

26 June 2014

Deputy Prime Minister and Minister for Infrastructure and Regional Development  
The Hon Warren Truss MP  
PO Box 6022  
House of Representatives  
Parliament House  
CANBERRA ACT 2600

Our Ref: G40-0042

Dear Minister Truss,

## **AIPA REVIEW OF THE RECOMMENDATIONS OF THE AVIATION SAFETY REGULATORY REVIEW PANEL**

The Australian and International Pilots' Association (AIPA) is grateful for the opportunity to supplement our submission to the Aviation Safety Regulation Review (ASRR) by commenting on the recommendations of the Panel. We congratulate them on achieving what was a difficult and complex task.

From the outset, AIPA is most concerned that there may be a number of senior members of the Executive who consider the ASRR process to be an irrelevant political process that has little or no import for how aviation safety is managed in Australia. The recent actions taken by CASA to unwind Australia's Colour Vision Deficiency (CVD) policy position, one of the most enlightened in world aviation in regard to permitting pilots to fly in commercial service despite having an identified CVD, indicate a serious disregard not only for their relationship with the industry at large but also for the concept of evidence-based safety.

As the largest Association of professional airline pilots in Australia representing over 2,300 professional airline transport category flight crew and as a key member of the International Federation of Airline Pilot Associations (IFALPA) which represents over 100,000 pilots in 100 countries, AIPA wishes to make it very clear to you that the achievement of continuing high levels of aviation safety in Australia will only come about when the relevant government agencies act credibly and with integrity in all of their activities. They must "walk their own talk" and be model aviation citizens – they must lead by example rather than rule by coercion.

Our membership places a very strong expectation of rational, risk and evidence-based safety behaviour on our government agencies and we are all looking to you to affect serious change in the administration of aviation safety in Australia.

We therefore offer the following commentary on the Recommendations made by the ASRR Panel in the interests of furthering those expectations.

# COMMENTS ON THE ASRR RECOMMENDATIONS

## Recommendation 1

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.

AIPA wholeheartedly supports a refocusing of the State Safety Program (SSP) into a strategic plan rather than remaining in its current somewhat sterile form. On the other hand, the Aviation Policy Group (APG) has not demonstrated a great deal of leadership thus far and it is open to question whether refocusing the SSP will engender a more dynamic performance from that group. Noting Recommendation 2, AIPA raises the possibility that the APG might need a Chair that is neither a regulator nor a service provider and who represents a level above the Ministers of Defence and Infrastructure and Regional Affairs, namely the Prime Minister, through the Department of Prime Minister and Cabinet. We understand that Border Protection is coordinated in that way and see no less importance in aviation safety.

## Recommendation 2

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

As noted in our submission, AIPA has a very sound relationship with the Secretary and his senior executives and we remain most grateful for both the access and the advice we have received. Our relationship has been based primarily on the Department's role as the aviation economic regulator as well as the primary source of broader aviation advice to the Minister. Frankly, we find it surprising that the Panel has come to the conclusion that the Department of Infrastructure and Regional Development (DIRD) has been too "hands off" the aviation agencies.

AIPA is very wary of the performance outcomes for safety agencies when there is excessive involvement of Departments of State. For example, there are a number of fora for aviation discussions where the perceived decline in technical standards and safety contributions from the ATSB has been attributed to the appointment as Chief Commissioner of a non-technical career bureaucrat with a primary focus on budgetary control. As capable as the senior executives in DIRD are, we would be most concerned if the technical performance of CASA was compromised further by the "dead hand" of non-technical bureaucracy.

We recognise that the DIRD approach of preserving, to the greatest extent possible, the autonomy of the independent agencies may lead some to characterise that as underperforming. However, AIPA comfortably distinguishes between what we consider to be a deliberately passive approach as opposed to what appears to have been labelled by the Panel as somewhat deficient. In that context, we support DIRD being more active in directing the SSP.

## Recommendation 3

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

AIPA considers this recommendation to be a ‘motherhood’ recommendation, given the almost total lack of discussion in the Report. In our view, the Panel would have far better served its Terms of Reference if it had examined some of the options for creating an investigatory capacity within these industry sectors without jeopardising the ATSB’s budgetary constraints.

For example, the provision of basic investigation training focused on the sport and recreational aviation environment may be achievable without excessive cost, particularly if one or more of the self-administering bodies within these sectors could manage a group of volunteer investigators under the broad oversight of the ATSB. While one might sense that the Panel is generally not supportive of decentralisation of agencies or distributed responsibilities, these industry sectors will always be starved of resources in a contest with commercial passenger carrying and other high consequence operations, thus requiring an alternative approach.

### **AIPA Alternative Recommendation**

3. The Australian Transport Safety Bureau examine alternative arrangements to permit an acceptable standard of delegated investigation of as many fatal accidents in the sport and recreational aviation sector as the available resources will allow.

### **Recommendation 4**

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.

AIPA understands that a number of overseas accident investigation agencies accredit relevant regulators as observers, subject to such legal restraints as may exist in those jurisdictions. While the Transport Safety Investigation Act 2003 provides protection against the misuse of restricted information by regulatory staff seconded or otherwise authorised to participate in an investigation, we believe that there is little, if any, confidence within the industry that such action would be taken if a CASA participant breached the relevant provisions of the Act. Until such time as the general industry distrust of CASA’s motives and methods subsides, we believe that such accreditation has too many negative outcomes for the ATSB.

The general industry feeling seems to be that CASA is rarely considered as a source of operational expertise and that the ATSB would be far better served by seconding industry experts. AIPA offers the view that the perception of collusion or other forms of inappropriate interactions between CASA and the ATSB, fuelled by the Senate Inquiry into Aircraft Accident Investigations and the growing awareness of what data the ATSB provides to CASA with zero protection against enforcement action, means that the presence of accredited CASA participants in an ATSB investigation can only be seen as a negative to any semblance of independence or a “no-blame” process.

AIPA is disappointed that the Panel noted that: “...discussions with Canadian representatives during the Panel’s international consultations confirmed the positive way this arrangement works...” yet failed to elaborate on what the positives were, which agencies benefited from the arrangement and what are the prevailing legal and cultural environments influencing those outcomes.

Given the broad lack of trust and absence of operational credibility that most public submissions suggest that CASA currently engenders, AIPA does not support this

recommendation. If implemented, we believe that the predominant outcome of such arrangements would be to damage the reputation of the ATSB.

## **Recommendation 5**

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

AIPA strongly agrees with this recommendation. However, despite the Government and the ASRR Panel rejecting the Senate Inquiry recommendation that the Chief Commissioner should have that experience and noting the multimodal role of the ATSB, our full support remains with the Senate recommendation.

AIPA rejects the Panel's view that aviation expertise provided by a part-time Commissioner is sufficient. Our view is that aviation is by far the most complex of the transport modes and the related operational expertise is more easily applied across the other modes.

AIPA also notes the Panel's view that the Pel-Air investigation and report were an aberration in terms of how the ATSB should be viewed. In light of the material presented to the Senate Inquiry, such a conclusion appears charitable at best.

## **Recommendation 6**

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.

AIPA strongly supports this recommendation.

## **Recommendation 7**

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.

AIPA strongly supports this recommendation for its change management focus. However, while we note that the selection process for the next Director/CEO is almost complete, we would again caution against appointing a non-technical person to lead a highly technical organisation. We are most unlikely to support the appointment of a career public servant as the next Director of Aviation Safety.

## **Recommendation 8**

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*

AIPA strongly supports this recommendation.

## **Recommendation 9**

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

AIPA supports this recommendation in principle. We have previously recommended a similar approach, more broadly based than just CASA, which we described as an “industry support scheme...along the lines of the Defence Reserve Leave Scheme that would provide an available pool of resources from which the agencies could draw in times of need for specialist knowledge and expertise.”

Clearly, our approach was somewhat unidirectional, mainly because the benefits are direct and task-specific, whereas the benefits to industry of taking on CASA or other agency staff are at best indirect and influence-based. Nonetheless, CASA staff involved in SMS and FRMS particularly and Training & Checking more generally would do well to be involved in the practicalities of implementation of many of the rules and decisions that they normally make from within the isolation of their agencies.

## **Recommendation 10**

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’.

AIPA understands that the antecedents of the ‘Assessment of Priorities’ policy were based on economic considerations that favoured the maintenance of regularity in the public transport system over the interests of the on-demand/discretionary sectors. We agree that any such policy should be ‘reconsidered’ at regular intervals as a matter of course, although we note that quoting “the accepted international practice of ‘first come, first served’...” rather simplistically hides a myriad of infrastructure and airspace access issues specific to other jurisdictions.

In any event, AIPA does not support the view that Airservices Australia should be leading such reconsideration. We maintain our view, expressed in our submission and Recommendation 2 to the ASRR, “that no aviation service provider, public or private, retains any regulatory powers or responsibilities” and, by logical extension, no policy-making powers.

### **AIPA Alternative Recommendation**

10. the Department of Infrastructure and Regional Development, in conjunction with the ATSB, Airservices Australia 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.

## **Recommendation 11**

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.

While we agree with the Panel's concerns about the somewhat uncontrolled development of the inter-agency arrangements, AIPA is agnostic about the value of MoUs as the mechanism for inter-agency coordination. In line with the recommendation on refocusing the SSP, we suggest that DIRD should actively review all of the inter-agency coordination arrangements.

## **Recommendation 12**

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.

AIPA supports this recommendation, subject to achieving clarification of "the responsibilities of the air navigation service provider and safety regulator" rather than further confusion.

## **Recommendation 13**

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.

AIPA strongly supports this recommendation.

## **Recommendation 14**

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.

AIPA strongly supports this recommendation. We also believe that it should be made crystal clear that this recommendation is not an invitation to return to the particularly inappropriate 'partnership' model espoused by a previous CASA regime. It is important to remember that the 'industry' is not just CASA and the operators – the people on the front line are always 'the last line of defence'.

## **Recommendation 15**

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

AIPA strongly supports this recommendation.

## **Recommendation 16**

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.

AIPA strongly supports this recommendation.

## **Recommendation 17**

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.

AIPA strongly supports this recommendation. We believe that it is critical to the repair of the CASA-industry relationship, without which we will all continue to go backwards in our pursuit of safe flight operations. However, given that CASA has previously expressed the view that 'Just Culture' is not compatible with Australian criminal law, successful implementation of this recommendation will require higher level involvement with the Attorney-General's Department to ensure that this recommendation is not merely written-off as unachievable under current legislative arrangements.

## **Recommendation 18**

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.

AIPA rejects this recommendation as detrimental to the maintenance of a safe aviation system.

We are disappointed that the Panel chose to make a point of the 'aggressive language' implicit in the naming of Non-Compliance Notices (NCNs) without an even superficial discussion of the history of the document. We are also disappointed that there is no discussion of the downside of 'discretion', particularly the possibility of inconsistent application of the rules, given the fact that the Panel identified inconsistency as a ubiquitous element of most of the industry submissions.

The invention of the NCN was an integral part of the Aviation Safety Surveillance Program (ASSP) developed by CASA in the mid-1990s. ANAO Audit Report No 19 *Aviation Safety Compliance* provides a useful description of the NCN as a data source for assessing operator compliance, assessing sector/industry compliance, highlighting areas for regulatory change and providing feedback to the industry and

CASA staff. Importantly, in the original program design, the NCN was an administrative record as well as a request for remedy - it was not issued until the breach was confirmed on the balance of probability and procedural fairness had been provided. Critically, the discretion to not report a breach, merely because it had been remedied, was expressly forbidden on the basis that the efficacy of the regulatory system could neither be established nor improved if the data flow was compromised by inconsistent reporting.

The Panel's discussion appears to support the type of data corruption that the original program sought to avoid. AIPA cannot see the benefit of a system where remedying a breach removes the need to record its occurrence, except "where CASA identifies a Serious and Imminent Risk to Air Safety". There is no doubt in our minds that the proposed 'discretion' would lead to commercial advantage for the serial non-complier and the risk of capture for the inspectorate. It seems incomprehensible that such an outcome is what the Panel is intending, but the discussion in the report is inadequate to clarify the recommended outcome.

## **Recommendation 19**

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

As predicted by the Panel, AIPA rejects this recommendation.

In essence, the Panel proposes that the industry needs to provide CASA with all the evidence that it needs to take action under either administrative or criminal law and then wait to see how CASA deals with that information. AIPA sees this as a very high risk strategy if the intention is to engender trust in the regulator, particularly when the industry participants are the ones who bear the financial and regulatory risk with little protection other than minimising or avoiding reporting.

In our view, the report lacks sufficient or substantial debate to justify the final recommendation. It also seems clear that the overall plan is to reduce the ATSB to a multi-modal reflection of the UK AAIB.

AIPA believes that there are a number of intermediate steps to be taken on the way to an outcome that AIPA desires as much as the Panel: "that the relationship between CASA and industry can reach a level of maturity where...regulator access to safety data is no longer controversial." As a first step, we believe that the ATSB can provide CASA with detailed information that is sufficient for CASA "to understand the risks inherent in the sector and to make properly informed decisions on safety" and to "allow both CASA and the industry to improve risk assessment processes and further the safety management approach" without the need to identify each and every reporter.

## **Recommendation 20**

20. [The Australian Transport Safety Bureau transfers its safety education function to the Civil Aviation Safety Authority.](#)

AIPA does not have a strong position on which agency provides the safety education function, provided that it serves its intended purpose.

We would note that this recommendation appears to be another step in the narrowing of the role of the ATSB, while promoting the growth of CASA. There is no discussion about the relative credibility of the editorial source of safety education material, which in the current environment seems relevant. AIPA also notes that the recasting of the

scope of ATSB activity seems worthy of a separate recommendation subsequent to an appropriate debate.

## **Recommendation 21**

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

AIPA supports this recommendation in principle, but not in the manner that we sense the Panel intends.

AIPA notes that this recommendation and the related Recommendation 22 represent yet another rotation of the CASA organisational structure wheel. The extent to which the recent UK CAA advent of a GA office is relevant to Australia is not elucidated in the report, but it is fair to say that CASA has always recognised the need to regulate and monitor the GA sector. The Australian experience has previously shown that specialised GA vs RPT offices and inspectors create a number of regulatory and human resource management issues. We would note that dividing a relatively small inspectorate along industry sector lines is not the best use of limited resources, particularly because it creates smaller pools of expertise and reduced flexibility.

In our view, the problems that the Panel has briefly discussed as context for these two recommendations are more headquarters constraints rather than coalface constraints – they should be fixed at source. AIPA suggests that being seen and available at the coalface is valuable from a relationship management perspective, yet it will remain useless from a regulatory perspective if the headquarters cannot or will not provide definitive and consistent advice to the front line.

## **Recommendation 22**

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

AIPA supports this recommendation in principle, subject to the comments for the partner recommendation 21. We reiterate our assessment that the headquarters functions are the main failure point in “monitoring, service quality, communications and collaborative relationships”, rather than the number of frontline offices and that is where the solution needs to be applied.

## **Recommendation 23**

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

AIPA strongly supports this recommendation. The same principle should be applied where CASA has concerns about the performance of individuals.

## **Recommendation 24**

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

AIPA strongly supports this recommendation.

## **Recommendation 25**

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

Further to our commentary on Recommendation 18, AIPA notes that the original NCN was graded across five levels of severity. The original NCN design specifically addressed the issues raised by the Panel and was a critical part of the ASSP, an integrated program based on a validated information cycle that provided the foundation for a multi-factorial risk analysis capability. The ASSP was originally developed by the frontline inspectors, based on decades of experience, but was dismantled by headquarters bureaucrats searching for 'simplicity'. AIPA notes that this recommendation is yet another rotation of the CASA regulatory oversight wheel. It seems obvious that there is a real need for proper management of change, including effective post-implementation reviews, to break the cycle of poorly researched change where no lessons seem to be learnt.

## **Recommendation 26**

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

AIPA strongly supports this recommendation.

## **Recommendation 27**

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

AIPA supports this recommendation in principle. The Senate Inquiry into Aircraft Accident Investigation revealed that CASA had a lot of work to do internally on its surveillance system and there is little publicly available information to confirm any progress, thus begging the question of CASA's ability to supervise third party audit organisations. We also understand that there have been some significant failures of third auditors in Australia to recognise the true state of affairs of organisations that they have audited. Similarly, while it is easy to say that the international programs quoted share the same safety goals, it does not mean that they properly address the same regulatory goals. Our final note of caution about third party auditors is simply to reflect on the fact that their corporate decisions will always be to act in their own commercial interests – future industry work will always be more lucrative than CASA can provide.

## **Recommendation 28**

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.

AIPA strongly supports this recommendation.

Ironically, we believe that this approach is exactly what has led to the situation where the GA sector is unhappy with its relationship with the regulator and what led the

Panel to seeking to appease the complainants by making recommendations 21 and 22.

### **Recommendation 29**

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.

AIPA strongly supports this recommendation.

### **Recommendation 30**

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.

AIPA finds this recommendation and its partner recommendation 31 perplexing, in part due to the underlying description on the emerging legislation but mostly because it misses its own targets.

Our involvement in the SCC and as part of numerous working groups led us to believe that the regulatory structure already reflects the Panel's desired outcomes in that the Act and the regulations are supported by Manuals of Standards and various forms of Guidance Material and/or Acceptable Means of Compliance where necessary. We have always strongly supported the concept of the regulator providing appropriate explanatory material and will continue to do so.

However, much of the contextual discussion relates to two unresolved issues: the excessive criminalisation within the regulations and the ubiquitous use of language and drafting styles that are the very antithesis of 'plain English'. Unfortunately, neither this recommendation nor its partner recommendation 31 do anything to address those critical issues.

AIPA strongly believes that the Panel has failed to engage with the real problems inherent in the emerging legislation and that the issues should be specifically revisited.

### **Recommendation 31**

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.

AIPA remains unsure of the value of this recommendation, based on the preceding discussion on Recommendation 30.

## Recommendation 32

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

AIPA strongly supports this recommendation, insofar as it goes. As we mention above, the real issue (in our view) was identified by the Panel as the excessive criminalisation of the regulations. However, the Panel reported that, because the changes required are unlikely in their view to be achieved in the near future, they would not pursue those issues. That is not an approach that AIPA supports, simply because it encourages mediocre targets and mediocre efforts to achieve them.

### **AIPA Alternative Recommendation**

32. The Civil Aviation Safety Authority reassesses the extent of the criminalisation of non-compliance and the associated penalties in the Civil Aviation Safety Regulations.

## Recommendation 33

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.

AIPA does not support this recommendation. We are supportive of an early conclusion to the process but we are not supportive of a process that subjugates quality to arbitrary timelines.

The remaining operational parts are complex and we have already witnessed a series of consultations where the CASA resources are so stretched that none of the critical explanatory material is available due to the primacy of the parent regulatory drafting. The quality of consultation is significantly diminished in those circumstances and the price of making deficient regulations is both high and persistent.

It is difficult not to conclude that the Panel has been excessively swayed by the activist role played by AMROBA in the maintenance space. We do not believe that an equivalent capability exists in the operational space that balances off the commercial interest of the operators with the safety interests of the flight crew. As much as we believe that we are effective in the operational space, AIPA simply does not have the available resources to participate to the depth and regularity that the Panel envisages. On the other hand, we do not believe that the organisations representing the operators provide the truly balanced views that are necessary to get it right.

### **Recommendation 34**

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.

AIPA strongly supports this recommendation.

### **Recommendation 35**

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.

AIPA strongly supports this recommendation.

AIPA notes that the Panel's discussion of complex case management implies that "aviation medical professionals outside of CASA" describe CASA decisions "as being 'evidence-based' rather than 'eminence-based' decisions". The latter description is in fact the PMO's catchcry by which he justifies the dismissal of the advice of external specialist doctors and, it is fair to say, that our experience with the feedback from our members' specialists is very much at odds with the picture painted by the Panel.

While we have an abundance of issues with the administrative processes used by CASA for medical certification, our greatest issues are in complex case management and we cannot agree with the Panel's conclusion that the CASA decision-making is not the main problem.

At the risk of being repetitive, CASA's behaviour in the CVD area is highlighted as archly hypocritical when measured against the PMO's own 'evidence based' decision mantra. It is difficult not to conclude that CASA is highly selective about when and what to consider as 'evidence'.

AIPA must also express disappointment that the Panel chose not to make a recommendation about a suitable internal appeals/review mechanism. We certainly believe that it was worthy of its own specific recommendation.

### **Recommendation 36**

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.

AIPA has a continuing concern about a number of facets of the aviation security procedures in Australia. In particular, we are concerned that existing security checks on persons entering Security Restricted Areas (SRAs) are inconsistent and unreliable, placing far more emphasis on checking flight crew (who, almost without exception, will be on board the "scene of the crime") than those who have access to the aircraft or the items to be loaded on board and who, almost without exception, will not be on board the aircraft at risk.

While we recognise the issues at minor airports and for the GA sector in general, AIPA must reserve further consideration until such time as the practicalities of implementation become clearer

## **Recommendation 37**

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.

AIPA conditionally supports this recommendation, insofar as it is a potential improvement compared with the currently unacceptable arrangements.

AIPA strongly supports the concept of an aviation ombudsman, such as was proposed by way of an Inspector-General of Aviation Safety established similarly to the Auditor-General, who is clearly independent of CASA and the other agencies. Even though the Government has rejected that suggestion, we have not lessened our resolve that such an appointment is the best solution.

AIPA is concerned that, thus far, the CASA Board has been totally ineffectual in either directing or controlling CASA's strategic direction or corporate behaviour. We are not convinced that the addition of two additional Board members will change anything in that regard. While the concept of having the ICC report to the DAS has made a mockery of the purported independence of the ICC function, the shifting of the reporting line to the Board (of which the DAS is a full member) is hardly a seismic shift in providing independent review.

## **CONCLUDING COMMENTS**

AIPA recognises the difficulty faced by the Panel in dealing with the myriad of issues brought to their attention by those people who made submissions as well as other issues that may have arisen during the interviews and other consultations. We also recognise that, as important as the Review was, the timeframe only permitted a brief coverage of some fundamental issues about aviation safety regulation in Australia.

We are concerned that the restricted timeframe prevented the Panel from making more widespread strategic suggestions than they did and similarly prevented them from putting more 'flesh on the bones' of some of their tactical recommendations.

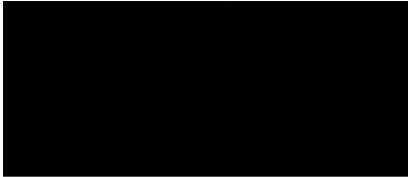
As you are very much aware, the real issue is trying to reposition CASA as a respected, if not trusted, regulatory agency. AIPA does not believe that such a repositioning will occur by placing the industry in a position where it is made essentially defenceless and solely reliant upon CASA (or any other of the aviation agencies) to do 'the fair and reasonable thing'.

Unfortunately, the cultural shift required of both sides will probably require the entire tenure of the new DAS' contract to affect, something which the industry at large may

not yet appreciate. Nonetheless, as we have expressed to you before, AIPA is committed to participate positively in the aviation safety space and we will assist you where we can in making our system much better than it currently is perceived to be.

Please do not hesitate to contact me should you require any further clarification of our position on any of these matters.

Yours sincerely,



Nathan Safe  
President  
Australian & International Pilots Association



Email: [government.regulatory@aipa.org.au](mailto:government.regulatory@aipa.org.au)