



Australian Government

The Aviation Safety Regulation Review Report

Government Response

December 2014

Executive Summary

Aviation is an essential part of the Australian economy.

In the year ended 30 June 2014 there were just over 90 million international and domestic passengers travelling in Australia.

Given the speed with which the global and domestic aviation industry is changing and growing, our aviation safety regulatory system needs to adapt to reflect these changes having regard to the diversity of our aviation industry.

The Aviation Safety Regulation Review Report (the Report) acknowledges that Australia has an excellent safety record in large commercial aviation operations and an advanced safety regulatory system. However, the Report found that there were opportunities for improvement to ensure Australia remains a leading aviation State.

To assist in further improving our aviation safety system the Report's recommendations covered six key areas of our aviation safety system and particularly the operations of the Civil Aviation Safety Authority (CASA) and the Australian Transport Safety Bureau (ATSB).

In summary, the Government has agreed to thirty two of the thirty seven recommendations in the Report, with a further four to be subject to detailed examination (recommendations 12, 21, 22 and 36). Only one recommendation has not been supported (recommendation 20).

1. CASA's Regulatory Policy, Processes and Relationship with Industry

The Government agrees with the Report's conclusion that CASA must continue to have safety as its primary consideration in the exercise of its powers and the performance of its functions. This is a fundamental expectation of the travelling public, people who work in the industry and communities who live near airports, and is consistent with Australia meeting its international obligations.

The Government agrees that CASA's processes and approach to regulation must be transparent and lead to a nationally consistent approach. The Report indicates that there are many areas where CASA has well defined regulatory policies, but these policies are not always consistently delivered across the authority.

Australia's aviation safety regulatory approach should continue to reflect the level of risk attached to the different types of aviation operations and the likelihood and consequences of aviation safety accidents and incidents.

The Report outlines a range of concerns with the relationship between CASA and the Australian aviation industry.

While the Government recognises that there will inevitably be some tension in the relationship between a regulator and industry participants, there is clearly capacity to significantly improve CASA's engagement and relationships with industry in areas such as regulatory development and implementation.

The Government has agreed with a number of recommendations intended to facilitate an improved relationship between CASA and industry. These recommendations recognise that industry plays a vital role in helping to develop and maintain a modern, safe and appropriate aviation system in Australia.

The Government notes that the principles underpinning concepts of "just culture" should apply to industry and the aviation regulator alike.

The Government therefore strongly encourages our aviation agencies and industry to work closer together to identify aviation safety risks and ensure that the best methods, practices and technologies are adopted to address these risks.

2. CASA's Future Regulatory Framework and Reform Program

Australia supports the adoption of International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPS) and best practice regulatory approaches used by other leading aviation safety authorities.

It is acknowledged that this is easier to achieve with international and domestic aviation passenger and freight operations than it is with other types of operations such as aerial work and general aviation, where there is less consistency in international approaches and less specific international guidance, or where international practice does not meet Australia's circumstances.

Industry will be provided with further opportunities to work more closely with CASA in helping develop future regulatory priorities and in the development of simpler regulations, which meet legal drafting requirements.

Industry is urged to take up and constructively contribute to these processes, acknowledging that for both CASA and industry, regulatory development requires the commitment of ongoing resources. Consistent with the Government's deregulation agenda, completion of the regulatory reform program will also carefully consider how regulatory burdens on industry can be reduced without impacting on safety.

3. CASA and ATSB Governance and Structures

The Government has already taken measures to strengthen the CASA Board and give it a clearer strategic direction.

Amendments to the *Civil Aviation Act 1988* earlier this year expanded the CASA Board to seven members to enable increased aviation skills and experience to be added to the Board.

To support the response to this Report, the Government will issue a new Statement of Expectations to the CASA Board.

The Government wants the Board to take a critical role in the oversight and monitoring of implementation of the agreed recommendations in this Report which directly and indirectly involve CASA's functions.

In relation to the ATSB, the Government will also take the opportunity to update the Commission's Statement of Expectations. This update will confirm the ATSB is able to seek the Government's consideration of additional resources should it need to undertake additional investigations in accordance with the Government's 2013 election commitments.

The Government has also committed to the appointment of a new ATSB Commissioner with aviation experience.

4. CASA and ATSB Interaction

The Government expects that CASA and the ATSB will update their Memorandum of Understanding (MOU) to give effect to the agreed recommendations in the Report.

The Government also agrees in-principle to better information sharing between industry and safety agencies which is a well-established, international best practice and can assist in preventing future safety occurrences.

However, mindful of industry concerns in this area, the transition to a greater flow of information between industry, the ATSB and CASA must continue to be accompanied by CASA adhering to its sound policy declarations on exactly how aviation safety information will be used.

The Government expects information to be provided to CASA and utilised in a way that supports 'just culture' approaches to improving safety practices.

5. Department of Infrastructure and Regional Development Policy Role

The Government agrees that the Aviation Policy Group (APG), chaired by the Secretary of the Department of Infrastructure and Regional Development (the Department) should develop a new State Safety Program (SSP) for Australia.

The new SSP will include short, medium and long term future objectives, initiatives and milestones to maintain and improve Australia's aviation safety system. While developing a new SSP is a major undertaking, the Government expects to receive for its consideration the new SSP by the end of 2015 after an agency, industry and public consultation process.

The new SSP will be consistent with the key principles outlined in the ICAO Global Aviation Safety Plan (GASP) and Global Air Navigation Plan (GANP) endorsed by ICAO in late 2013.

The SSP will be supported by the establishment of an Australian Air Traffic Management Plan which will represent Australia's national Air Traffic Management (ATM) planning response to the GANP.

The Government has also requested the Department provide it with specific advice on a number of key aviation policy issues raised or related to matters covered in the Report including:

- improvements to the provision of Aviation Rescue and Fire Fighting Services, including the use of risk assessments; and
- airspace protection arrangements for Federal airports, other aerodromes and communications, navigation and surveillance equipment.

The Department will develop this policy advice in consultation with other aviation agencies and industry, noting that this policy development role will not change the statutory responsibilities of our aviation safety agencies.

6. Scope of Functions of Airservices, CASA and the Department

The Government has requested that most of the functional scope issues raised in the Report be the subject of further detailed examination by aviation agencies.

Work is already underway in the Department on the Assessment of Priorities Review (recommendation 10) and a review of Aviation Security Identification Card (ASIC) requirements (recommendation 36).

With respect to Recommendation 12, which proposed some airspace functions be delegated by CASA to Airservices, this proposal will need to be examined closely by APG to ensure that the regulatory and service provision roles of the two agencies are not compromised by such delegations.

Finally, the only recommendation in the Report that the Government has not agreed to is Recommendation 20 which proposed the safety education function being transferred from the ATSB to CASA.

In reaching this position, the Government notes both the ATSB and CASA have different, but complementary, safety education and awareness roles to play in Australia's aviation industry and within the wider community. Industry comments also raised concerns that the case was not sufficiently made in the Report for this proposal to proceed.

Introduction

On 14 November 2013 the Australian Government announced the establishment of the independent Aviation Safety Regulation Review (the Review) to examine how Australia's aviation safety regulatory system is positioned to ensure it remains at the forefront of aviation safety globally. This announcement delivered on a key commitment in the Coalition's Aviation Policy.

The Review was undertaken by a panel of qualified, eminent and experienced members of the international aviation community assisted by a secretariat established within the Department.

The panel was chaired by Mr David Forsyth AM, a former senior executive with Qantas and former Chair of Airservices Australia.

Mr Forsyth was joined by Mr Don Spruston, former Director General of Civil Aviation at Transport Canada and Mr Roger Whitefield, former Head of Safety at British Airways and United Kingdom Civil Aviation Authority Board member. Mr Phillip Reiss also supported the panel as a specialist adviser to ensure the concerns of general aviation were well considered.

In developing the recommendations the panel engaged widely with industry, government agencies and other stakeholders and 269 written submissions were received. The panel also considered international trends in the aviation industry and emerging global practices in aviation safety regulation.

The Deputy Prime Minister and Minister for Infrastructure and Regional Development, the Hon Warren Truss MP, tabled the Aviation Safety Regulation Review Report (the Report) in Parliament on 3 June 2014 and called for industry feedback on its recommendations.

The Report acknowledges that Australia has an excellent safety record in large commercial aviation operations and an advanced safety regulatory system. However, the Report found that there were opportunities for improvement to ensure Australia remains a leading aviation State.

The Report made 37 recommendations in relation to Australia's aviation safety regulation and governance structures and on related regulatory issues.

The Australian Government thanks the Review panel for its detailed examination of these important issues and the recommendations it has presented for the Government's consideration.

The Government has thoroughly examined the Report and prepared a comprehensive response to all of the recommendations and related issues raised, incorporating advice from key aviation agencies. In finalising its response the Government has also considered all comments received from the public and industry in response to the Report.

Implementation and Monitoring Strategy

The Government expects all of our civil and military aviation agencies to work together and in consultation with industry, to implement its response to the Report.

Government aviation agencies will utilise current interagency working groups, such as APG and the Aviation Implementation Group (AIG) to coordinate and actively progress the Government's response.

In support of this response, the Minister, after consulting with the CASA Board, will issue a new Statement of Expectations to the Board stressing the importance of implementing the Government's response in an effective and timely manner.

A new Statement of Expectations will also be issued to the ATSB Commission once the Government and the Commission has had the opportunity to review the findings of the Canadian Transportation Safety Board peer review of the ATSB released in early December 2014.

These statements represent a Ministerial direction under Section 12A of the *Civil Aviation Act 1988* and Section 12AE of the *Transport Safety Investigation Act 2003* respectively.

The CASA Board and ATSB Commission response to the SOE will be through a Statement of Intent which will be incorporated into each agency's future corporate plans. The Government expects both CASA and the ATSB's next corporate plans to include an implementation plan detailing how and by when each agency will deliver the relevant agreed recommendations of the Report.

The Department, through the APG, will have overall responsibility for reporting to the Government on progress with implementation of all of the agreed recommendations and the detailed follow-up work highlighted in the Government's response.

The Government recognises that while some recommendations have already been, or can fairly quickly be implemented, others will take longer for the relevant Government aviation agencies to implement the appropriate policy, regulatory or administrative changes agreed to in this response.

Implementation will need the active, close and constructive cooperation of the Australian aviation industry with our agencies with a view to effective achievement of the Government's expectations.

On the basis of the industry's strong response to the Review process and the release of the Review's Report, the Government is confident that the industry will positively take up these challenges and opportunities.

Response to Recommendations

Recommendation 1

The Australian Government develops the State Safety Program into a strategic plan for Australia's aviation safety system, under the leadership of the Aviation Policy Group, and uses it as the foundation for rationalising and improving coordination mechanisms.

Recommendation 2

The Department of Infrastructure and Regional Development plays a stronger policy role in the State Safety Program.

Response

The Government agrees with these recommendations.

The State Safety Program (SSP) concept is a fairly recent and evolving ICAO requirement which helps countries around the world set out "an integrated set of regulations and activities aimed at improving safety. The SSP provides the monitoring and governance framework within which operators and service providers establish and maintain a Safety Management System (SMS)." The SSP should clearly articulate both the inter-relationships within a State as it delivers aviation services and how it assures safety.

Australia was one of the first countries in the world to have an SSP in place consistent with ICAO's expectations. Our current SSP is already consistent with that of other leading aviation nations and clearly sets out Australia's aviation safety governance arrangements.

The vehicle for taking forward an updated and expanded SSP in Australia is the APG. The APG, chaired by the Secretary of the Department, also includes the chief executive officers or equivalent senior officials of Airservices, CASA and the Royal Australian Air Force, representing the Department of Defence.

The APG's role will be to expand the SSP into Australia's future key governance, policy, regulatory and infrastructure plan for Australian aviation safety. The SSP will also include the role of the Department of Defence's regulatory and safety management system and that Department's contribution to Australia's aviation infrastructure and services.

It is proposed the expanded SSP set out short, medium and long term future objectives, initiatives and milestones for Australia's aviation safety system.

The SSP would also set out our forward infrastructure investment program in Australia's air navigation and air traffic system.

While developing an updated and enhanced SSP is a major undertaking, the Government expects to receive the new SSP for its consideration by the end of 2015 after an agency, industry and public consultation process.

The SSP will be consistent with the key principles outlined in the ICAO Global Aviation Safety Plan (GASP) and Global Air Navigation Plan (GANP) endorsed by ICAO in late 2013.

The SSP will be supported by the establishment of an Australian Air Traffic Management (ATM) Plan which will represent Australia's national ATM planning response to the GANP.

The development, review and updating of the SSP will become a part of the APG's terms of reference. The APG will also be required to report annually to the Minister on performance against the key objectives, initiatives and milestones outlined in the SSP.

The Government has asked the Department, as the Chair of the APG, to lead the development of this more strategic and forward looking SSP and ensure that the SSP is developed in consultation with the aviation industry.

The Government acknowledges that the Report has identified a number of ongoing aviation policy issues related to aviation safety and it has asked the Department to provide it with policy advice on the following issues:

- a range of potential improvements to the efficiency and clarity of Aviation Rescue and Fire Fighting Services requirements including the use of risk assessments; and
- airspace protection arrangements for Federal airports, other aerodromes and for communications, navigation and surveillance equipment.

The Department's policy development role in these matters will be undertaken with the appropriate involvement of the relevant aviation agencies.

Recommendation 3

The Australian Transport Safety Bureau investigates as many fatal accidents in the sport and recreational aviation sector as its resources will allow.

Response

The Government agrees with this recommendation.

The ATSB has not historically directed any significant investigative resources to recreational aviation accidents; rather, such investigations have been undertaken on an exception basis where a particular third party risk is associated with the accident. This is because:

- the self-administration arrangements for the sector specifically provide for the self-administration bodies to undertake accident investigation;
- the safety learnings from accidents in the sector are usually limited because the causal factors are generally well-understood; and
- it has generally been accepted that individuals operating in this sector accept a higher level of personal risk than other sectors of the aviation industry.

While the current self-administration arrangements for recreational aviation exist, the Government agrees that the ATSB should continue to investigate accidents involving this sector of the industry on an exception basis as its resources permit. In addition, the Government endorses the ATSB Commission's policy established in 2013 that all fatal accidents involving 'VH' registered powered aircraft, including sport, amateur built and experimental category aircraft be investigated.

The Government will include in its updated Statement of Expectations for the ATSB recognition that the Commission can request consideration by the Government of additional funding should the ATSB be required to perform additional investigations to comply with the above policy on fatal accidents involving 'VH' registered aircraft, or where the third party risks associated with a recreational aviation accident necessitates a major investigation.

Recommendation 4

The Australian Transport Safety Bureau and the Civil Aviation Safety Authority utilise the provision in their bilateral Memorandum of Understanding to accredit CASA observers to ATSB investigations.

Response

The Government agrees with this recommendation.

The Report confirms the propriety of existing provisions in the MOU between the ATSB and CASA for arrangements allowing for CASA technical experts to be seconded to participate in ATSB investigations where appropriate.

It is noted however, that a number of issues need to be considered when supporting formal CASA participation. These include:

- workplace health and safety;
- costs;
- human resource constraints; and
- industry perceptions.

The Government expects the ATSB and CASA to continue to work together to address these issues and ensure that CASA staff are engaged in ATSB investigations where appropriate.

For example, there needs to be certainty about the role of CASA staff in a “no blame” ATSB investigation compared with CASA’s own information gathering and potential regulatory action after an accident occurs. ATSB’s “no blame” investigation process is fundamental to its operations.

The Government also acknowledges that the Report has raised potential benefits from engaging industry experts to assist in ATSB investigations.

However, such industry assistance can only be considered if any conflict of interest issues are able to be addressed by the ATSB and the potential industry participant, before this expertise could be utilised as part of an investigation.

Recommendation 5

The Australian Government appoints an additional Australian Transport Safety Bureau Commissioner with aviation operation and safety management experience.

Response

The Government agrees with this recommendation.

Recommendation 6

The Civil Aviation Safety Authority's Board exercises full governance control. The non-executive directors should possess a range of appropriate skills and backgrounds in aviation, safety, management, risk regulation, governance and government.

Response

The Government agrees with this recommendation.

The Government expects the CASA Board will continue to effectively perform its functions under section 53 of the *Civil Aviation Act 1988* (the Act), which are to:

- a. decide the objectives, strategies and policies to be followed by CASA; and
- b. ensure that CASA performs its functions in a proper, efficient and effective manner; and
- c. ensure that CASA complies with directions given by the Minister under section 12B.

This role is separate and distinct from the duties of the Director of Aviation Safety under section 73 of the Act, to manage CASA subject to the directions of, and in accordance with the policies determined by the Board.

Accordingly, the Government will issue a new Statement of Expectations (SOE) to the CASA Board.

The new SOE will emphasise that the Board needs to provide more active leadership in setting, steering and overseeing CASA's strategic direction. The Board should closely monitor the organisation's performance against the SOE and key objectives and initiatives set out in CASA's corporate plan and report quarterly to the Minister against that plan.

Consistent with Recommendation 37, the Board should receive reports and consider recommendations resulting from investigations undertaken by the Industry Complaints Commissioner (ICC).

The Board should also take soundings from other Government agencies, industry and other key stakeholders on CASA's performance.

The Board will respond to the SOE by providing a Statement of Intent to the Government which will be reflected in its next corporate plan, confirming how and by when CASA will implement the relevant agreed recommendations of the Report.

Consistent with our aviation policy commitment to enhance aviation skills and experience on the Board, the Government amended the *Civil Aviation Act 1988* in February this year to expand the Board to seven members.

A new Deputy Chair and three further members with aviation experience have been appointed to the Board with a new Chair to be appointed with effect from 1 July 2015.

Recommendation 7

The next Director of Aviation Safety has leadership and management experience and capabilities in cultural change of large organisations. Aviation or other safety industry experience is highly desirable.

Response

The Government agrees in-principle with this recommendation.

There are clearly a range of attributes that are valuable to run a complex aviation safety regulatory organisation such as CASA including those identified in the Report. The aviation industry itself is comprised of managers with a wide range of different skills and knowledge and it is unlikely that any specific individual will have had experience in leading all facets of the industry.

In accordance with section 74 of the *Civil Aviation Act 1988*, the appointment of the Director of Aviation Safety is a matter for the CASA Board in consultation with the Minister. The Government has taken this recommendation into consideration as part of these consultations with the Board in relation to the most recent appointment.

The new Director of Aviation Safety will remain an ex-officio Board member.

Recommendation 8

The Civil Aviation Safety Authority:

- a. reinstates publication of Key Performance Indicators for service delivery functions;
- b. conducts a stakeholder survey every two years to measure the health of its relationship with industry;
- c. accepts regulatory authority applications online unless there is a valid technical reason against it; and
- d. adopts the same Code of Conduct and Values that apply to the Australian Public Service under the *Public Service Act 1999*.

Response

The Government agrees with this recommendation, with in-principle agreement to recommendation 8(d).

- a. The Government supports CASA finalising a set of relevant key performance indicators for its service delivery functions for consideration by the new Director of Aviation Safety and the CASA Board with the expectation that these will be published on the CASA website in 2015.

CASA has already commenced publishing monthly Service Delivery Statistics on its website, and will continue to do so.

In addition, the new *Public Governance, Performance and Accountability Act 2013* (PGPA Act) will require CASA to publish an annual performance statement commencing with its 2015-16 annual report.

The Department of Finance is currently finalising the new PGPA rule set and guidance material which will address all aspects of performance reporting covered by the PGPA Act.

The rules and guidance material are likely to cover:

- performance records;
- measuring and assessing performance;
- annual performance statements, including information on the type of performance information and level of detail required, and potentially, a template for use by entities; and
- the audit of performance statements.

CASA will ensure that it complies with the performance reporting requirements of the PGPA Act.

- b. The Government agrees that CASA should continue to take steps to understand industry's priorities, concerns and perceptions better through initiating regular, anonymous stakeholder surveys.

CASA has advised that stakeholder surveys are underway for 2014 and further surveys will be completed every two years.

The results of these surveys will be provided to the Board and Director of Aviation Safety to assist in monitoring and making improvements in CASA's performance and relationship with industry.

- c. The Government agrees that CASA should improve its service delivery through providing more online services.

In accordance with the Government's digital business policy, CASA has commenced transitioning more of its business to be conducted online, and will continue to implement this approach during 2015.

However, this transition will only succeed in improving service delivery, reducing costs to industry and more efficiently using CASA's resources, if industry ensures it has the appropriate infrastructure in place to utilise these online systems.

- d. The Government agrees in-principle with this recommendation.

As indicated in the Report, CASA is an independent statutory authority and CASA staff are not employed under the *Public Service Act 1999*.

However, CASA has advised that it has reviewed its current Code of Conduct to ensure consistency with the PGPA Act and appropriate alignment with the Australian Public Service (APS) Values and Code of Conduct.

The Government's new SOE to the CASA Board will reaffirm the requirement that CASA staff adhere to a Code of Conduct and set of values consistent with those that apply to the APS.

Recommendation 9

The Civil Aviation Safety Authority develops a staff exchange program with industry.

Response

The Government agrees in-principle with this recommendation.

First and foremost the Government supports CASA continuing to improve and build upon the knowledge and skills of its own staff through training and education programs and on-the-job work experience.

Industry experts should be encouraged to increasingly make themselves available to share their insights and knowledge with CASA staff by participating in, and presenting at, CASA's training and education programs.

CASA will also complete an updated Workforce Plan to come into effect from 1 July 2015 which will outline CASA's strategies to manage and develop its workforce over the next four years. This Plan will be reviewed and updated on an annual basis.

As noted by CASA and many industry members, there are challenges for both parties in developing a staff exchange program, including:

- productivity gains, given the need to re-train staff for different roles;
- costs involved;
- availability of staff;
- conflicts of interest; and
- information security.

Notwithstanding these challenges CASA and industry should continue to work closely, for example, in the development of future regulatory proposals. Meaningful and ongoing dialogue between the regulator and industry is necessary.

Similarly, in responding to emerging aviation safety issues, the effective use of industry expertise provides valuable input to CASA in considering the best means of achieving industry implementation and compliance with regulatory requirements.

Recommendation 10

Airservices Australia, in conjunction with the Department of Infrastructure and Regional Development and the Civil Aviation Safety Authority, reconsiders the policy on 'Assessment of Priorities' that stipulates that air traffic controllers sequence arriving aircraft based on category of operation, rather than on the accepted international practice of 'first come, first served'.

Response

The Government agrees with this recommendation.

The Department is currently chairing an AIG review of flight priorities contained in the Aeronautical Information Publication (AIP) ENR 1.4 Section 10.

The AIG review was established in response to industry concerns over the impact on provisions relating to assessing and managing flight priorities at capital city airports particularly on business aviation. The other agencies involved in the review are Airservices, CASA and the Department of Defence.

The AIG review is considering the operation of these AIP flight priority provisions against existing legislation, newer air traffic management flow tools, demand management schemes and overseas prioritisation approaches.

The Report indicated that it is normal international practice to sequence traffic on a 'first come first served' basis.

However, international forums such as the Civil Air Navigation Services Organisation, the Airports Council International, and the ICAO Asia Pacific Air Traffic Flow Management Steering Group, have all recently proposed review and revision of this principle in favour of safely optimising airport capacity and efficiency in an increasingly mixed environment of aircraft technologies.

The AIG review report and proposed recommendations on the current AIP priorities provisions will be released for public and industry comment in the first quarter of 2015.

Recommendation 11

The Australian Transport Safety Bureau and the Civil Aviation Safety Authority amend the wording of their existing Memorandum of Understanding to make it more definitive about interaction, coordination, and cooperation.

Response

The Government agrees with this recommendation.

In December 2013, the ATSB and CASA extended the current MOU until December 2014, pending the outcome of the Review.

CASA and the ATSB are currently completing a review of the MOU which would give effect to this recommendation to be published by both agencies in the first quarter of 2015.

Recommendation 12

The Civil Aviation Safety Authority delegates responsibility for the day-to-day operational management of airspace to Airservices Australia, including the designation of air routes, short-term designations of temporary Restricted Areas, and temporary changes to the classification of airspace for operational reasons.

Response

The Government notes this recommendation.

The Government strongly supports the continuation of a clear separation of the regulatory functions performed by the Office of Airspace Regulation, within CASA, with the air traffic service functions performed by Airservices and the Department of Defence.

It is the case that airspace regulatory functions were specifically removed from Airservices in 2007 to create regulatory independence and remove potential conflicts of interest.

However, as noted by the Report, air route designation can potentially be part of day-to-day air traffic and airspace management and not regulatory in nature.

Similarly, some tactical decision making functions in relation to short term designation of Temporary Restricted Areas for specific circumstances (e.g. siege situations) and the need for temporary changes to the classification of airspace for operational reasons (such as extreme weather), might more quickly and efficiently be undertaken by Airservices and/or the Department of Defence.

In this regard, the delegation of limited powers to declare short term Restricted Areas is available under the existing regulations, but not for short term classifications of airspace changes.

The Government has asked the APG to examine the three delegated functions highlighted by this recommendation and to report to the Minister on a proposed way forward by 30 June 2015.

The APG report will examine the case for Airservices undertaking these delegated functions subject to CASA's ongoing surveillance and oversight of Airservices safety performance of these functions and carefully consider any likely legislative change that might be required.

The Government would expect that any delegation of functions would be subject to assurances that there remains a clear distinction between the regulatory and service provision roles of the two agencies.

The APG report will also examine the scope for the Department of Defence to be afforded similar delegations in relation to military Temporary Restricted Areas should delegation be considered appropriate for Airservices.

Recommendation 13

The Department of Infrastructure and Regional Development and Department of Defence (and appropriate agencies) establish an agreed policy position on safety oversight of civil operations into joint user and military airports.

Response

The Government agrees with this recommendation.

The Department of Defence has in place its own regulatory safety oversight agencies to ensure technical and operational airworthiness and implementation of the Defence Safety Management System. This includes oversight of the provision of services to civil aviation at joint user and military air bases, and to civil aircraft that transit military-controlled airspace surrounding Department of Defence air bases.

CASA and the Department of Defence continue to apply the 'Agreement on the Promotion of Aviation Safety and Airworthiness'. This agreement commits CASA and the Department of Defence to better align civil and military aviation safety regulatory outcomes and emphasises the provision of safety regulatory systems and services by the Department of Defence to civil aviation. This includes arrangements that allow CASA officers to attend Defence audits of Defence air traffic service facilities as observers and Defence officers to observe CASA audits of Airservices' air traffic service units.

The Government recognises that military air bases and their surrounding airspace require military air traffic control and regulatory arrangements. However where these air bases, such as at RAAF Base Williamtown, are used by civil aviation, CASA should satisfy itself of the safety of the air traffic services provided to civil aviation operations, to ensure transparency and to maintain public confidence in the national ATM network.

It is appropriate therefore, that CASA and the Department of Defence have commenced a joint aeronautical study of Williamtown which has seen an increasing level of civilian use in recent years. The study is expected to be finalised by the end of 2014 and will be released for public comment.

The Government has asked the Department to work with CASA and the Department of Defence to provide policy advice on improving the transparency of, and public confidence in, the safety oversight of services provided by the military to civil aviation at military air bases and in airspace controlled by the Department of Defence. This advice will be provided to the Minister and Minister for Defence by 30 April 2015.

Recommendation 14

The Civil Aviation Safety Authority changes its regulatory philosophy and, together with industry, builds an effective collaborative relationship on a foundation of mutual understanding and respect.

Response

The Government agrees with this recommendation.

The Government believes that CASA and industry must work closely together on regulatory reform priorities. An ongoing and meaningful dialogue between industry and the regulator is vital.

The Government's new SOE for the CASA Board will require CASA to develop a clear statement of regulatory philosophy which will include meaningful industry involvement, as well as a compliance and enforcement policy informed by those developed by other Commonwealth regulators and other leading aviation regulatory authorities. These policies will be considered by the CASA Board and the CASA Director of Aviation Safety. In addition, these policies will set out principles and practices:

- governing the use of safety cases to support regulatory and procedural changes by CASA that will impact on industry and the community;
- reaffirming the use of risk based criteria for determining appropriate responses to non-compliance, taking into account industry behaviours and motivations;
- establishing clear review mechanisms understood by CASA and industry for promoting national consistency in regulatory and related decision making and interpretation of regulations and standards;
- outlining CASA's relationship expectations with industry to encourage collaboration and consultation and develop mutual understanding and respect; and
- promoting the use by CASA of targeted safety promotion and educational activities such as safety seminars around Australia to inform and obtain feedback from industry on the impacts of proposed regulatory change.

CASA has confirmed that its regulatory philosophy will be reviewed in the first half of 2015 as part of CASA's Regulatory Policy and Practice initiative and that the outcomes of the review will be considered by the CASA Board and new Director of Aviation Safety.

As part of its quarterly reporting to the Minister on its performance against its Corporate Plan, CASA will report on its performance against the new SOE and the recommendations agreed to by the Government arising out of this Report, including implementation of its regulatory philosophy, and associated compliance and enforcement policies.

The CASA Director of Aviation Safety will be expected to report regularly to the Board on compliance with the new regulatory policy. While putting the policy in place represents an important step, ultimately the policy will require a continuing commitment by CASA and industry to build the mutual understanding and respect so essential for a harmonious aviation industry.

Recommendation 15

The Civil Aviation Safety Authority continues to provide appropriate indemnity to all industry personnel with delegations of authority.

Response

The Government agrees in-principle with this recommendation.

CASA has been given specific regulatory powers. These include powers to:

- approve activities;
- issue permissions;
- conduct activities which would otherwise be prohibited; and
- issue exemptions against regulatory requirements.

As CASA is a statutory authority, these powers are generally exercised by individual officers within CASA. However, the Director of Aviation Safety may also delegate CASA's powers and functions under the *Civil Aviation Act 1988* to any person, including a person who is not employed by CASA.

Civil Aviation Advisory Publication Admin 1, which was promulgated in 1992, provides indemnification of all delegates and authorised persons for certain actions brought against them relating to their exercise of delegated powers. It does not provide indemnification for deliberate or wilful misuse of a delegation or power.

The Government supports in-principle appropriate indemnities for industry personnel where they are acting under CASA delegations of authority subject to overarching Government policies and such determinations as may be made under the PGPA Act.

The Government is aware that with recent regulatory changes, the nature, scope and propriety of CASA's indemnity regime for industry delegates and authorised persons needs to be reviewed. This review should examine the different nature of delegations across CASA's functions, having regard, amongst other things, to the increasing availability of insurance coverage in the general and aviation insurance markets.

The PGPA Act also allows for rules on indemnities to be developed by the Commonwealth to prescribe requirements relating to the granting of indemnities, guarantees or warranties by corporate Commonwealth entities. The Department of Finance is tasked with developing these indemnity rules.

CASA expects to release a policy paper on future proposals for indemnity of delegates for public and industry comment in 2015, having regard to the Department of Finance's rules on the indemnity provisions under the PGPA Act.

Recommendation 16

The Civil Aviation Safety Authority finalises its Capability Framework and overhauls its training program to ensure identified areas of need are addressed, including:

- a. communication in a regulatory context;
- b. decision making and good regulatory practice; and
- c. auditing.

Response

The Government agrees with this recommendation.

CASA is developing and reviewing its Capability Framework and expects to finalise it by the end of 2014.

The Framework will address all elements raised by this recommendation.

CASA has confirmed that its new Capability Framework will encourage staff training and awareness on service-orientated communication and communication for regulatory effectiveness.

However, as noted by the Report, to ensure improved communications are effective, industry will also have to improve its ability to engage with CASA, including the use of professional-level representation, for example, in the development of future regulatory proposals.

Recommendation 17

The Civil Aviation Safety Authority publishes and demonstrates the philosophy of 'just culture' whereby individuals involved in a reportable event are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training. However, actions of gross negligence, wilful violations and destructive acts should not be tolerated.

Response

The Government agrees with this recommendation.

The Government expects that CASA's new regulatory philosophy policy, referred to in response to Recommendation 14, will specifically address this recommendation. In formulating its advice on 'just culture', CASA has advised that it will have regard to approaches such as those adopted by the United Kingdom and the European Union and anticipated ICAO SARP's in this regard.

However, publishing this policy is only the first step in ensuring the adoption of practices consistent with the principles underpinning a 'just culture' approach.

Accordingly, the Government expects that the CASA Board and the Director of Aviation Safety will actively monitor staff compliance with this policy and take appropriate action where non-compliance is evident.

Consistent with the response to Recommendation 19, the Government expects that CASA will outline to industry how it will use material received from industry as part of accessing their SMS. The establishment and implementation of SMS is still evolving in the aviation industry and it is important that CASA and industry participants have an agreed understanding of how SMS information can be used by both the regulator, industry participants and service providers to maintain and improve safety.

The commitment to 'just culture' principles and the 'use of discretion' procedure highlighted in Recommendation 18 should in no way be seen as a licence for acts of non-compliance by aviation industry participants. Aviation safety regulations should be conducive to sound safety outcomes and compliance with such regulations is essential to those outcomes. There is no place for unsafe operators in our aviation industry.

The Government therefore fully supports and expects the aviation safety regulator to take action to mitigate unacceptable safety risks to the travelling public, industry participants and the community.

Recommendation 18

The Civil Aviation Safety Authority reintroduces a 'use of discretion' procedure that gives operators or individuals the opportunity to discuss and, if necessary, remedy a perceived breach prior to CASA taking any formal action. This procedure is to be followed in all cases, except where CASA identifies a serious and imminent risk to air safety.

Response

The Government agrees in-principle with this recommendation.

The Government expects the new Director of Aviation Safety to publish and adopt a 'use of discretion' procedure from 1 July 2015 consistent with its new regulatory philosophy policy expected to be completed by 30 June 2015.

CASA's enforcement manual will also be updated by 30 June 2015 to outline clearly to industry and the public the opportunities available to an operator and CASA to work to rectify any concerns raised through monitoring and auditing of compliance by CASA prior to the regulator taking any formal action against an industry participant.

CASA will be able to gather valuable information in areas where non-compliance and breaches by industry might enable the regulator to identify safety trends in a particular industry sector or type of operation and take appropriate action to improve safety performance.

It is therefore important that the procedure is closely overseen by CASA senior management and its use be supportive of CASA's ongoing efforts to enhance national consistency and standardisation which has been strongly supported by industry.

Recommendation 19

The Australian Transport Safety Bureau transfers information from Mandatory Occurrence Reports to the Civil Aviation Safety Authority, without redaction or de-identification.

Response

The Government agrees in-principle with this recommendation.

This recommendation is fully consistent with recommendations made by the ICAO Safety Information Protection Taskforce which are reflected in amendments to the relevant Annexes to the Convention on International Civil Aviation (the Chicago Convention) proposed by the ICAO Air Navigation Commission.

Current international best practice also supports the full disclosure of Mandatory Occurrence Reports to the regulatory authority for the purpose of improving aviation safety.

The information in these reports can also provide critically important information to the regulator to monitor and measure safety trends effectively and help make better informed decisions on aviation safety regulation.

The Government is well aware of aviation industry concerns that the immediate implementation of this recommendation might lead to this and other information, such as that collected by airline safety management systems, being used inappropriately by CASA for punitive purposes. These concerns must be properly addressed in any implementation of this recommendation.

An ongoing commitment from CASA and industry to build a more collaborative relationship based on mutual respect and understanding will greatly assist in the implementation of this policy.

The Government will therefore include in the CASA Board SOE and ATSB Commission SOE a clear requirement that both agencies comply fully with the current Safety Information Policy Statement based on an approach informed by 'just culture' principles. This Policy Statement outlines how information is released to CASA and the specific uses of the information by CASA in carrying out its regulatory functions in the demonstrable interests of safety.

CASA has confirmed it will be publishing a Question and Answer document to accompany the Policy Statement to assist industry and agency personnel to understand better the policies, procedures and protections surrounding the sharing of aviation safety information between the ATSB and CASA.

The Government expects the Director of Aviation Safety and ATSB Chief Commissioner to manage adherence to the Policy Statement closely.

CASA will specifically develop and implement appropriate internal protocols and staff training to manage information in accordance with the Policy Statement.

CASA and the ATSB will need to communicate effectively with industry to ensure all parties are aware of the requirements of the Policy Statement and the means for actively monitoring compliance with the Policy Statement.

Recommendation 20

The Australian Transport Safety Bureau transfers its safety education function to the Civil Aviation Safety Authority.

Response

The Government does not agree with this recommendation.

Both CASA and the ATSB play important, complementary and yet different safety education roles.

In general the ATSB provides safety education to industry and the public based on lessons learnt from its individual accident and specific topic investigation reports. This primary function of safety education is legislatively assigned to the ATSB under the *Transport Safety Investigation Act 2003*.

Consistent with its functions under the *Civil Aviation Act 1988*, CASA also provides safety education to improve industry and public understanding, awareness and compliance with safety regulatory requirements. This is particularly important when CASA is about to introduce significant changes to regulatory requirements.

The respective education roles of the ATSB and CASA are therefore considered by the Government to be complementary to our aviation safety system.

Recommendation 21

The Civil Aviation Safety Authority changes its organisational structure to a client-oriented output model.

Recommendation 22

The Civil Aviation Safety Authority establishes small offices at specific industry centres to improve monitoring, service quality, communications and collaborative relationships.

Response

The Government notes these two recommendations.

The Government notes primary responsibility for considering this recommendation rests with the new CASA Director of Aviation Safety and CASA the Board.

The Government will encourage the Director of Aviation Safety and the Board to work with airline, airport and other aviation representatives to enhance shared understanding of the different industry sectors and what this means in terms of defining regulatory and industry roles in aviation safety regulation.

The Government has requested the Board examine the Report's proposal for creating a specific unit in CASA dedicated to general aviation and aerial work operations as part of further advice on its future organisational structure in its next corporate plan.

Some industry members have expressed concerns that the establishment of more offices by CASA, may increase the risk of CASA delivering less consistent national regulatory outcomes and increased costs.

Recommendation 23

The Civil Aviation Safety Authority shares the risk assessment outputs of Sky Sentinel, its computerised risk assessment system, with the applicable authorisation holder.

Response

The Government agrees in-principle with this recommendation.

The Government agrees that it is important for industry to have access to this data to assess potential safety risks and develop appropriate responses.

In relation to Sky Sentinel outputs, the Government expects that the next CASA corporate plan will set out how the authority can most effectively implement this recommendation in conjunction with any other relevant data CASA may hold, noting this type of information can help demonstrate areas of concern and identify where remedial effort by the industry participant may be required.

The Government notes however, that information pertaining to individuals or particular organisations would not be made generally available, nor would access be granted to the Sky Sentinel system where there are security, confidentiality and privacy-related issues.

Recommendation 24

The Civil Aviation Safety Authority provides full disclosure of audit findings at audit exit briefings in accordance with international best practice.

Recommendation 25

The Civil Aviation Safety Authority introduces grading of Non-Compliance Notices on a scale of seriousness.

Recommendation 26

The Civil Aviation Safety Authority assures consistency of audits across all regions, and delivers audit reports within an agreed timeframe.

Response

The Government agrees with these recommendations.

The Government agrees that an early indication for industry participants from CASA of areas of concern identified in an audit is a desirable outcome.

The Government has asked CASA to review its audit policies and modify its procedures as appropriate to provide a brief, preliminary indication of findings in written form at all exit briefings with industry. This has the benefit of industry receiving information of potential safety issues in a timely manner.

The Government has requested CASA, in consultation with industry, examine the development of appropriate gradings for Non-Compliance Notices (NCN's) that accurately reflect aviation safety risks, without reducing operators' remedial decision making responsibilities.

However, it should be noted that NCN's are not the only means by which CASA conveys concerns about safety and regulatory deficiencies to industry authorisation holders. The use of a NCN is an exercise of regulatory discretion that provides the recipient with the ability to question CASA's determination in relation to the existence of a breach, avoiding resorting to enforcement action where this is not necessary.

CASA's Internal Assurance Program should also help ensure established surveillance processes are adhered to within CASA and greater standardisation and consistency achieved across the organisation in its regulatory approach.

The Government supports timely delivery of audit reports and CASA's surveillance policy targets delivery of final audit reports within 20 business days from the date of the exit briefing.

The Government has accordingly asked the CASA Board, through the Director of Aviation Safety, to closely monitor exit and final audit performance by the organisation.

The Government also supports CASA's commitment to ensure all staff involved in audit-related functions receive thorough audit training to improve consistency in audit approaches and the presentation of audit findings.

The Government has asked the CASA Board to provide advice on an implementation plan for progressing these related series of recommendations as part of the Board's next corporate plan due to be finalised by 31 March 2015.

Recommendation 27

The Civil Aviation Safety Authority implements a system of using third-party commercial audits as a supplementary tool to its surveillance system.

Response

The Government agrees in-principle with this recommendation.

The Government acknowledges that the intent of this recommendation could enable CASA to supplement its finite resources with additional auditing capability. It would also enable the audit system to benefit from external expertise and skills sets.

The Government has requested the CASA Board review this option by 30 June 2015 having particular regard to the likely availability of suitable commercial audit providers to perform this function, potential for conflicts of interest, consistency of audit issues and liability of parties. It is also noted that some aspects of CASA's regulatory functions may not be appropriate to delegate to a third party.

Recommendation 28

The Civil Aviation Safety Authority establishes a safety oversight risk management hierarchy based on a categorisation of operations. Rule making and surveillance priorities should be proportionate to the safety risk.

Response

The Government agrees with this recommendation.

The Government recognises CASA's safety oversight risk management hierarchy and supports CASA's move to align its classification and safety regulatory policies with the ICAO categorisation model of: Air Transport Operations, Aerial Work and General Aviation.

CASA, in undertaking its surveillance program, is required to continually identify, treat, monitor and review aviation safety risks to ensure that all decisions are well informed and evidence based to promote a safe aviation environment.

The Government will set out in its new SOE to the CASA Board the importance of using appropriately developed safety cases to support the implementation of new regulations and standards that should be developed in consultation with industry.

Recommendation 29

Recreational Aviation Administration Organisations, in coordination with the Civil Aviation Safety Authority, develop mechanisms to ensure all aircraft to be regulated under CASR Part 149 are registered.

Response

The Government agrees in-principle with this recommendation.

CASA is currently developing a draft CASR Part 149 which envisages a rationalised registration program for all approved self-administering aviation organisations.

However, whether all aircraft covered by the future CASR Part 149 can or should be on the Australian register (e.g. hang gliders) is a matter that will require further consideration, including the certification basis on which formal certificates of registration are issued.

CASA proposes to release a draft of CASR Part 149 for public and industry consultation in the first half of 2015.

Recommendation 30

The Civil Aviation Safety Authority changes the current two-tier regulatory framework (act and regulations) to a three-tier structure (act, regulations and standards), with:

- a. regulations drafted in a high-level, succinct style, containing provisions for enabling standards and necessary legislative provisions, including offences
- b. the third-tier standards drafted in plain, easy to understand language.

Recommendation 31

The Civil Aviation Safety Authority structures all regulations not yet made with the three-tier approach, and subsequently reviews all other Civil Aviation Safety Regulation Parts (in consultation with industry) to determine if they should be remade using the three-tier structure.

Response

The Government agrees in-principle with these recommendations.

Much of CASA's current regulatory regime is and will continue to be a three-tier structure comprising of the Act, Regulations and Manuals of Standards or Civil Aviation Orders.

The Government supports the use of easy to understand language in aviation regulations and standards and expects CASA and the Office of Parliamentary Counsel (OPC) to commit to the principles set out in Recommendations 30 and 31. CASA and OPC will continue to ensure new regulations and instruments adhere to Commonwealth legal drafting practices and avoid any inconsistencies with other pieces of relevant legislation and regulation.

While the Government supports the timely review of regulations, it does not support the imposition of costly and unnecessary reviews.

CASA and industry alike have already noted "regulatory reform fatigue" over the past few years, while acknowledging that much of the "fast tracking" of regulatory changes made over the last few years has been at the request of industry.

Recent regulatory changes have again demonstrated that CASA and industry need time to adjust to, and successfully implement, regulatory changes.

The Government will support appropriate regulatory reforms in the future noting that there needs to be sufficient time for CASA and industry to transition to the changes, recognising this can often take several years.

In addition, the Government will particularly support regulatory changes where CASA presents a compelling safety case for urgent action or where regulatory changes are uniformly supported and endorsed by CASA and industry (including those that reduce the costs on industry) and can be reasonably and safely implemented in a shorter time frame.

The Government supports the alignment of the *Civil Aviation Safety Regulations 1998* (CASR) and associated standards and orders with ICAO SARP's and international practices which facilitates greater harmonisation for Australian aviation aircraft manufacturing and maintenance operators.

The Government's regulatory burden measurement framework requires a Regulation Impact Statement (RIS) to be developed for new and amended regulations. The RIS requires CASA to consider the economic impact of regulatory changes on individuals, businesses and the community and to quantify the estimated regulatory costs involved.

Recommendation 32

The Civil Aviation Safety Authority reassesses the penalties in the Civil Aviation Safety Regulations.

Response

The Government agrees with this recommendation.

CASA, in consultation with the Department and industry, will conduct a review of the penalties for offences in the *Civil Aviation Act 1988* and the CASR.

This review report will be provided to the CASA Board and Director of Aviation Safety and the Attorney-General's Department (in terms of Criminal Law penalty policy) for consideration by 30 June 2015.

The Government is also aware that CASA is giving consideration to the establishment of a civil penalty regime, noting this would require a change in CASA's legislation.

The Government supports CASA releasing a policy paper in the first half of 2015 to the public and industry for comment to seek their views on this proposal.

Recommendation 33

The Civil Aviation Safety Authority applies a project management approach to the completion of all Civil Aviation Safety Regulation Parts not yet in force, with drafting to be completed within one year and consultation completed one year later, with:

- a. a Steering Committee and a Project Team with both CASA and industry representatives; and
- b. implementation dates established through formal industry consultation.

Response

The Government agrees with this recommendation.

The Government expects CASA and the OPC to complete the drafting of all remaining parts of the current aviation safety regulatory reform program during 2015.

These parts are as follows:

- Maintenance Suite - Part 42, Part 66 and Part 145 (general aviation);
- Operations Suite (Passenger Transport) - Parts 91, 119, 121, 129, 131, 133 and 135;
- Operations Suite (Sport/Recreation)- Parts 103, 105 and 149;
- Operations Suite (Aerial Work/Other) - Parts 132 and 138; and
- Other – Part 13 and associated Carriers Liability amendments.

The finalisation of these parts will be subject to any changes in regulatory approach and appropriate industry consultation.

However, the Government notes that for CASR Parts 119, 129, 133 and 135 there has already been an extensive industry consultation process and it would not support another detailed consultation process in further examining these proposals being imposed on CASA or industry for these parts.

CASA will need to ensure an effective communication and education process is put into place before these provisions commence, to facilitate CASA staff and industry implementation and transition to future regulatory arrangements.

The Government supports continuation of a senior officials group from CASA, the OPC and the Department overseeing the future aviation safety regulatory reform program and reform priorities.

The Government has also requested the CASA Board consider the establishment of a small, joint CASA/industry regulatory steering committee to inform future regulatory reform priorities once the current aviation safety regulatory reform program is completed. This committee should also provide advice on practical implementation dates and transition periods for future regulatory changes.

The Government fully supports industry participation in the development of new aviation safety regulations and standards and CASA's continued commitment to a project management approach with full opportunity for active involvement by industry.

Accordingly the joint CASA/industry regulatory steering committee should also continue to establish specific project teams to examine individual Civil Aviation Regulations 1988 and CASR Parts and associated standards and orders. However, for this committee and individual project teams to work CASA and industry will need to commit dedicated time and resources.

Recommendation 34

The Civil Aviation Safety Authority's Director of Aviation Safety meet with industry sector leaders to jointly develop a plan for renewing a collaborative and effective Standards Consultative Committee.

Response

The Government agrees with this recommendation.

The Government notes that the Standards Consultative Committee (SCC) is currently primarily an advisory body. It provides an opportunity for industry members to make recommendations to CASA on regulatory policy and standards development issues, procedures and processes for assessment and consideration by CASA senior management.

The Report found that the SCC's design was sound and its current consultation program was based on sound principles and similar to processes in other countries.

However, as proposed in the response to Recommendation 33, the Government supports CASA establishing a new, small overarching CASA/industry regulatory steering committee.

With the establishment of this committee and specific project teams to look at particular regulations and third tier instruments, CASA and industry sector leaders should discuss what the ongoing role of the SCC should be.

The Government has also established an Aviation Industry Consultative Council, chaired by the Minister, to discuss matters of broader concern to the aviation industry and ensure that industry has a forum for discussing their views.

Recommendation 35

The Civil Aviation Safety Authority devolve to Designated Aviation Medical Examiners the ability to renew aviation medical certificates (for Classes 1, 2, and 3) where the applicant meets the required standard at the time of the medical examination.

Response

The Government agrees in-principle with this recommendation.

CASA has already commenced a process to permit approved Designated Aviation Medical Examiners (DAME's) to issue and renew Class 2 medical certificates.

CASA will conduct a post implementation review of the Class 2 process in consultation with key stakeholders in the second half of 2015.

The results of the post implementation review will be considered and assessed by CASA to inform future consideration of a detailed examination of issues involved with the potential ability for DAME's to renew medical certificates for classes 1 and 3 as identified in the Report's recommendation.

CASA will therefore need to examine whether a hybrid system with some certificates issued by DAME's and others by CASA staff, is consistent with ensuring national consistency and effective administration in the future performance of this specialised function.

The Government is aware of a range of concerns raised by some industry members in the Report in relation to administration and decision making processes related to the issuing of aviation medical certificates.

CASA has identified a range of administrative measures it has taken to improve turnaround in the processing of certificates. Applicants can also assist CASA in providing full medical information well before renewal of certificates are due, particularly where there are medical conditions that need to be assessed.

In relation to more contentious medical conditions, the Government has asked that CASA ensure its processes are as transparent as possible to the applicant, including the supporting reasons for its decisions to grant or not grant a medical certificate or place conditions on licences. It is acknowledged that different specialists can reach a different view on particularly complex cases but ultimately CASA must make its decision based on aviation safety grounds.

Moreover the Government has asked that CASA undertake a review of its aviation medical unit to establish whether a more effective and efficient system might be put in place without adversely impacting on safety. This review will report to the CASA Board by 30 June 2015.

Recommendation 36

The Australian Government amends regulations so that background checks and the requirement to hold an Aviation Security Identification Card are only required for unescorted access to Security Restricted Areas, not for general airside access. This approach would align with international practice.

Response

The Government notes this recommendation

Consistent with the recommendation and its commitment to cut red tape and support enhanced aviation industry productivity, the Government is already examining a range of potential improvements to the Aviation Security Identification Card (ASIC) scheme.

As a next step, in the first half of 2015 the Government will commence consultation with industry on any potential changes to the scope of the ASIC scheme.

Industry and stakeholder input on policy options will be central to discerning the impacts and relative benefits of any potential changes.

Such changes would also complement other initiatives aimed at reinforcing the ASIC scheme's integrity, such as strengthening eligibility criteria and improving card issuing processes.

Recommendation 37

The Civil Aviation Safety Authority amends the current Terms of Reference of the Industry Complaints Commissioner (ICC) so that:

- a. The ICC reports directly to the CASA Board
- b. No CASA staff are excluded from the ICC's jurisdiction
- c. The ICC will receive complaints that relate to both the merits and the process of matters.
- d. On merits matters, including aviation medical matters, the ICC is empowered to convene an appropriately constituted review panel, chaired by a CASA non-executive director, to review the decision.

While all ICC findings are non-binding recommendations, the original decision-maker is required to give reasons to the CASA Board if a recommendation is not followed.

Response

The Government agrees in-principle with this recommendation.

The Government supports recommendations part (a) and (b) and has asked the Board for advice on appropriate future governance arrangements for the ICC.

In relation to recommendations (c) and (d) the Government expects the ICC to investigate complaints into CASA's administrative and consultative processes and procedures, and then to identify and make recommendations to the CASA Board about individual and systemic issues resulting from these investigations.

This process needs to take into account existing review mechanisms, such as the Administrative Appeals Tribunal, and the Australian Government's desire to reduce duplication and red tape.

The Government would expect that the CASA Board would play an active role in responding to any issues raised by the ICC in their reports to the Board, particularly on systemic issues.

In order to improve transparency and accountability, the Government has also asked CASA to provide an annual report of the activities and findings of the ICC as an Appendix to its annual report.