



# AERIAL APPLICATION ASSOCIATION OF AUSTRALIA LTD.

ABN 13 002 501 886 • ACN 002 501 886

~

20 August 2021

## **AAAA Additional Submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into General Aviation**

### ***Introduction***

This submission is in addition to the earlier detailed submission on GA and related issues (Submission #12).

AAAA believes the recommendations to be included in the Committee's report on this inquiry into General Aviation can provide the government with a sound basis to take action on a range of issues – preferably through a national GA Strategy.

The key initiatives AAAA would welcome in the Committee's recommendations include:

- Provide an overarching national strategy for GA – the GAAN has already delivered one
- Reform CASA to be efficient and to regulate GA in a sensible manner including:
  - Major independent cultural review of CASA
  - Major structural change within CASA to establish a GA Division
  - Establish an independent industry-based taskforce to rewrite rules-sets impacting GA
- Genuinely engage with industry to assist with improving safety, effectiveness and the implementation of regulation.

General aviation continues to face a raft of challenges – costly overregulation, lack of coordinated government policies, lack of a nationally focussed vision and lack of a champion across key government agencies.

These are in addition to the 'normal' economic stresses of operating often small to medium-sized enterprises, cross-jurisdictional compliance complexities and meeting the challenges thrown up by trying to maintain essential businesses in a constantly changing COVID19 environment.

Pilot shortages in GA continue – a genuine challenge for the whole of industry – but compounded by CASA's overregulation of training through CASR Part 61, Parts 141 and 142. Industry clearly accepts that it is operating in a competitive environment to attract young people into the industry, but it is made an uphill battle because of the appalling overreach by CASA in licencing and training across pilots and LAMES and the consequent significant cost to attain a commercial pilots licence, ratings and renewals. Inter-departmental stress is imposed on industry as VET funding support and

---

access for prospective pilots is complicated by the National Training Framework not working with CASA to include a licence outcome as well as competency.

Despite years of trying to undo this mess of red tape, CASA continues to be largely uncommitted to bringing agreed improvements forward.

Airport ownership and operation also remains a problem for many aviation companies who find that their local councils or aerodrome owners neither understand aviation nor seek to promote it – often viewing the local aerodrome as a ‘land bank’ suitable for development or lease exploitation, rather than supporting or fostering aviation uses. Perhaps an ACCC inquiry into all airport owners’ behaviour would benefit GA.

However, CASA continues to be the major problem area facing general aviation – with its constant new regulations imposing significant additional costs and complexity for no safety improvements.

AAAA strongly supports an effective and fair safety regulator for aviation, but significant change is essential if CASA is to ever approach that ideal.

CASA seems to be confused regarding its role in mandating, under the Civil Aviation Act, *minimum* regulations that underpin safety. Instead, CASA seems to think it creates safety measured by the weight of its regulations and overreach in seeking to micromanage companies - despite it having a very poor understanding and little experience in GA. A full review of the *Civil Aviation Act* is long overdue.

It also seems clear that despite considerable common ground, agreement and good will between AAAA and CASA on the need to fix a range of problems created by the existing regulations, there do not appear to be resources available or a will to carry these issues through to rectification in the short or medium term. This is simply puzzling.

In terms of the issues previously raised with the Committee regarding CASA’s creation of an unworkable situation with annual Operator Proficiency Checks required for helicopter pilots only being able to be conducted by an Examiner – the situation has deteriorated even further thanks to ongoing COVID border closures.

AAAA’s proposal to fix this issue for the longer term through bringing rotary operations into CASR Part 137 and by reforming CASA Part 61 ‘Specialised Training’ is not proceeding despite agreement on the soundness of the policy. Instead, another short-term relief instrument has been made available that does nothing to address the issue beyond the next two months. CASA’s other response - to issue more CASR Part 61.040 approvals - is a reversal of previous policy, but still does not address the underpinning issue of the very few skilled Examiners (2) able to conduct fire and agricultural OPCs cannot travel out of their States.

This remains an excellent example of an issue that despite CASA representations to the Committee to the contrary remains unresolved and which continues to damage real operations and real people – for no safety outcome.

While AAAA has been encouraged by the recent appointments to CASA DAS and Board, AAAA is concerned at recent messaging regarding ‘minimalistic change’ at CASA despite remaining cultural, structural and performance challenges that are significant and yet to be meaningfully addressed.

These are identified below.

### ***Need for an overarching General Aviation Strategy for Australia***

The UK has started to address its general aviation challenges – many of which are similar to Australia in terms of regulatory overreach and complexity – through the UK Department of Transport ‘GA Roadmap’. See:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/980399/general-aviation-roadmap-spring-2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/980399/general-aviation-roadmap-spring-2021.pdf)

Importantly, the content of this report, including the recommendations and already-taken actions, are not dissimilar to the General Aviation Strategy developed by the General Aviation Advisory Network (GAAN) appointed to provide advice to the previous Deputy Prime Minister as Minister for Infrastructure – and which will hopefully continue to provide relevant advice to the Minister.

Without a national strategy for GA Australia is doomed to see the continual erosion of capability, skills, export opportunities and increasing costs to clients including farmers, emergency services and regional and rural communities who rely on the services offered.

Such a strategy must be prepared on the direct advice of people deeply involved in general aviation and with a significant knowledge of the key issues at play (eg the GAAN) – and delivered by the Minister and the Department regardless of the protestations from CASA.

***Alternatively, the current GAAN GA Strategy can simply be adopted.***

There remain a number of more detailed issues which AAAA hopes are under the active consideration of the Committee in its development of recommendations including:

**1. Need for a major cultural review of CASA** – it appears to industry that poor management and non-compliance with broader government policies (eg red tape reduction, consultation, small business) is widespread within CASA.

Industry also has concerns regarding the internal treatment of staff, reorganisation of business units and audit approach without consultation with industry, a deterioration in the ability to have a professional relationship with local CASA staff and a complete lack of urgency or even a pathway in improvement or implementation of regulations or problem-solving in cooperation with industry.

There does not appear to be any significant management oversight in the development of detailed regulations, or the application of the newer requirements of the Act to consider or discuss with industry the potential cost impact of new regulations.

In addition to personnel management issues and the overall poor management of the organisation, consistent ignoring and overruling of industry input – including through Technical Working Groups and the ASAP - over the last decade indicate a deep resentment by some within CASA at industry input and any attempts to improve regulations so they are workable and not damaging to industry.

In particular, the practices of ‘passive resistance’ and defending/denying the deeply flawed opinions and even regulations individual project officers and middle management have developed is deeply seated within CASA culture. There is no mechanism to enable the independent review of regulations, with the previous experience of industry being that the very people who wrote the regulations are given the job of reviewing the regulations they wrote – leading to no meaningful change.

AAAA feels that a cultural review (as has occurred in recent years at the NZ CAA and Airservices Australia – uncovering a litany of problems) would be a valuable recommendation from the RRAT GA Inquiry – and probably very beneficial to CASA staff, given the negative and critical feedback CASA management has received over the years through various consultant and staff feedback exercises but which appear to have been largely ignored.

**2. Need for major structural change within CASA** – while CASA must clearly drag its management into the 21<sup>st</sup> century and adopt what are now standard systems of management – eg QA, continuous improvement, rights of appeal, central and transparent policy making etc – its current structure works against better practice.

AAAA is strongly of the view that a new approach to CASA's structure would bolster a better focus on safe outcomes for industry and enable CASA to work with industry for improved and sector relevant outcomes.

Splitting CASA into two streams – airlines and general aviation (including low capacity charter and aerial work) – would significantly improve the risk-based approach to regulation that is currently missing.

It would also enable the new management of CASA to reconsider the leadership team that has forced on industry the current regulatory turmoil. It would enable a far more appropriate regulatory stance towards GA and far more positive and safer outcomes for the aviation industry that is still struggling under the challenges of COVID19.

AAAA would strongly support any RRAT Inquiry recommendation that would empower a GA Division within CASA with appropriate resourcing.

**3. An independent, industry-based task force to rewrite rulesets negatively impacting GA** – this group, (with a potential need for different people with different skill sets and knowledge for different operational rulesets) should be constituted and empowered outside of CASA to avoid the current problems with CASA's approach to the Aviation Safety Advisory Panel and the Technical Working Groups underneath it – which are simply ignored or overruled at CASA's discretion.

Such a group would have to be provided with adequate support for legal drafting from Attorney Generals Dept. The lack of support now being provided to CASA from AG for regulatory drafting and even correcting errors in the upcoming operational rulesets is of enormous concern – regardless of the reasoning behind it.

The current GAAN provides an existing model for the potential of such a group who are quite capable of working professionally with CASA for the betterment of the whole sector. The GAAN GA Strategy is a good example of this positive approach to reform.

Such a taskforce must urgently consider the following:

- a) **Overarching policy on regulatory style and stance** - CASA has demonstrated it is incapable of self-reform of its own regs. For decades it has consistently produced regulations that:
  - blatantly ignore industry input including through technical working groups and the ASAP

- seeks to micro-manage businesses rather than utilise the principle of outcome-based regulations informed by Acceptable and Alternate Means of Compliance
  - take no account of the costs or complexity being imposed even when it compromises the likelihood of compliance
  - consistently and intentionally choose complexity over simplicity and prescription over outcome based
  - is not relevant to the actual safety risks established for different sectors – often because of a lack of experience, knowledge or empathy of CASA personnel in general aviation or small business. CASA – especially the Operations and Standards branches - continue to refuse to work with industry on already delivered Sector Risk Profiles or allow them to be considered in the development of risk management approaches to regulation.
- b) **CAO 48.1 Instrument 2019 (Flight and Duty Times)** – while the compliance date for this overly complex, draconian overregulation of GA has already passed (July 1) this regulation represents a ticking time bomb for industry – sacrificing flexibility, business diversification and a grown-up approach to fatigue management to CASA’s interminable micro-management of businesses, highly prescriptive regulation and layer upon layer of unnecessary red tape.

While many AAAA members who only conduct aerial application operations under CASR Part 137 have been spared the worst, CAO 48.1 will damage all helicopter companies and any fixed wing operator – and their pilots - conducting aerial work other than aerial application.

- c) **Reform of CASR Part 61 (Pilot Licencing)** – As a member of the CASA ASAP Technical Working Group that was brought together to ‘reform’ Part 61, AAAA is extremely frustrated that our proposal (jointly taken forward with the support of the Australian Helicopter Industry Association) for simplification of ‘specialised aerial work training’ has not progressed over the last 2 years *despite* the unanimous support of the TWG.

AAAA’s proposal simply takes us back to previously safe, effective and sustainable practices – especially for low-throughput, highly specialised training - that ensures training is delivered by people with expertise who are readily available. It significantly cuts red tape.

Again, CASA has shown it is incapable of timely self-reform of its own regs and AAAA recommends establishing an independent team (including AAAA) to review and simplify these regs urgently.

- d) **Rewrite of CASR Part 137 (Aerial Application)** – CASR Part 137 is the key rule set governing aerial application in Australia. It was introduced in 2007 when CASA had a far more sensible regulatory stance and is similar to the same rulesets for the US (FAR Part 137) and NZ (CAA Part 137) – except longer.

It has had no coherent or significant post-implementation review in the intervening 14 years.

Part 137 is critical to the safety and flexibility of operations such as aerial spraying, seeding, fertiliser and plague control for agriculture, and for the essential flexibility

demanding by emergency services in responding to firebombing, oilspill and similar operations.

***Part 137 must be maintained and improved to ensure these critical sectors have a modern and clear ruleset to govern their operations.***

Part 137 is outcome focused but with an appropriate level of prescription where required. However, it does **not** include helicopter aerial application – for no good reason other than CASA’s refusal to integrate – despite CASA having long agreed that this is a sensible outcome.

The new operational rule set (the ‘six pack’) is slated for commencement on 2 December this year. Part 138 – all other aerial work – is part of this new rule set and is clearly co-dependent on a rewritten Part 137 to work effectively. AAAA has been asking CASA to bring this work forward for many years and especially to improve Part 137 and incorporate helicopter aerial application as agreed.

***AAAA has prepared a transparent, tracked, draft rewrite that is largely non-controversial and so the actual amount of work required by CASA is minimal. This draft also has the support of the Australian Helicopter Industry Association.***

AAAA anticipates that the necessary transparency and reg rewrite could be conducted over about a month, while essential training of both CASA staff and industry would take probably another few months. Essential changes to operations manuals – including the AAAA Standard Operations Manual - would then be required to support compliance, along with CASA reissuing appropriate certificates for Part137 ops etc to replace current AOCs.

Of course, normally this amount of work would take some years. However, given CASA’s ongoing refusal to start work on this issue, it remains essential to compress this work into the remaining time to have Part 137 ready to support the handoff from Part 138 on December 2.

CASA must either be forced to work with AAAA and AHIA on this issue now – including having adequate AG support for drafting - or the 2 December implementation date must be pushed out.

- e) **Rewrite of GA Maintenance Training, Licencing and Conduct Rulesets** – CASA has created an enormous cost burden on industry that continues to threaten and actually deeply impact maintenance personnel training for GA.

This mismanagement will have a generational impact on GA and is already impacting decisions being made by young people who might otherwise be attracted to coming into the industry.

While some limited attempts at reform have been made over the last 12 months, they are not material in undoing the damage caused by the introduction of the new regulations and the negative impact that have had on all in the industry including training providers, employers, apprentices and those seeking to commence their maintainer’s career.

AAAA notes that the unilateral removal of the B3 LAME licence (specifically aimed at the General Aviation LAME pathway) by CASA senior management at the time when the 'new' regulatory suite was taken forward to the then Minister was a clear breach of trust with industry after years of detailed consultation for zero gain – other than to damage industry.

Rectifying this GA LAME blockage to the training pathway is instrumental to supporting GA.

- f) **Rewrite of Manufacturing Rules and CASA internal requirements/processes** – The outcome of CASA policy (if not intent) has been to cripple Australian general aviation manufacturing capacity, not only for whole aircraft designs, but also for parts and other innovations that could provide many more jobs and opportunities.

The examples of CASA staff undermining Australian GA design and manufacturing - by a hectoring, micro-management approach well beyond the regulations - are many.

Australians, and especially those in general aviation, are innovators – a quality that makes us potential leaders in GA design and manufacturing. Unfortunately, this cannot be realised while ever CASA seems to take the view that *no* manufacturing is the only safe outcome.

## Summary

There is considerable unity of purpose arising from the general aviation community regarding the need for urgent problem solving within the context of a national strategy for General Aviation.

There is almost universal agreement from industry not only on the problems, but also on the solutions with the best likelihood of success. Industry in the main is neither splintered nor at loggerheads. Accusations of such are simply mischief making to avoid dealing with real issues of reform and improvement.

The shared message from industry is coherent and has been consistent for years:

- Provide an overarching national strategy for GA
- Reform CASA to be efficient and to regulate GA in a sensible manner
- Genuinely engage with industry to assist with improving safety and the effectiveness of regulation

Considerable policy work with strong industry support and a very positive approach has been undertaken by the TAAAF (The Aviation Associations of Australia Forum – comprising many peak bodies), the GAAN (General Aviation Advisory Group - individuals appointed by the previous DPM and which will hopefully continue its excellent work), and a range of individual peak bodies, including AAAA.

In addition, there have been a number of inquiries into CASA over the decades – most have which keep finding the same problems – but the recommendations fail to be implemented within the spirit of the inquiry. The ASRR/'Forsyth' review is a good example – very strong, widespread industry

support of the recommendations, which were then largely watered down and not effectively implemented.

When the approach to GA is also ground-truthed against international regulators, we find the UK 'GA Roadmap', the FAA dedicated GA Directorate (admittedly aimed at GA manufacturing), and even the NZ CAA with their pioneering work using sector risk profiles to inform regulation of GA – it becomes obvious that Australia, and particularly CASA, is out of step with best practice.

Having a GA-facing and informed division with CASA would certainly be an improvement (especially when complemented by other structures and methodology that has previously functioned well including sector risk profiles and sector units). However, this alone is not enough to address the current GA problems.

While it is clear that redress and rectification of the problems identified should not wait for a national strategy to be settled – unless of course the Government is of a mind to endorse urgently the existing work by GAAN or to consider the UK 'GA Roadmap' as relevant to the Australian condition – a national GA Strategy will be important to providing accountability for CASA and other agencies and a timeline for improvement that is actually felt by GA.

As always, AAAA is ready to cooperate for the improvement of aerial application and the GA sector in Australia.

Yours sincerely

Phil Hurst  
CEO - Aerial Application Association of Australia Ltd

*Aerial Application = Professionalism. AAAA members undertake continuing professional development throughout their careers.*