

AERIAL AGRICULTURAL ASSOCIATION OF AUSTRALIA LTD.

ABN 13 002 501 886 • ACN 002 501 886



ASRR Recommendations – Responses from AAAA

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General Comments

AAAA welcomes the recommendations from the ASRR panel and supports the majority of recommendations with only a few significant exceptions concerned with the provision of identifiable information to CASA by ATSB under current circumstances.

In many cases, AAAA has offered ways of improving on the recommendations before implementation. The following table provides a summary of the AAAA position.

Table: Summary: 37 recommendations

AAAA Position	Overall #	Recommendation #
Strongly supported	10	14,15,17,24,25,27,28,32,35,37
Supported	11	2,3,8,10,12,16, 21,23,26,29,31
Supported with reservations/conditions	13	1,5,6,7,9,11,13,18, 22,30,33,34,36
Opposed	1	4
Strongly Opposed	2	19,20

Issues Not Subject to Recommendations

AAAA well understands the significance and the likely positive impact of the adoption of the range of the ASRR Report recommendations. AAAA also understands the likely cumulative effect of the different recommendations, particularly when combined with the likely significant change of key personnel in CASA.

However, AAAA is concerned that the ASRR report was silent in a number of critical areas that should be considered further in any implementation strategy focussed on improving aviation safety in Australia.

In particular, AAAA is concerned with the following omissions and strongly encourages the Minister to consider action on these related issues that were not the subject of specific recommendations in the ASRR report:

- **Regulatory reform refocus on safety outcomes, risk management and cost-reduction**
The current regulatory reform program has lost its way because of a loss of CASA focus on what regulatory reform was meant to achieve.

The previous aim of 'safety through clarity' has clearly been abandoned judging by the outcomes of Part 61 and other recent regulations.

There should be a clear refocussing of the regulatory reform program onto goals that every regulation can be judged against. This was certainly the process applied to all regulations being developed in the early 2000s as part of the RRP, but is simply not applied at all now.

Completing the regulatory reform process is not an end in itself – it must serve some higher purpose that delivers benefits to both regulators and regulated.

In considering the Government response to the ASRR Report, close attention must be paid to renewing and resetting the goals of the RRP.

A refocussing on key tests for each new regulation would be informative:

- Is there a viable alternative to regulation?
- Does it address a known or anticipated risk?
- Does it deliver a safety outcome?
- Is it the minimum for safe operations?
- Are the true costs of the regulation commensurate with the safety benefit?
- Does it solve an existing problem?
- Does it reduce costs or improve processes?

These types of questions are entirely incompatible with the Government's announced policy for red tape reduction.

- **Regulatory Impact:**

The Report does not contain strong enough safeguards to ensure that CASA must consult with industry on the economic and other implications of regulatory change as part of a detailed cost/benefit analysis of all regulations.

In particular, AAAA notes that the current Regulatory Impact Statement required by various government processes is often not presented or undertaken as CASA frequently seeks exemptions from the RIS process on the basis that the proposed regulatory change is not a 'significant' change. AAAA does not support the RIS exemption strategy where it delivers NO assessment of regulatory impact, or where the RIS exemption is used to circumvent industry concerns with costs and other impacts on proposed regulatory change.

AAAA is particularly concerned that true industry costs be included in any assessment for regulatory change by consulting with industry to establish the nature of likely costs.

- **Fostering and Promoting Aviation:**

The concept of fostering and promoting the aviation industry is not, in itself, anathema to good regulatory compliance enforcement. AAAA still recommends it be included in the Minister's charter letter to CASA if not incorporated into the Act as a consideration that is to be balanced with safety.

AAAA notes that many of the issues that a commitment to fostering and promoting aviation seeks to address will be hopefully managed by other recommendations from the report, including the improved role of the Industry Complaints Commissioner and a stronger role in oversight of CASA by a new Board and the Department.

AAAA also notes that the Coalition election aviation policy commitment to a Ministerial Aviation Advisory Group may also play a strategic role in ensuring that CASA management is never again allowed to drift to a position of such antipathy towards industry, or to such a culture as is the subject of such a critical independent report again.

- **CASA Board and Senior Management**

While the ASRR report makes a range of recommendations regarding the future management of CASA, it does so without making any overt recommendations regarding the future of the existing CASA Board or senior management.

AAAA believes that CASA must be given a 'clean slate' to commence the implementation of the report recommendations by the immediate replacement of all existing CASA Board members with people that have the respect of industry and experience in aviation and change management.

Importantly, the CASA Board should rightly contain representation from industry. Peak body views should be sought as to potential candidates.

In addition, AAAA does not support the ongoing involvement of the current Director of Air Safety or the existing senior management personnel in CASA being involved in the implementation of the ASRR Report recommendations.

The performance of the senior levels of management within CASA are the subject of many criticisms in the report and the need to unwind and repair the culture created and sustained by these people is in fact the subject of many recommendations of the report.

- **Changes to the Civil Aviation Act 1988**

The ASRR Report does not make any recommendations to improve the Act under which CASA operates and AAAA believes this may be a weakness of the reforms proposed.

While significant changes to personnel and processes are clearly welcomed by AAAA, there remains a concern that a reversion to the identified and rejected culture of the 'Big R regulator' is still only a policy or personnel change away – which has happened before and could happen again over time.

A number of changes to the *Civil Aviation Act 1988* should be considered to 'lock-in' the improvements identified in a range of areas, including:

- CASA should be required to be a risk managing organisation with adequate structures and systems so that policies, regulations, standards and advisory material are based on a sound understanding of the risks inherent in a particular sector.
- The risk safety basis of CASA policy and systems should be further based on a classification of operations that recognises that different sectors will have different risk profiles and CASA compliance, regulation, safety promotion and other systems should be informed by each sector's risk profile. In particular, aerial work operations not involved with the carriage of passengers should have a relatively simple risk management approach, compared to, for example, RPT operations. Minister Anderson's letter of direction to CASA from some years ago would provide a useful starting point.
- The Director of Aviation Safety should not be on the Board, but should attend Board meetings as required by the Board.
- The process for selection and appointment of the CEO and Board should be included in the Act to ensure that the Board includes the relevant expertise and aviation experience and that the DAS is required to adopt a cooperative stance when dealing with industry.
- Improved consultation mechanisms with industry should be included within the Act.

- **Industry Consultation**

The current consultative processes do not work, mostly because CASA stopped listening to industry some years ago. The structures themselves are not necessarily the problem – the problem is the culture and attitude of the people involved.

At lower levels with CASA, this willingness to work cooperatively with industry is common and has resulted in some very useful regulatory improvements. For example, some elements of Part 61 represent an improvement on previous practice, mostly because they were developed by industry after CASA realised it simply did not have the expertise, for example, in aerial application competencies.

As interactions with CASA go higher up the hierarchy, including middle management, the willingness to cooperate seems to evaporate and is replaced with a view that 'we are the regulator, we know best'. Consequently, it is not surprising that industry (and a few within CASA) become jaded with the constant need to find 'work-arounds' to fix problems rather than working cooperatively to fix the base cause or regulation. This is what most frequently leads to the need for exemptions – such as those for night agricultural operations recency or the mini- DAMP.

At the highest levels of CASA, structures such as the Standard Consultative Committee and the Regional Aviation Safety Forum have been treated as a CASA broadcasting post rather than an interactive exchange. Consequently, (and AAAA is unsure if CASA has awoken to this fact), industry has generally withdrawn its interaction from the SCC, at least in meetings. The work of the SCC Working Groups continues, but at the strategic level of the SCC there is general silence from industry because the system is so clearly and fundamentally broken. Unfortunately, CASA staff have made a number of comments regarding how well the SCC has been functioning lately – perhaps not aware of the simmering industry anger at the current process.

However, the current structure of the peak SCC is problematical, containing as it does so many members and a mixture of peak bodies, individuals and companies represented.

AAAA supports the scrapping of the current SCC and its replacement with a group made up of peak industry bodies who actually represent a clear membership. A key test should be the level of representation (ie members in the sector or 'coverage') that a body claims to represent.

The work of the SCC Working Groups is essential – if CASA didn't have them they would have to invent them – so their work should continue. However, their work on regulatory reform would be even more productive if they were:

- a) informed by the tests/questions posed in the section above on regulatory reform
- b) required to draft legislation in a three tier system as per the ASRR report and
- c) supported by a CASA move to a more collaborative stance with industry .

The urgent implementation of the Minister's Aviation Advisory Group would be a welcome circuit breaker to the current impasse, especially if industry peak bodies, including AAAA, are invited to participate or provide members with appropriate expertise.

- **CASR Parts 61, 141, 142**

Recommendation 31 says that all regulations not currently made should be reshaped into a three tier structure with the aim of gaining significant simplification and thereby improved compliance.

AAAA strongly believes that the current CASR Parts 61,141 and 142 should again be deferred for implementation and should be the first regulations subject to the ASRR Recommendation 31.

The simple fact that CASA have only recently released critical parts of the Manual of Standards for industry to consider, and that there is ongoing conjecture from within CASA about the transition of roles such as 'approved pilots' in aerial application,

suggests that any move to make the regulation 'active' by September is simply premature.

The complexity of the writing of the CASR 61 itself works against compliance by being so difficult to understand. Consider the difficulties when trying to trace the requirements for training, licensing and, critically, privileges of each licence/rating/endorsement across a number of licences (eg CPL, low-level rating, application rating, firefighting endorsement, etc), having to manage both the regulations and the MOS of over 1500 pages.

In addition, some areas of the MOS that cover competencies for aerial application and firefighting are not acceptable to industry in their current form and require further refinement. It appears that a range of prerequisites suggested by industry have not been included, nor has adequate recognition of prior learning for an application pilot, for example, to attain a firefighting endorsement.

To ask industry to absorb and be functionally capable of working with over 1500 pages of regulations and standards when the latest requirements have only been released in the last few weeks makes a mockery of any implementation 'strategy'.

For those companies having to transition to Part 141 operations so as to be able to provide the critical role of training for aerial application sector within the current timeframe is another problem. It is highly unlikely that the companies will be able to develop the appropriate operations manuals now required under CASA's 'simplified' approach within the current timeframe due to the need to develop curriculum and competency training syllabus and assessment procedures that are in line with the new Part 61/141. The flight test requirements were only released in the last few weeks and have NOT been the subject of industry consultation – as is the case with much of the recent MOS related publications.

It is also highly unlikely that CASA will be able to assess and accept the various requirements mandated in the MOS and Part 141 before the commencement of operations under the new regulations.

The only logical outcome is to put the current Part 61/141/142 on hold until it can be subject to the ASRR recommendations. As an absolute minimum the September start date should be deferred for at least 12 months to enable training organisations to absorb what has only recently been released.

Letter from the CASA Board to AAAA

During the period of the ASRR and before the publishing of its report, AAAA received a letter from the current Chair of the CASA Board.

In that letter, the Chair of CASA made certain comments that sought to criticise the AAAA submission to the ASRR Panel. The letter was copied by CASA to the Minister's office, the Secretary of the Department of Infrastructure and the Head of the ASRR Panel. A copy of the letter is attached.

AAAA responded by writing a letter to the Minister for Infrastructure outlining where the CASA Chair's letter was simply incorrect in fact in various places and sought to negate the

various criticisms of CASA's performance by AAAA. AAAA copied the letter to the same people as received the CASA letter. A copy of the AAAA letter is also attached.

The more concerning issue, however, is that the current members of the CASA Board thought it appropriate to write to AAAA while the review process was still in train.

The apparent intent of the CASA letter appears to be to intimidate a representative body participating in the Aviation Safety Regulatory Review and to undermine the validity of the AAAA submission.

The willingness of the CASA Board to actively participate in the 'politics' of the ASRR process should sound clear alarm bells to the Minister and anyone else interested in the appropriate discharge of responsibilities by the current CASA Board.

Apart from its factual errors, the CASA letter served no purpose other than to provide further evidence to the ASRR Panel (if more was needed) of the very problems of poor culture, bullying and intimidation highlighted in many of the submissions – with clear evidence – to the ASRR.

AAAA now views the continuing position of the existing Board and senior management of CASA as simply untenable in the light of the ASRR report, the attempt to intimidate AAAA and the ongoing lack of awareness of the poor performance of CASA across a broad range of areas.

For this reason, AAAA continues to call for the immediate removal of all existing CASA Board members so as to give a reformed CASA a clear break from the culture and outlook of the previous Board and senior management, and the opportunity to rebuild trust with the industry which it has continually and intentionally undermined over recent years.

AAAA is of the view that the current Board should immediately be dismissed under Section 60 (3) of the *Civil Aviation Act 1988*.

AAAA will not support any further extension of contract of the current Director of Air Safety.

AAAA Response to each recommendation

The Aviation Safety Regulation Review Panel recommends that:

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.

AAAA: Supported, as long as there is an opportunity for industry consultation and input, including perhaps an industry representative included, or the issue also being considered by the Ministerial Aviation Advisory Council.

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

AAAA: Supported.

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

AAAA: Supported. The importance of ATSB expert advice on all fatal accidents is critical to ensuring appropriate advice to the Coroner so that State police investigations, which may be less expert, are less traumatic to survivor/victim families and colleagues.

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.

AAAA: Opposed at the current time. AAAA has significant ongoing concerns with CASA and its lack of understanding and implementation of a 'just culture'. AAAA concerns regarding the critical importance of maintaining and in fact enhancing the de-identification of safety information provided to CASA will remain until AAAA sees evidence of a significant change in CASA's maturity in terms of appropriate responses to accidents and incidents that conform with a 'just' culture.

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

AAAA: Supported. Although, a cheaper alternative would simply be to ensure one of the current number of Commissioners has aviation experience.

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.

AAAA: Supported. However, AAAA does not believe the Director of Air Safety should be a member of the Board. AAAA does not believe existing Directors should be allowed to continue in that position so as to exert any influence on the selection of a new Director of Aviation Safety/CEO or in responding to the ASRR Report.

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.

AAAA: Supported. However, an industry person should be included on the selection panel.

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
- d. adopts the same Code of Conduct and Values that apply to the Australian Public Service under the Public Service Act 1999.

AAAA: Supported.

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

AAAA: Supported, with conditions. While the costs of such a program may be difficult to resolve fairly, the principle is sound and has been implemented successfully in other sectors of industry. However, the scheme **MUST** be developed as a partnership with industry representative body involvement from day one and must include clear agreed guidelines.

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'.

AAAA: Supported.

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.

AAAA: Supported. However, AAAA strongly supports the enhanced de-identification of accident information from ATSB to CASA, including the non-provision of VH, owner and any other information that would lead to an identification being easily available, at least until such time that CASA is able to demonstrate adequate maturity to manage data in a 'just' manner.

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.

AAAA: Supported.

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.

AAAA: Supported. However, such a process should include industry consultation/input.

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.

AAAA: Strongly supported.

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

AAAA: Strongly supported. Industry training is underpinned by this modest, but critical, support.

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
- c. auditing.

AAAA: Supported.

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.

AAAA: Strongly supported.

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.

AAAA: Supported, as long as there is consistency in application of regulations and requirements and that central policy and interpretations of regulations is enhanced and made available to industry via the web..

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

AAAA: Strongly opposed. At the current time, when CASA suffers from such a significant range of weaknesses and problems as identified in this report, such an action would be premature and probably result in additional damage to the CASA/industry relationship. Such a recommendation could only ever be considered *after* CASA had successfully introduced a 'just' culture and had rebuilt trust with industry. The alternative is to see further undermining of the

currently fragile accident reporting culture in Australia – mostly attributable to the fear of unfair prosecution or harassment by CASA.

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

AAAA: Strongly opposed. AAAA recommended the opposite of this recommendation and the Review Panel has presented no logical argument for this recommendation. ATSB fulfils a significant role with their style of safety education and they have far greater trust from the industry that their information is relevant. In addition, the stronger links between ATSB and accident investigation provide a more practical and focussed basis to aviation safety promotion.

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

AAAA: - Supported. The current arrangements have led to strategic policy being set by lawyers and the executive being out of touch with their own organisation. In particular, AAAA strongly supports the establishment of sector specific 'portals' in to CASA as per the lapsed 'Agricultural Unit', staffed by people with some experience in the field, or at least a commitment to cooperation, transparency, consistency and problem solving within CASA.

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

AAAA: Supported, but with deep reservations regarding efficiency, cost and consistency. AAAA believes that establishing distinct sector based 'portals' into CASA, along the lines of the previous Agricultural Unit, would present much great opportunities for improvements.

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

AAAA: Supported. In addition, AAAA strongly supports the belated approach to the development of Sector Risk Profiles that it is working on with CASA for the aerial application sector. This collaborative approach, based on early industry engagement and involvement, makes the best use of industry expertise to standardise CASA's approach to risk and to identify and treat the many problems identified through the process with regulations, CASA processes, and industry safety issues and to develop novel and effective means of reducing both risk and costs.

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

AAAA: Strongly supported.

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

AAAA: Strongly supported. AAAA notes that the most recent advice is that CASA staff are no longer using 'observations' to assist a company become safer, preferring to place all issues into NCNs.

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

AAAA: Supported.

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

AAAA: Strongly supported. The lack of expertise in CASA auditors for specialist operations such as aerial application leads to considerable friction and incorrect advice from CASA. Recognition of industry program such as AAAA AIMS program which is independently audited should be included in implementation of this 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.

AAAA: Strongly supported. The non-carriage of passengers should result in a much simpler rule-set driven by a high level risk assessment. Aerial application is a prime example of such a sector.

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.

AAAA: Supported.

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.

AAAA: Supported with reservations. The current system of Act, regulations and orders must be combined with a stronger level of consultation and cooperation with industry to ensure the orders/standards do not become a method for CASA to do as they please. In a low- trust environment such as exists at

present, it is difficult for industry to support a recommendation that ignores previous poor outcomes attained using either a three tier or two tier system. However, AAAA accepts that the current two-tier system is dysfunctional, judged by the outcomes of CASR Parts such as Part 61. If the recommendations of the report supported in this response are implemented, especially the uptake and implementation of a more sophisticated regulatory philosophy, then AAAA hopes that such a change to a three tier system will produce better results.

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.

AAAA: Supported. See comments above. Also note that some current regulations, such as Part 61, should be deferred for implementation until they have been through this process.

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

AAAA: Strongly supported.

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
- b. implementation dates established through formal industry consultation.

AAAA: Supported with reservations. A key issue that continues to be ignored is industry's capacity to absorb change and to make the significant commitment to responding to both new proposed rules and the significant number of changes proposed to existing rules. Workload management is not just an issue for CASA. Consideration must be given to industry's capacity to provide input and to implement change. For example, the time required to absorb and respond to the requirements for Parts 61 and 141 are significant for industry – especially those involved with training - and this may affect industry's capacity to consult meaningfully on other regulatory review items.

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.

AAAA: Supported. But only with the new DAS upon appointment.

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.

AAAA: Strongly supported.

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.

AAAA: Supported. However, this is likely to make little difference to most professional aviators. An extension to the period of validity of ASIC cards out to 5 years *would* make a difference. An additional issue that should be addressed is the inconsistency of acceptance of ASIC cards by airport managers so that possession of an ASIC Card considerably simplifies the process for access to and exit from airside.

37. The Civil Aviation Safety Authority amends the current Terms of Reference of the Industry Complaints Commissioner 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
- e. 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.

AAAA: Strongly supported. As a part of significantly increasing the transparency of CASA decision-making, this is a critical reform. It should also permit the CASA Board and Executive to develop a range of public performance indicators to keep them in touch with the performance of their staff and to compare strategic goals and regulatory philosophy with actual decisions and outcomes.

Further Information

For further information or to discuss any elements of this submission, please contact the CEO of AAAA, Mr Phil Hurst on 02 6241 2100 or email phil@aerialag.com.au

23 June 2014

Appendices

Appendix I – Letter from CASA Board Chair to AAAA CEO

Appendix II – Letter from AAAA CEO to Minister for Infrastructure

20 MAY 2014

Scanned & sent
to Board 9:27am



Australian Government

Civil Aviation Safety Authority

CHAIR – CASA BOARD

TRIM Ref: EF09/23970

16 May 2014

Mr Phil Hurst
Chief Executive Officer
Aerial Agricultural Association of Australia
PO Box 353
MITCHELL ACT 2911

Dear Phil

AAAA Submission to Aviation Safety Regulation Review Panel

I am writing to express the CASA Board's disappointment about some assertions made in your submission to the Aviation Safety Regulation Review.

Selected statements from the submission posted on your website have recently received such media attention that the Board asked me to write to you about them.

Assertions that CASA's Board has not engaged with the AAAA or its members and there has been no opportunity for such engagement; and that CASA has only engaged in sham consultation with the AAAA and other industry bodies are particularly egregious.

Soon after being appointed as Chair of the CASA Board, I met with you to discuss the aerial agriculture sector's key issues. At its next meeting, I communicated these to the other CASA Board members. As a follow up to this, it was suggested by you that the two Boards may benefit from meeting, and tentative arrangements were discussed to attempt to align the meetings of the respective Boards. Regrettably this did not progress at the time, I understand, due to your overseas travel.

Notwithstanding this, CASA's Board Secretary has a clear understanding that the ball was in your court to propose other dates for getting together. You have chosen not to take up that offer.

As Director of Aviation Safety and CASA Board Member, John McCormick is responsible for implementation of the strategies and policies that are determined by the Board. John's meetings and engagements with you are regular. They have included personal meetings and on-going engagements at events designed for industry consultation such as the Standards Consultative Committee. Your engagement with John at these and other events is appropriate, and John brings to CASA Board meetings any matters of significance that have been raised with him by key industry bodies. Should you believe that John has failed to do this, or if you had ever

thought it necessary to bring a matter directly to the attention of CASA's Board, then you have been free to contact me by any of the accessible manners available to you.

It is an uninformed view that CASA does not engage with industry, and I do not understand your motive in making such an assertion.

On becoming Chair of the Board, one of the first things I did was to arrange regular meetings with aviation sector participants and these meetings have been appreciated by both sides. In a similar vein, and I would be surprised if you did not know this, the Director of Aviation Safety has engaged extensively with all sectors of the aviation industry in a demanding program of Australia-wide personal visits.

As you are also aware, CASA has been working with the AAAA on the validation of an industry sector risk model for agricultural operations. CASA approached your Board and was appreciative of their agreement to participate in the process of validation of the CASA model against the AAAA's own work in this area. Not surprisingly, the areas of interest were common and future work will focus on developing a risk management approach that will allow each organisation to focus on the mitigation of the identified risks. This is a cooperative approach to our shared responsibility for aviation safety.

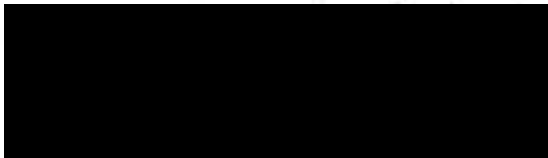
In other areas that relate to the aerial agriculture sector, in recent times CASA has:

- provided you with a single point of contact for aerial agriculture related issues;
- reopened discussions on the unintended consequences of Appendix 5 of CAO48.1 – Aerial Work Operations (Ag Operations Flight and Duty Time limitations);
- undertaken a rewrite of the aerial work section of the air operator certification manual and inspector handbook;
- designed an Ag-specific air operator's certificate application inspector check list;
- reviewed, updated, accepted and republished the AAAA's Standard Operations Manual and Statement of Differences; and
- pending final acceptance and publication, built a 'fixed fee' air operator's certificate cost estimate for assessing a simple Ag air operator's certificate application.

The aviation industry is diverse both in interest and geography, and the opportunity for interested parties to meet with the CASA Board may sometimes take a little time to achieve. Notwithstanding this, the Board regularly initiates or plans discussions with industry bodies and key stakeholders in conjunction with its Board meetings. There are no instances in which an industry body has requested a meeting or discussions that this has not occurred. For example, prior to CASA's last Board meeting in Darwin on 9 May 2014, the Board had productive discussions with two aviation organisations as well as separate discussions with the Chief Executive of the NT Department of Land, Planning and the Environment and the Chair of the NT Planning Commission.

I would appreciate it if you would make a copy of this letter available to all AAAA Directors so that they are aware of the opportunity available to you and them to engage constructively with the Director of Aviation Safety and Board of CASA.

Yours sincerely



Allan Hawke AC
Chair
CASA Board

Copies to:

Mr Darryl Taylor, Chair of the Aerial Agricultural Association of Australia
Mr David Forsyth AM, Chair of the Panel of the Aviation Safety Regulation Review
Mr Mike Mrdak, Secretary, Department of Infrastructure and Regional Development
Ms Jess Finlay, Adviser, Office of the Deputy Prime Minister

AERIAL AGRICULTURAL ASSOCIATION OF AUSTRALIA LTD.

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21 May 2014

The Hon. Warren Truss
Minister for Infrastructure
Parliament House
Canberra ACT 2600

Dear Deputy Prime Minister

I recently received a letter from Mr Hawke, the Chairman of the CASA Board, regarding the AAAA submission to the Aviation Safety Regulatory Review that you established. Given the seriousness of the correspondence (which I understand your office also received a copy of), I felt it was appropriate to respond directly to you.

Firstly, I confirm that the media attention Mr Hawke refers to was not solicited by AAAA and appeared without our prior knowledge or participation. Regardless, media interest in the current review should not be a surprise. Neither should light being shed on CASA's poor performance by people and the organisations affected.

The AAAA Board has considered the letter and regards it as an inflammatory attempt to stifle legitimate and evidence-based criticism of CASA's performance. The seeping culture of intimidation and harassment, something you have heard first hand from at least one AAAA member and from many other aviators and maintainers, has become CASA's trademark.

Mr Hawke's letter is extraordinary in its timing and content in that the ASRR is shortly to report. For any government organisation to seek to become a political player while they are under active review takes either a certain amount of bravado or a complete insensitivity to their correct place in the political and democratic process.

I believe Mr Hawke's intervention – this being his first formal direct correspondence with AAAA since his appointment and the first contact of any type for over four years – is illuminating in many ways. It should be very useful in providing an insight into the very problems AAAA identified in its submissions to the ASRR regarding CASA's culture.

The 'facts' presented by Mr Hawke as to how CASA has been so helpful to the industry and AAAA in particular, are as problematical as they are wrong. For example, the following corrections are warranted:

- The risk sector approach is simply a copy of what NZ has already done and AAAA was only advised of its existence in the last two months. AAAA has sought to work cooperatively with the concept and is several years advanced on CASA's position.
- The single point of entry is the GA Taskforce - ie there is no Aerial Agricultural Unit and the problems of inconsistent decisions continue due to the ongoing emasculation of the GA 'Taskforce'.

- There has been no formal contact by CASA with AAAA on fixing CAO 48.1.
- The revised AAAA Standard Ops Manual is still with CASA awaiting approval - it has not been approved or 'republished'. The CASA insistence on rewriting the manual at this time for petty changes was opposed by AAAA given the significant upcoming rewrite necessary to accommodate Part 61, Part 137 (revised) and CAO 48.1. CASA has never been involved with its publishing, which demonstrates Mr Hawke's advisers' poor grasp of the standard manual process.

The CASA failure to renew a night recency exemption for agricultural ops until after the last night season, the ongoing problems around unnecessary HAAMC appointments, the unwarranted and heavy handed actions regarding aircraft groundings for petty issues in south east Queensland, the attempted bullying and harassment of operators, the unique Australian costs of operating agricultural aircraft, and the wide range of other practical problems highlighted in submissions to the ASRR are conveniently ignored.

Mr Hawke's letter simply highlights the ongoing disconnect between how the CASA hierarchy view their contribution and performance, compared to what industry actually experiences - and documents - at the coal face.


Mr Hawke's claims regarding the offer of a joint Board meeting simply do not reconcile with my recollection. Regardless of events in 2009/10, there has been no contact regarding the CASA Board since that time.

Mr Hawke's letter seems to infer that I do not keep the AAAA Board apprised of our relationship or correspondence with CASA. This would be a grave misjudgement.

The AAAA Board views Mr Hawke's correspondence as emblematic of the issues identified in the AAAA ASRR submissions. The AAAA Board at this time feels it has no option other than to express no confidence in Mr Hawke as Chairman of the CASA Board or the other current members of the CASA Board. AAAA is particularly concerned with any role for Mr Hawke and other current Board members in the selection of a new CASA CEO.

The AAAA Board respectfully requests that as a consequence, you immediately terminate the current CASA Board under Section 60 (3) of the *Civil Aviation Act 1988* and use this significant action to reset the relationship between CASA and industry so that we can all focus on cooperating to make aviation safer, stronger and an even greater contributor to the Australian commonwealth.

Yours faithfully



Phil Hurst
CEO - AAAA

