.

AusCheck also administers schemes for major national events, security sensitive biological agents and the Defence industry’s naval shipbuilding enterprise, with growing interest to support other areas.

Summary

Home Affairs welcomes the release of the Aviation Green Paper and looks forward to working collaboratively with the Department of Infrastructure, Transport, Regional Development Communications and the Arts and all industry participants to further strengthen our strong aviation security framework.