

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

**Airport Curfew
Dispensation**

2007-08

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Third Party Reliance

This internal audit report has been prepared at the request of Management of the Department of Transport and Regional Services in connection with our engagement to perform internal audit services as detailed in the contract dated 23 July 2007. Other than our responsibility to the Department, neither KPMG nor any member or employee of KPMG undertakes responsibility arising in any way from reliance placed by a third party on this report. Any reliance placed is that party's sole responsibility.

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We believe that the statements made in this report are accurate, but no warranty of accuracy or reliability is given in relation to information and documentation provided by the Department's Management and personnel.

Inherent Limitations of Internal Audit

Because of the inherent limitations of any internal control structure it is possible that errors or irregularities may occur and not be detected. An internal audit is not designed to detect all weaknesses in control procedures as it is not performed continuously throughout the period and the tests performed are on a sample basis. As such, except to the extent of sample testing performed, it is not possible to express an opinion on the effectiveness of the internal control structure. Any projection of the evaluation of control procedures to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate. The internal audit findings expressed in this report have been formed on the above basis.

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1 Introduction

1.1 Background

The Aviation and Airports Division advises the Government on the policy and regulatory framework for the Australian aviation and airports industries with the Aviation Services Branch being responsible for the administration of airport curfew dispensations to airlines as required by Commonwealth regulations and legislation. Assessing applications for dispensations and making the decision to grant or refuse dispensations is largely the responsibility of the Office of Transport Security (OTS) Coordination Centre.

Following the Department's risk assessment process, it was identified that the granting of dispensations for airport curfews was a risk to the Department and no recent Internal Audit activity had reviewed the dispensation process. Consequently an internal audit reviewing these processes was nominated in the 2007/08 Annual Audit Plan.

This internal audit has examined the approval of dispensations made by the Department at the Sydney, Essendon, Coolangatta and Adelaide airports with respect to applicable legislation and regulations; these being:

- *Sydney Airport Curfew Act 1995;*
- *Adelaide Airport Curfew Act 2000;*
- *Air Navigation (Essendon Airport) Regulations 2000; and*
- *Air Navigation (Coolangatta Airport Curfew) Regulations 1999.*

1.2 Objective

The objectives of this internal audit were to determine whether:

- Key risks to the Department relating to curfew dispensation processes are adequately controlled;
- The areas responsible for curfew dispensations comply with legislative and internal process requirements; and
- Improvements to the process can be identified to promote greater efficiency and effectiveness.

1.3 Scope & approach

This internal audit:

- considered the procedures and administration related to the granting of airport curfew dispensations to airlines;
- assessed compliance with the key legislation, regulations and Minister's Guidelines required to be complied with for each site;
- identified key risks to the Department; and
- considered if there were inefficiencies in the processes.

Internal Audit conducted compliance testing on a sample basis to determine the level of compliance with applicable legislation, regulations and Minister's Guidelines.

1.4 Key risks to the Department relating to curfew dispensation processes

Internal Audit identified the following key risks:

- 1.4.1** Risk that curfew dispensations aren't granted within the framework set out in the legislation, regulations and Minister's Guidelines (refer to Summary of compliance testing results at 1.5).
- 1.4.2** Risk that applications for curfew dispensations are not addressed in a timely manner by appropriate delegates (refer to Other observations at 1.6.5).
- 1.4.3** Risk that the Department does not retain suitable supporting evidence of curfew dispensation applications (refer to Summary of compliance testing results at 1.5 and Business Improvement Recommendation 1 at 2.4).
- 1.4.4** Risk that there is no evidence that the Office of Transport Security Coordination Centre has clearly outlined the conditions of the dispensation being granted (refer to Summary of compliance testing results at 1.5).
- 1.4.5** Risk that independent confirmation from Airservices Australia of landings and takeoffs is not received on a timely basis (refer to Other observations at 1.6.1).

1.5 Summary of compliance testing results

The table below summarises the results of testing for the different airports.

	Sydney	Adelaide	Coolangatta	Essendon
No. of granted curfew dispensations sampled.	8	5	5	0 (Refer Note 1)
Department met criteria outlined in the legislation, regulations and Minister's Guidelines.	100%	100%	100%	N/A
Suitable supporting documentation on file.	100%	100%	100%	N/A
Take off or landing in accordance with the conditions of the dispensation granted.	100%	100%	100%	N/A
Dispensation tabled in Parliament within 5 sitting days after the dispensation was granted.	100%	N/A	N/A	N/A

Table 1

Note 1: No curfew dispensations were granted during the internal audit sample period (July 2007 – May 2008). As such, none were included in the sample.

Internal OTS Coordination Centre Guidelines require that verbal applications for curfew dispensations be taped (refer to Business Improvement Recommendation 1 at 2.4). This is not being performed consistently at present.

In respect of these results, there was nothing to indicate the requirements of regulations and legislation under the *Sydney Airport Curfew Act 1995*; *Adelaide Airport Curfew Act 2000*; *Air Navigation (Essendon Airport) Regulations 2001*; and *Air Navigation (Coolangatta Airport Curfew) Regulations 1999* were not being administered correctly based on the sample selected.

1.6 Other observations

Notwithstanding the limited scope of our internal audit, we made a number of broader legislative compliance/control environment observations:

1.6.1 The Department of Infrastructure obtains independent confirmation from Airservices Australia of all takeoffs and landings that take place during the curfew period. This confirmation is in the form of a "Monthly Movement" report. The report is provided for Sydney, Adelaide and Coolangatta Airports and is currently not being received in a timely manner. However, Internal Audit notes that the Department is in communication with Airservices Australia to improve this deficiency. Internal Audit further notes that the Department has put a process in place to mitigate any risks arising as a result of the

Monthly Movement reports not being received in a timely manner. Specifically the Department requests confirmation emails from Airservices Australia with the relevant details of specific takeoffs and landings.

1.6.2 There is appropriate evidence to support the Minister's and Secretary's powers under the *Minister's Portfolio Delegation Instrument 2005* to authorise delegates. These delegates being:

- Secretary and Deputy Secretary;
- SES 2 - Aviation and Airports Business Division and Office of Transport Security;
- SES 1 - Aviation and Airports Business Division and Office of Transport Security;
- EL 2 - Aviation and Airports Business Division, (and EL2 in Office of Transport Security for Essendon Airport only);
- Manager - Operations Centre, Office of Transport Security (however, not for Essendon Airport); and
- Supervisor - Operations Centre, Office of Transport Security (however, not for Essendon Airport).


1.6.3 The Department has a process in place whereby all granted dispensations are reviewed to ensure that they are compliant with the conditions of the dispensation.

1.6.4 Internal Audit notes that there is adequate segregation of duties to grant curfew dispensations (refer to Process diagrams at Attachment B).

1.6.5 The OTS Operations Centre operates during the curfew period and has a rostering system to ensure that a shift supervisor is allocated and available to exercise their delegation.



Partner
KPMG



Executive Director
Aviation and Airports Division

2 Management report

2.1 Overview of legislative requirements

The Office of Transport Security (OTS) Coordination Centre is largely responsible for assessing requests for dispensation during curfew periods. These requests are assessed according to the applicable legislation or regulation, as set out under:

- *Sydney Airport Curfew Act 1995;*
- *Adelaide Airport Curfew Act 2000;*
- *Air Navigation (Essendon Airport) Regulations 2001; and*
- *Air Navigation (Coolangatta Airport Curfew) Regulations 1999.*

These legislation and regulations provide guidance on:

- The curfew and related restrictions;
- Permitted aircraft movements during curfew periods;
- Conditions considered to be emergencies (in which case a dispensation request is not required);
- The Minister's delegations.

2.2 Internal Audit testing

Internal Audit testing was limited to testing granted curfew dispensations for the period July 2007 to May 2008. Samples sizes were based on the number of curfew dispensations approved at each airport during the test period.

The table below summarises the key legislative / regulatory requirements for each of the four airports together with our testing results.

<i>Legislative requirements</i>	<i>Results</i>	<i>Compliance</i>
<i>Sydney Airport Curfew Act 1995</i>		
Applications which fall under Section 20 are required to be signed by the Minister or delegate as evidence of approval under Section 26.	All eight applications sampled contained clear evidence of delegate approval.	✓

Legislative requirements	Results	Compliance
<p>Applications which fall under Section 20 are required to:</p> <ul style="list-style-type: none"> ▪ Abide by conditions set out under the grant for the landing or takeoff; ▪ Meet the criteria outlined in the Minister's Guidelines; and ▪ Be tabled in the House of Parliament within five sitting days of that House after the dispensation has been granted. 	<p>All eight applications sampled:</p> <ul style="list-style-type: none"> ▪ Abided by the conditions of the grant; ▪ Met the criteria outlined in the Minister's Guidelines; and ▪ Were tabled in Parliament within 5 sitting days of that House after the dispensation had been granted. 	<p>✓</p> <p>✓</p> <p>✓</p>
Adelaide Airport Curfew Act 2000		
<p>Applications which fall under Section 18 are required to be signed by the Minister or delegate as evidence of approval under Section 24.</p>	<p>All five application files sampled contained clear evidence of delegate approval.</p>	<p>✓</p>
<p>Applications which fall under Section 18 are required to:</p> <ul style="list-style-type: none"> ▪ Abide by conditions set out under the grant for the landing or takeoff; and ▪ Meet the criteria outlined in the Minister's Guidelines. 	<p>All five applications sampled abided by the conditions of the grant and met the criteria outlined in the Minister's Guidelines.</p>	<p>✓</p>
Air Navigation (Coolangatta Airport Curfew) Regulations 1999		
<p>Applications which fall under Section 20 are required to be signed by the Minister or delegate as evidence of approval under section 25.</p>	<p>All five applications sampled contained clear evidence of delegate approval.</p>	<p>✓</p>
<p>Applications which fall under Section 20 are required to:</p> <ul style="list-style-type: none"> ▪ Abide by conditions set out under the grant for the landing or takeoff; and ▪ Meet the criteria outlined in the Minister's Guidelines. 	<p>All eight applications sampled:</p> <ul style="list-style-type: none"> ▪ Abided by the conditions of the grant; and ▪ Met the criteria outlined in the Minister's Guidelines. 	<p>✓</p> <p>✓</p>

Legislative requirements	Results	Compliance
<i>Air Navigation (Essendon Airport) Regulations 2001</i>		
Applications which fall under Section 15 are required to be signed by the Minister or delegate as evidence of approval under Section 18.	No dispensations were selected for Essendon airport as there were no curfew dispensation requests made during the period under review.	N/A
Applications which fall under Section 15 are required to: <ul style="list-style-type: none"> ▪ Abide by conditions set out under the grant for the landing or takeoff; and ▪ Meet the criteria outlined in the Minister's Guidelines. 	No dispensations were selected for Essendon airport as there were no curfew dispensation requests made during the period under review.	N/A

Table 2

2.3 Curfew dispensation processes

The above testing was undertaken after documenting the key processes undertaken by the OTS Coordination Centre and Aircraft Noise Management in respect of curfew dispensations. These processes are summarised at Attachment B.

2.4 Business Improvement Recommendation 1 – Recording of verbal applications for curfew dispensations

Finding

From discussions with persons identified in Attachment A, it became apparent that there is some misunderstanding regarding an internal OTS Coordination Centre guideline on the recording of verbal applications. This guideline states that verbal requests should be taped, however these recordings are not consistently being performed. Internal Audit notes that compliance with the OTS Coordination Centre guidelines is not mandatory and Air Traffic Control recorded conversations, held by Airservices Australia represent the key evidence relied on in any further action against an airline.

Implication

Internal Audit acknowledges that since the inception of the *Sydney Airport Curfew Act 1995*, there have only been four prosecutions. Certain key documentation and evidence needs to be maintained on file to ensure the Department can demonstrate that dispensations had been granted appropriately and in accordance with legislative requirements. While noting that an airline may not necessarily seek a curfew dispensation in the event of a breach of curfew, all relevant evidence should be appropriately filed and protected.

This represents a low business risk to the Department as Air Traffic Control would provide the required evidence in the unlikely event that this evidence is relied on for any prosecution action.

Recommendation

Internal audit recommend that the Office of Transport Security:

- record all verbal requests for dispensation; and
- store the tape for a 3-month period if not required for any further action against an airline.

Management response

Agreed. The Department supports full implementation of this recommendation.

Responsible officer:

Manager, Office of Transport Security Coordination Centre in consultation with the Aviation and Airports Division.

Deadline for Implementation:

End September 2008.

Description of action:

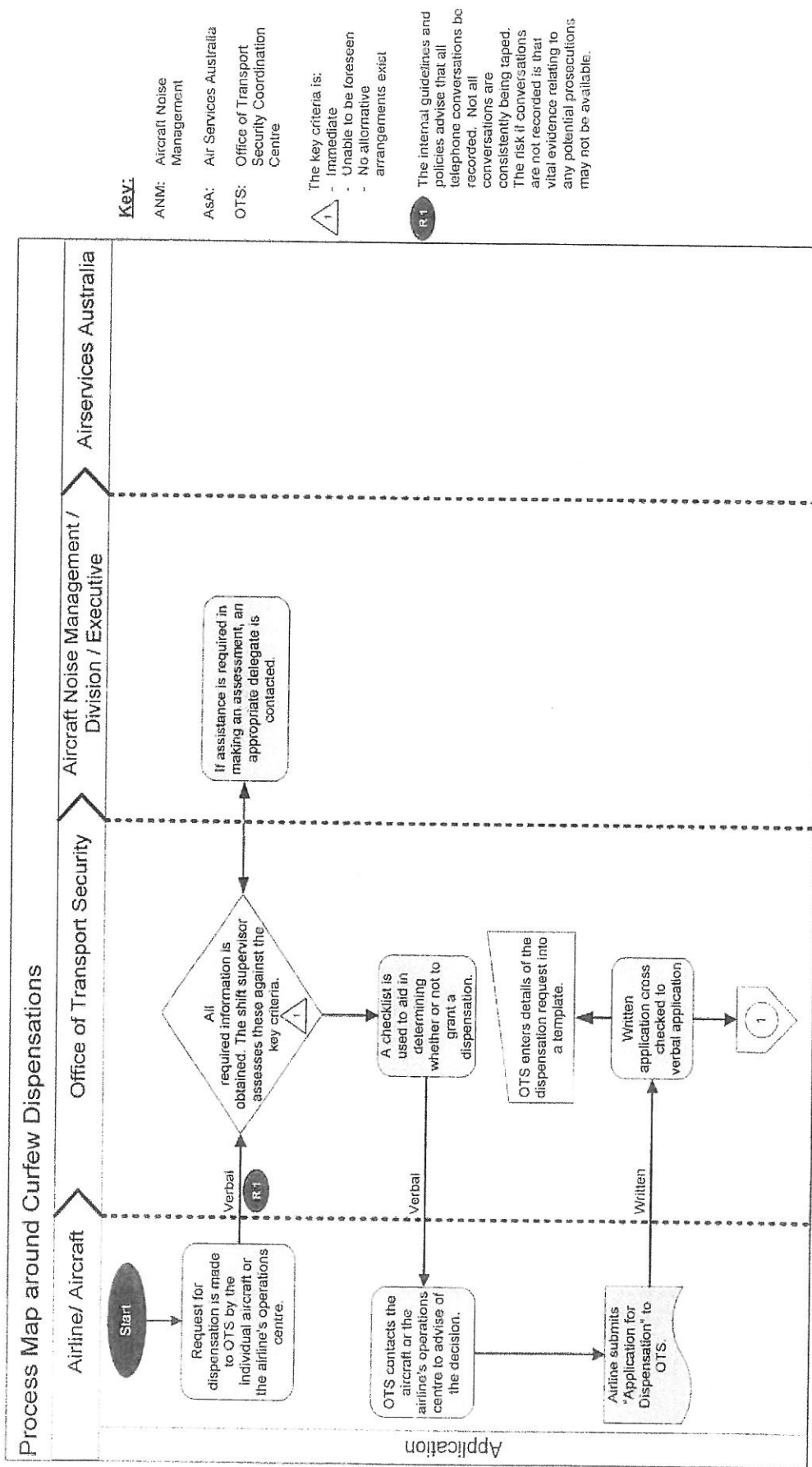
The Office of Transport Security's internal procedures for curfew dispensations will be amended to reflect the agreed process change of recording all conversations related to verbal applications for curfew dispensations. Staff training will be undertaken as appropriate to ensure the required procedural change is implemented by, or before, the end of September 2008.

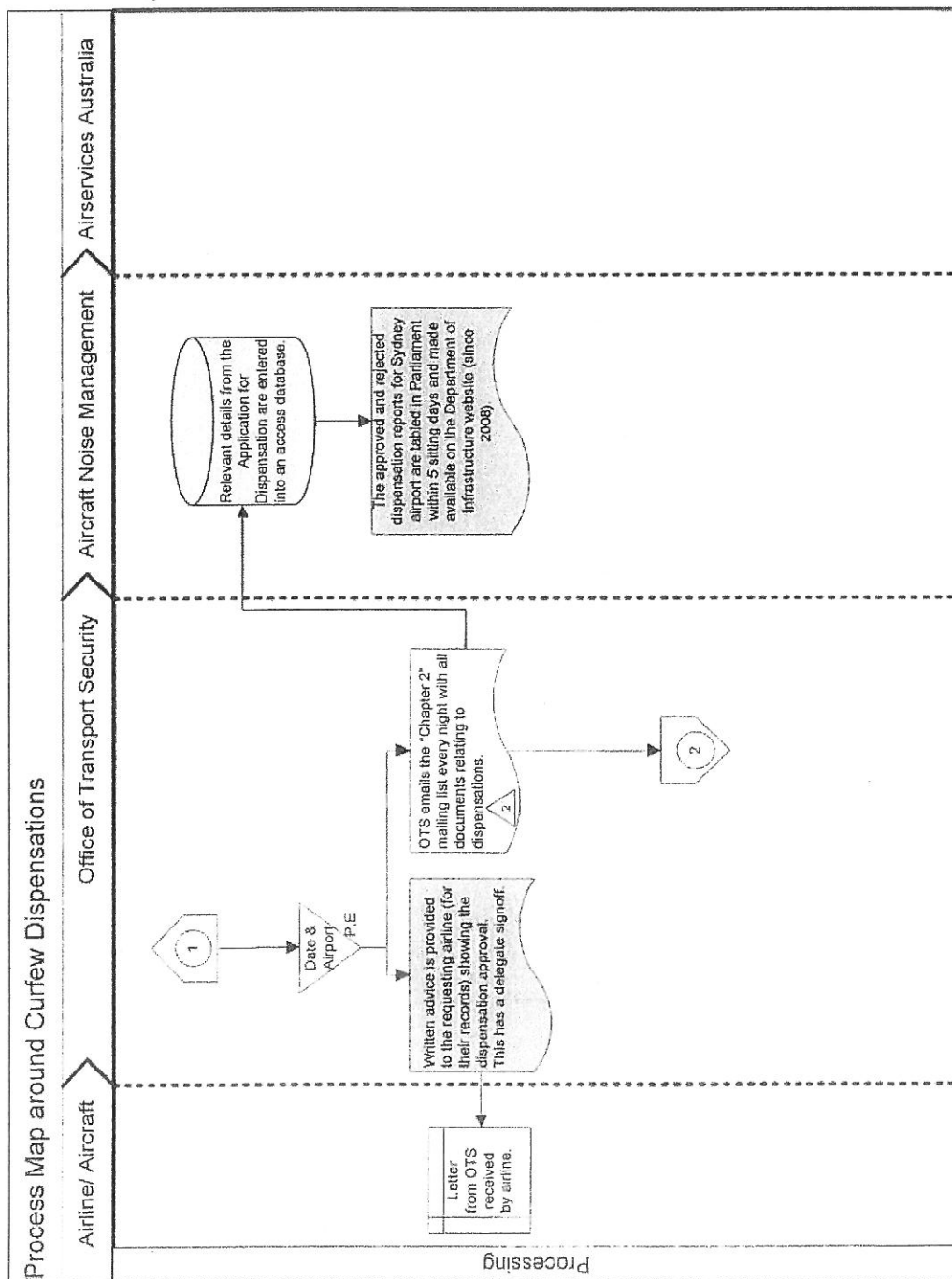
A Staff consultation

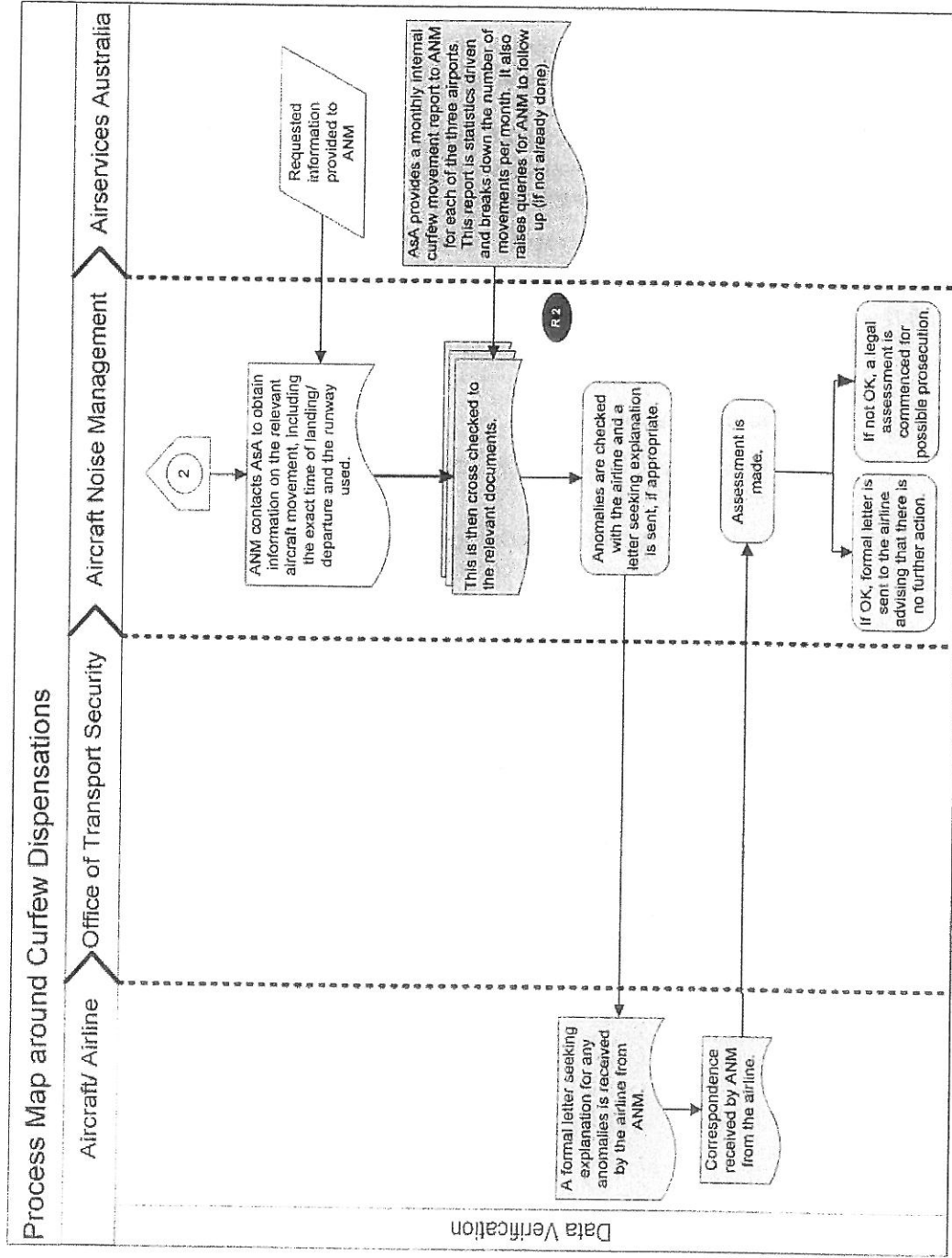
The following table lists the key staff members who assisted Internal during this engagement:

<i>Name</i>	<i>Job title</i>	<i>Branch</i>
	Section Head	Aircraft Noise Management
	Manager	Office of Transport Security
	Capabilities Supervisor	Office of Transport Security

B Process diagrams







C Categorisation of findings

Each finding in this report is classified and the significance of each category is defined as follows:

CR 1 Control and Risk Recommendation Category 1 – The classification of a finding into this category represents that one of the organisation's extreme or high business risks has not been suitably controlled.

This category includes:

- Breakdowns in processes that are critical to the organisation's operations.
- Breakdowns or absence in internal controls that are significant and fundamental to the satisfactory operation of critical processes.

These processes and/or controls when operating limit or mitigate the impact and likelihood of risks the organisation faces. These breakdowns have the potential to damage the organisation's reputation.

These recommendations require immediate management attention and would be considered an urgent priority.

CR 2 Control and Risk Recommendation Category 2 – The classification of a finding into this category represents that one of the organisation's moderate business risks has not been suitably controlled.

This category includes:

- Breakdowns in processes that are necessary or core to the organisation's operations.
- Breakdowns in internal controls that are relevant to the satisfactory operation of necessary or core processes.

These processes and/or controls when operating contribute to the internal control environment of the organisation.

These recommendations require timely management consideration.

CR 3 Control and Risk Recommendation Category 3 – Management issues to be raised and discussed, but not seen to be of consequence from a residual risk perspective.

These matters require management consideration but after CR1 and CR2 recommendations have been addressed.

BIR Business Improvement Recommendation – Arises where the auditor considers the recommendation, if implemented, would result in a benefit accruing to the organisation (for example through more efficient and cost-effective processes or a reduction of expenditure or increase in revenue). Recommendations in this category are further expressed as either 'major' or 'minor' to ensure significant areas for improvement are not overlooked.