

Mr Philip Poole
President
Australian Miniature
Aerosports Society Inc.

September 2020

Gerry McNally
Committee Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Submission from the Australian Miniature Aerosports Society Inc. on the *Civil Aviation (Unmanned Aircraft Levy) Bill 2020*

Dear Mr McNally,

Thank you for your letter, 9 September 2020, inviting the Australian Miniature Aerosports Society Inc. to provide a submission on:

The proposed *Civil Aviation (Unmanned Aircraft Levy) Act 2020* and *The Civil Aviation Amendment (Unmanned Aircraft Levy Collection and Payment) Act 2020*.

The Australian Miniature Aerosports Society Inc (AMAS Inc) is a national society with members across all states and territories of Australia. The AMAS Inc represents, and advocates on behalf of, its members on matters that are of interest and concern to them.

The AMAS inc also promotes the aeromodelling hobby, along with providing information and education to its members, interested stakeholders, the wider community and regulators. The AMAS Inc management committee takes this responsibility very seriously and as you can appreciate our membership is quite concerned in relation to this particular issue. With the above in mind the AMAS Inc submission is provided from a recreational hobby perspective.

The proposed *Civil Aviation (Unmanned Aircraft Levy) Act 2020* will establish the legal mechanism to impose a levy for future cost recovery arrangements for regulatory services for remotely piloted aircraft (RPA) operators.

Given that recreational model aircraft are captured under this arrangement, due to the imposition of a particular definition, and thereby becoming a sub-class of Remotely Piloted Aircraft Systems (RPAS), this will also include our membership. Whether this was a deliberate inclusion or a convenient oversight in favour of the Civil Aviation Safety Authority (CASA), is largely academic.

To date, there has been no consultation by CASA regarding the fees to be charged for recreational model aircraft. Further, when enquiries have been made in relation to said consultation, by both the AMAS inc and individual members, the standard response has been one of "don't worry about that it's not coming in until 2022, we will get back to you" (email evidence from CASA RPAS to the AMAS Inc available on request). This is in stark contrast to a fully drafted piece of legislation, with a specific range of value (\$0 - \$300 per aircraft) that is currently before your committee.

There is an existing mechanism where fees are charged by CASA for regulatory service delivery, in some cases at an hourly rate (The CASA RPAS Dept has always charged fees to AMAS Inc member applications for services). A link has been provided for your convenience to the CASA service standards and fees webpage.

<https://www.casa.gov.au/about-us/reporting-and-accountability/service-standards-and-fees>

As noted above, there is a mechanism in place to collect fees for regulatory services. However, as this bill deals with a specific amount range to be charged, the question needs to be asked as to whether this is an actual reflection of costs likely to be incurred to provide the service, or is this a cost recovery for capital investment in a new software and computer system to administer the registration regime and will the committee be made aware of this cost by the CASA?

It is noted by the AMAS Inc that the explanatory note included with this bill states *"In line with the Australian Government Charging Framework, registration of RPA (and, from 2022, relevant model aircraft) is a cost recoverable activity. The purpose of the package of legislation is to ensure that commercial and professional users of RPA contribute to the cost of program administration and regulation in order to maintain the integrity and fiscal sustainability of the program over the long term."*

If the purpose is aimed at commercial and professional users, why are recreational model aircraft captured under the terms of this bill? This illustrates either lazy policy and governance arrangements at best, or a concerted effort to conceal the actual impact of this bill upon the recreational hobbyist community.

The AMAS Inc also notes with interest that the *Civil Aviation Act 1988* was amended on 7 November 2019. Specifically, the amendment of section 9A *Performance of functions*. This amendment included the following provision:

"(3) Subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and*
- (b) take into account the differing risks associated with different industry sectors."*

Whilst it is noted that the registration fee could be zero it is also just as likely to be \$300. There are no apparent protections to stop individual recreational model aircraft being charged \$300 for registration nor are there criteria as to what fee would be applied. For example, will the fee be based on a sliding scale depending on the mass, value, wingspan, motor orientation, construction type or the owners' ability to pay the fee? There are many members of the AMAS Inc that own multiple models and therefore would find this burden untenable.

Further, there is no clarity around the term "relevant model aircraft". This essentially allows CASA to change what the fee will be applied to without consultation, oversight or scrutiny. Is this an indication of an intent to capture other sections of the aeromodelling hobby including Control Line Models, Unpowered Gliders and Slope Soaring model aircraft as well?

The amendment noted above to the *Civil Aviation Act 1988* only occurred on 7 November 2019 and brings into question the voracity and reliability of any and all Cost Benefit Analysis (CBA), financial analysis or fiscal estimates produced by the CASA prior to that date. It is recommended that any and all CBA produced in support of the registration regime be revisited to ensure compliance with section 9A(3) of the *Civil Aviation Act 1988* and be made publicly available.

It is recognised that there has been a preliminary check against the Human Rights provisions of the operation of the Principal Regulations that will allow the CASA to commence the registration scheme. The AMAS Inc does not believe that this has, or could be, extended to the *Civil Aviation (Unmanned Aircraft Levy) Act 2020* as the fee has neither been consulted on nor set at this time.

The AMAS Inc challenges the statement in the explanatory document of *"The levy is, therefore, considered to be a reasonable, necessary and proportionate requirement in the context of aviation safety."* This statement cannot be considered to be based in any way on evidence. It is impossible to consider a levy reasonable, necessary and proportionate, or otherwise, if the amount has yet to be set. It is also impossible to justify in the context of aviation safety where there is no demonstrated, direct or indirect correlation between any levy and aviation safety.

The recently published policy issues paper, *Emerging Aviation Technologies, NATIONAL AVIATION POLICY ISSUES PAPER, September 2020*, by the Department of Infrastructure, Transport and Regional Development states, in part, regarding Air Risks, *"Despite the growth in both drone and manned operations, to date there have been no confirmed collisions between drones and manned aircraft in Australia"*. Additionally, in regard to Ground Risks the same paper states, in part, *"There is limited documentation of injuries in Australia with most documented cases minor in nature. There have been no fatalities in Australia as a result of a drone colliding with a person."*

With the above in mind, what evidence, peer review, assessment and analysis has been provided that the collection of a levy for model aircraft fits the context of aviation safety. Particularly when it is recognised that there is a paucity of evidence available.

The CASA already has an existing information technology system that provides for individual and unique identifiers called Aviation Reference Numbers (ARN). From information provided by RPAS section of CASA to the AMAS inc in August 2019, individuals will have to register onto the ARN system, the accreditation system and the registration system. Whilst details of this were scant, the AMAS inc is of the opinion that this will result three separate transaction records in which varying levels of personal details and descriptions of model aircraft will be required.

Surely the existing ARN system could be expanded to accommodate the registration function at a far lower cost, both for inception, maintenance and administration. In so far as the accreditation component, it also makes sense to utilise existing CASA systems such as Aviationworx.

A link has been provided: <https://www.casa.gov.au/education/elearning-catalogue/aviationworx>

The spectre of introducing another two bespoke information technology systems, at unknown cost, with no demonstrable benefit and additional administrative liability, seems to be another case of poor decision making, governance and oversight. This is also of significant concern due to the current fiduciary constraints and pressures that government, industry and the community are under due to the impact of COVID-19.

The AMAS Inc regards the explanatory documents' response to Article 6 of the ICCPR somewhat misleading. It states, in part, *"The consequential reduction of serious aviation safety infringements will be to the benefit of all operators, piloted aircraft, and people on the ground who might otherwise be exposed to serious injury from unregulated and unregistered use of these aircraft."*

Firstly, the use and operation of recreational model aircraft is already regulated under the *Civil Aviation Act 1988, Civil Aviation Safety Regulations 1998 and relevant instruments issued thereunder. Secondly, as highlighted previously, it is impossible to justify in the context of aviation safety where there is no demonstrated correlation between any levy and aviation safety outcome. Thirdly, the Emerging Aviation Technologies, NATIONAL AVIATION POLICY ISSUES PAPER, September 2020 acknowledges that there have not been any collisions with manned aircraft nor any fatalities due to drone strikes with persons on the ground in Australia.*

The AMAS Inc, as part of a holistic risk mitigation and management strategy has, since its inception, utilised member data, provided appropriate public liability insurance cover for members, flight proficiency and incident reporting and remedial actions management system, actively encouraged development of members' skills and knowledge. This approach provides responsible, informed and safe use of recreational model aircraft and has resulted in a safety record that other sectors of the aviation and general community would be envious of.

In summary, the AMAS inc opposes this bill in the strongest possible terms. Unlike other vehicle registration regimes where registration gives access to networks, provision of injury insurance, and facilitates the use of, and access to infrastructure. This initiative does none of those things and imposes additional burden on the individual and the government, is very thinly veiled in conjecture that it will ensure aviation safety and simply provides a means to impose a levy upon a recreational activity or to regulate model aviation out of existence entirely.

Aeromodelling is a key aviation and engineering (STEM) starting point for many existing and future aviation professionals. The AMAS Inc would be interested to learn if that was taken into account when drafting this bill and the associated long term effects if it results in the demise of the hobby.

Yours sincerely,

The Management Committee.
Australian Miniature
Aerosports Society Inc.

