



# AERIAL APPLICATION ASSOCIATION OF AUSTRALIA LTD.

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## ***AAAA Submission – Senate RRAT Committee – CASA & GA Inquiry***

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## 1. Introduction

AAAA has made many relevant submissions over two decades on improving the management of aviation policy in Australia – with a focus on general aviation and aerial application in particular.

AAAA put forward positive suggestions for improvements based on improvements to risk profiles and has developed and implemented programs that deliver superior safety outcomes and which would benefit from recognition by the regulator.

Despite some minor improvements, however, little has changed in terms of negative overall outcomes for general aviation.

While there have been some advances in CASA's approach to the regulation of GA, these advances are not systemic, not significant in the larger scheme of regulation, not particularly impactful – and are only given up grudgingly as a last resort.

There are good people in CASA working towards a better aviation regulator. However, they are regularly thwarted by an apparent indifference to good practice, standard business operating systems and a more cooperative regulatory posture.

CASA continues to lack innovation, expertise and trust. It appears frequently unable to work positively with industry and particularly GA for win-win scenarios which are readily available. It struggles to implement better approaches to GA safety and regulation.

Industry desperately wants an effective and efficient regulator that is open to better ways of doing things, bases its regulatory approach on supporting and guiding effective risk management, and levels its regulation, surveillance and education at the different GA sectors in the best way.

However, the ongoing train-wreck of regulatory change that continues to impose a heavy burden of red tape and cost on industry for no safety benefit lays bare the true state of CASA, its culture and its leadership.

CASR Parts 61 (pilot licencing), 141 (training organisations), 66 (maintenance licencing) and others have created overly complex regulatory overreach that has decimated industry training and is now belatedly under review because of this impact.

The CASR Part 138 Manual of Standards has now been forced out for consultation during the COVID 19 pandemic – as if industry didn't have enough challenges – despite many on the Technical Working Group telling CASA it was not fit for purpose because of overreach, complexity and length. Industry now has to respond to reject another Part that will cause damage because CASA decided to ignore its own consultation process. This is the same trajectory as CASR Parts 61,141 and 66.

As an initial submission to the RRAT inquiry, AAAA believes it is worthwhile providing a summary of previous work, key issues and potential remedies.

## 2. Executive Summary

The core problem that has had a major negative impact on general aviation over decades remains CASA.

CASA remains an organisation that seems incapable of positive change, that continually engages in regulatory overreach and which generates thousands of regulations that are overly complex, prescriptive, costly and not related to minimum safety standards, efficiency or recognition of other risk managing regulations.

Despite occasional green shoots of rationality - often initiatives driven by industry - these are all too frequently torched by the CASA attitude of 'we know better' – despite all evidence to the contrary.

While there remains positive policy consistency from the *Civil Aviation Act*, the Minister's *Statement of Expectations* and the CASA Board, there is an irreconcilable difference and tangibly different outcomes from that point on to the implementation of aviation regulation in Australia.

It is clear that the ASRR has not had the positive effect intended on CASA.

CASA remains in desperate need of reform at many levels to change its trajectory from being a negative, destructive, inefficient, inward-looking bureaucracy towards being an effective, innovative aviation regulator that contributes to the nation.

## 3. Recommendations

The following recommendations have been developed over decades of work with CASA.

While it was hoped that a significant corner had been turned by the organisation following the ASRR Report and the Government's response, that has not occurred in a way to assist general aviation.

While some of these recommendations are clearly longer term, there is considerable scope for CASA to significantly lift its performance quickly once there is an alignment of CASA leadership and actions with government intent, more effective structures and systems are implemented, and a culture of continuous improvement and innovation replaces current intransigence.

Some of the measures identified below are surprising in that they are not already in place in a modern aviation regulator.

### a) Review the *Civil Aviation Act*

- i. A broad independent, public review of the Act should be immediately initiated, including considering:

- The value of a Board, including considering either abolition of the Board or ensuring it has full powers including directive powers over the DAS in issues of management and reform
- If retained, ensuring the Board has majority membership of individuals with relevant aviation experience
- Removing the DAS from the Board and making the position ex-officio or advisory (non-voting)
- Requiring the Board to consult directly with industry as part of its role and responsibilities of verifying what it is told by CASA staff
- Clarifying the primacy of the Act against all other jurisdictional claims (eg arising from State/Territory WHS regulators and legal precedents such as Outback Ballooning / Antarctic Division cases)
- Embedding in the Act a classification of operations structure such that General Aviation is identified as qualifying for relatively simple regulation based on identified and quantified risks.

**b) Strengthen the Board if retained**

- i. If the Board is retained and strengthened, urgently charge it with:
  - Establishing appropriate selection criteria for the appointment of the DAS in consultation with industry, selecting the DAS and recommending an appointment to the Minister
  - Reforming the senior management of CASA to ensure stronger alignment between the Act, the Minister's Statement of Expectations, Board decisions and staff actions and outcomes
  - Establishing the operating systems identified in these recommendations
  - Reviewing the CASA recruitment strategy with a focus on identifying candidates with a personal culture/attitude of building safety and attracting key subject matter experts with strong industry experience - or developing better systems for accessing industry expertise
  - Reforming the CASA corporate structure to establish a stronger GA Branch that has full control over GA policy, regulations, surveillance, risk management and any other matters needed to remedy the current shortcomings

- Rebalancing the resources, personnel and power currently soaked up by administration, legal, corporate affairs and other support elements of CASA compared to other key industry-facing areas
- Close consideration of reducing overall CASA staff numbers in addition to improving the balance of numbers between support and ancillary areas and industry facing areas. Improved systemisation and simplification of CASA processes should deliver both significant savings, improved productivity and faster service provision. The COVID 19 industry stand-down may also provide insights into CASA's low productivity and minimal contribution to aviation safety.

**c) Address CASA funding and lighten the load on GA**

Address the long-term funding model of CASA by establishing a per seat charge on all regular passenger transport movements, including international. The comprehensive TAAAF Aviation Policy 2016 provided considerable detail on the potential of this initiative.

**d) Consider CASA's role in developing regulations**

Consider moving the regulatory development role from CASA to the Dept of Infrastructure - thereby separating the powers of regulatory writing and enforcement and ensuring that regulations are outcome based wherever possible, and the application of strict liability offences is used sparingly.

If it is decided that regulatory development should remain with CASA, significantly reform the process for the development of regulations affecting GA, including ensuring that industry has stronger input against the opinions of less experienced and less knowledgeable CASA staff.

CASA should only be able to override industry-developed draft regulations through the ASAP process where there is a strong and transparent safety case that considers both costs and benefits as well as risks and effective controls.

Regulations should be aimed at establishing minimum safe operating conditions and not going beyond that based on the preferences or opinions of individual staff members.

A strong current example of this type of overreach is the development of the CASR Part 138 (Aerial Work) Manual of Standards (MOS) which has been rejected by the ASAP Technical Working Group as 'unfit for purpose'.

CASA's intention to persevere with the overly complex, costly and largely ineffective current approach is despite the advice of industry participants, various statements from the Minister and the Board supporting GA, and the complete lack of a clear identification of actual safety risks being 'managed'.

This is where the non-alignment of Act, Minister's Statement of Intentions and Board policy versus CASA practice and outcomes is exposed.

The Part 138 MOS is a strong indicator of the prevailing culture within CASA regulatory development of overreach and complexity combining with a lack of aviation experience and blatant opinion to overrule data, thousands of hours of industry experience and minimum safety standards.

There appear to be no lessons learnt from the previous regulatory train wrecks of CASR Part 61, 141, 142 and the maintenance licencing suite including Part 66 – all of which are now the subject of desperate remedial action and significant rewriting, having caused significant damage to industry.

#### **e) Review and Repair CASA Inefficiency**

- i. Establish an independent cost/efficiency review of CASA to identify poor performing systems, structures, forms and practices including the 'Permissions Centre' and the 'Service Centre', but more particularly, the influence of the Operations and Standards areas in overcomplicating what should be relatively simple and straight forward processes for GA operations.
- ii. Establish a working group between GA peak bodies and the cost/efficiency review above to assist in the identification of systems in urgent need of repair (licencing, approvals etc). Consider the cost-recovery approach of CASA and the lack of stimulus it provides to CASA to be efficient.
- iii. Identify key metrics on efficiency that CASA should be required to publish regularly.
- iv. Consider providing greater support from within existing CASA resources for the roll-out of a more comprehensive web-based 'portal' approach to self-service, including where low risk permissions can be provided automatically to suitable qualified persons.

#### **f) Provide an immediate remedial focus on GA within CASA**

- i. Implement an effective, long term and binding classification of ops with an accompanying policy on its application to GA under the philosophy of 'simple regulation for simple operations'
- ii. Reform the CASA corporate structure to establish a GA Branch that has full control over GA policy, regulations, surveillance, risk management and any other matters needed to remedy the current issues (see under 'b) Strengthening the CASA Board' above). This must include removing the current *de facto* 'veto' powers of Operations and Standards branches over

the GA Branch (which currently sits under the Stakeholder Engagement area as a major improvement in focus).

- iii. Immediately establish an independent GA Remediation Task Force drawn from peak bodies to identify regulations and issues causing significant damage and have them repealed or modified (eg maintenance training / licencing and pilot training/licencing). Alternatively, retask the GA Advisory Network, established by the Minister, with this task
- iv. Initiatives in this area should include simple administrative initiatives to improve outcomes for GA, such as those already identified through the work of the GA Advisory Network.
- v. Establish HECS/Vet Fee Help or similar support/access for CPL students and operational ratings students for all CASA approved schools – not just RTOs or Universities. The removal of this duplicated system – where both ASQA and CASA have regulatory control (with ASQA controlling access to training funding and national competencies, while CASA must fulfil ICAO responsibilities) is important to the long term health of aviation training. Full control of aviation training – including access to funding – should be vested in CASA / Dept of Infrastructure, if necessary relying on the international aviation treaty responsibilities Australia shoulders under ICAO. Currently industry is forced to deal with both entities which have very different approaches, with ASQA having no responsibilities for aviation safety or having to answer to ICAO – but creating a need (and cost) for industry input to their competency development (if invited).

**g) Establish, normalise and enforce relevant systems within CASA**

- i. Establish a CASA Quality Assurance System/ Continuous Improvement System that engages with GA to identify improvements
- ii. Establish an effective independent complaints system – including an appeal mechanism for all medical decisions by CASA. This should include the role *not* reporting to the DAS as it currently does, but reporting to the Minister and publishing regular reports available to industry. The Complaints Commissioner (howsoever called under a reformed system) should be given the power to order certain remedial actions from CASA which CASA must comply with in a reasonable timeframe.
- iii. Establish a centralised policy and interpretation centre within CASA, featuring Subject Matter Experts with experience in GA, who are able to remedy by direct over-rule the well-documented problem of individual CASA officers – especially at the FOI and AWI level across regions – forcing personal preferences and interpretations of regulations onto industry, often with no head of power. This centre should be required to make public its policy interpretations and to discuss with relevant

industry peak bodies the implications and probable outcomes of proposed interpretations before making them.

## h) Improve Consultation and Cooperation with Industry

- i. The CASA Regulatory Reform program – currently extant for over 20 years – is not reform based. It is largely a repackaging, increase of CASA meddling in industry, and adding of red tape exercise for no identified safety outcome.

There is ample evidence that much of CASA regulatory development is based on the opinions of key staff, rather than safety data, international best practice or innovation in reform.

In many cases, the CASA approach to risk management is to ignore many of the controls already in place (eg operating under a certificate, an operations manual and with key personnel) and to burden industry with additional prescriptive requirements for particular risks – often risks that are not supported by incident/accident data but which come from the imagination of often inexperienced CASA personnel.

There is no evidence that CASA's opinion-driven regulatory development model is in any way superior to industry approaches to achieve equally safe – and often safer - outcomes.

In particular, the lack of a focus on safety / accident data to inform the current regulatory development process is in stark contrast to the development of Sector Risk Profiles where CASA engages with industry to learn more about risks and controls from highly experience operators and pilots.

SRP development is conducted by a different part of CASA – Stajkeholder Engagement Branch - that is clearly ignored by both Operations and Standard branches.

Unfortunately, the admirable work done in developing Sector Risk Profiles sits as an outlier and orphan in the regulatory development process and SRPs are simply not considered in regulatory drafting.

Discussion of the SRPs and quantified risks is still **not permitted** in the ASAP TWG processes, despite efforts from individuals and organisations such as AAAA to have them included.

Some improvement has been made through the ASAP process and especially where the Technical Working Group members are able to have their expertise recognised because of the uniqueness of their operations. This should be further strengthened in GA regulatory development.



The current imbalance of industry expertise versus CASA opinion must be addressed by improving consultation mechanisms and CASA's internal management decisions and culture.

This level of reform can only come from the top management of CASA, and given the ongoing intransigence of CASA senior management to adapt to a better system to produce better outcomes, significant changes to leadership at CASA must be considered as a first response.

- ii. Strengthen the existing ASAP/TWG consultation system to ensure that **all** regulatory reforms, change proposals and interpretations **must** be considered by this mechanism. Attempts have been made by various areas of CASA – including Operations and Standards - to undermine or 'white-ant' this successful and established system. These efforts have resulted in very poor outcomes and additional cost and time through reworks.
- iii. Establish recognition of industry programs including AAAA Programs such as the Chief Pilots Course and the Aerial Improvement Management System. CASA must be forced to relinquish or at least share power over industry in a new co-regulatory environment where the safety outcomes are superior to anything CASA can put in place.
- iv. Work cooperatively with industry to develop Sector Risk Profiles, relevant safety KPIs and other useful metrics to focus on safety outcomes rather than regulatory process. Where a matter is identified in a SRP as a CASA responsibility for execution, once agreed, it should be fast-tracked through CASA to improve safety. A good example of the effectiveness of SRPs is the first one developed in conjunction with AAAA – covering Aerial Application Operations. All industry-side controls have long been implemented. Only the CASA-side controls are yet to be implemented.
- v. Explore with industry peak bodies where current CASA activities can be better executed through industry involvement or programs – especially in highly specialised areas such as aerial application training, examinations and syllabus. However, any such transfers should be funded to the same extent as CASA was funding them.

#### **4. Who is AAAA?**

The Aerial Application Association of Australia (known as 'four As'), represents the professional aerial application industry that provides critical aviation services for agricultural production and emergency response.

Our operations cover crop spraying, fertilizing, sowing, locust and mouse plague control, firebombing and oilspill management – to name a few.

The Association members account for over 90% of all aerial application in Australia.

The Association has been active since 1958 and provides a comprehensive mix of training, education, professional development, conference and accreditation services to our members, as well as ensuring our elected representatives are kept up-to-date with our industry issues, problems and opportunities. We work closely with State and Federal agencies on a range of policy issues. Our website is [www.aaaa.org.au](http://www.aaaa.org.au)

AAAA is recognised as a trustworthy, positive influence that can bring significant expertise to the table. The Association sits on The Australian Aviation Associations Forum, the General Aviation Advisory Network, various CASA TWGs, Standards Australia Electrical Safety Committee, the National Working Party on Pesticide Application and a range of other consultative groups.

The Association has its national office based in Canberra and is governed by a Board of Directors with representation from States and pilots. The Board is in regular consultation with the CEO and application operators and meets formally on a regular basis.

AAAA's mission is to promote a sustainable aerial application industry based on the professionalism of operators, pilots and staff and the pursuit of industry best practice.

## **5. Missing - A Vision for GA**

Australia should be a regional leader in the development of aircraft, operations, other aviation products and services including training – in addition to pilot, LAME and management expertise for the region.

Australia should be able to match, through improved Government regulation and support, the performance of aviation successes in Canada, Spain and Brazil.

Instead, Australian innovations struggle to achieve certification in a timely manner, Australian licences and certificates are not recognised by other jurisdictions, and the cost and complexity of achieving and maintaining Australian aviation licences and certificates of operation is an impediment to international competitiveness.

Australia has not yet achieved its potential on a wider scale due to a lack of positive encouragement from Government, a generally '*can't do*' attitude of CASA and the poor integration of aviation into wider Government priorities.

Australian aviation will continue to suffer from the lack of a whole of government approach to establishing a vision for GA making an ongoing contribution to the economy and the community.

There has been significant previous activity aimed at improving aviation outcomes and especially those for General Aviation over many years through:

- The CASA Regulatory 'Reform' Program which commenced in its current iteration in 1999
- The GA Action Plan in 2007
- The Aviation White Paper in 2009

- The Senate RRAT Committee Inquiry into Pilot Training in 2010
- The independent review of the regulator through the Aviation Safety Regulatory Review (the Forsyth Report) in 2014
- A Review of the State Aviation Safety Program in 2016
- A BITRE Study of GA in 2017
- An Aviation Skills Study in 2017
- The Modernising Airspace Protection process in 2017
- An Expert Panel Review of Aviation Training in 2018
- Various changes to CASA DAS / Board / Senior Management
- Various iterations of the Minister's Statement of Expectations of CASA
- The work of:
  - the General Aviation Task Force
  - the General Aviation Advisory Group and now (GAAG)
  - the General Aviation Advisory Network (GAAN)

Unfortunately, not much has changed for General Aviation despite that activity and the enormous contribution of time and expertise from industry.

Activity should not be confused with outcomes.

Many bodies and individuals in GA have been raising the same issues for decades with no meaningful change.

There are two closely coupled issues within Government:

- a) lack of a 'champion' for general aviation within government and agencies with a shared Government / industry vision for GA
- b) active resistance to change and innovation by existing bureaucracies

Both of these issues must be addressed if headway towards a better aviation regulatory system is to be made.

The current General Aviation Advisory Network – appointed by the Minister – is currently focussing on the development of a vision for general aviation – along with shorter term practical initiatives to support GA.

However, of immediate and undeniable importance to GAAN is the role of CASA.

CASA has no mechanism or system for continuous improvement of the regulation of GA, or for that matter, improving its own performance, especially in terms of improving systems and efficiency of regulation.

The ongoing failure of CASA leadership and management to adopt standard sound business practices in terms of continuous improvement continues to lie at the centre of GA's difficulties with the regulator.

Consequently, much of this submission deals with CASA related issues.

However, it is also difficult to arrive at a detailed understanding of the importance of General Aviation to the community or the economy due to the lack of a comprehensive and valid assessment of its net worth.

While there have been some modest attempts (by both industry and government) to quantify the value of GA - and the industry is again discussing a way forward through the TAAAF (The Australian Aviation Associations Forum) and the GAAN - a recent publication from the US provides a useful methodology – see [https://gama.aero/wp-content/uploads/General Aviation s Contribution to the US Economy FINAL 2020219.pdf](https://gama.aero/wp-content/uploads/General_Aviation_s_Contribution_to_the_US_Economy_FINAL_2020219.pdf)

While it has some shortcomings in the Australian context (eg the underrated value and assessment methodology around the importance of aerial application), this is a useful starting point for establishing a vision for GA.

Unfortunately, the BITRE Report on GA in 2017 was largely shallow and unsophisticated in its approach to the issue, did not take wider or 'induced' value creation into account and did little to advance the understanding of the sector.

AAAA has high hopes for the current work of the GAAN and the potential for this group to provide a realistic vision for general aviation and a practical way forward.

However, the ongoing CASA resistance to change, improvement or innovation must be addressed directly by Government, and this submission makes recommendations aimed at achieving this breakthrough.

## 6. CASA Policy Alignment with Outcomes

To understand the current problems facing general aviation and its relationship with CASA, it is worthwhile considering the importance of policy alignment between the main legislative elements:

- ***The Civil Aviation Act 1988*** (as amended by the *Civil Aviation Amendment Act 2019*) – the Act was amended in 2019 (Section 9A) to strengthen a requirement on CASA to continue to maintain aviation safety as its primary focus, but that it *must* also 'consider the economic and cost impact on individuals, business and the community...and take into account the differing risks associated with different industry sectors'.
- ***The Minister's Statement Of Expectations of the Board of CASA from 30 June 2019*** – in Section 3, the Minister has reinforced the new provisions of the amended Act. The Statement of Expectations aligns with the Act, as would be expected. However, in Section 2, the SoE stops short of clarifying the role of the CASA Board as having full powers over the management of CASA, limiting its role to consideration of only strategic issues. In practice, the Board appears to be largely advisory only, especially in terms of forcing reform of CASA administrative practices and especially systems.

- **The CASA Board** – the Vision, Mission and Values approved by the Board clearly do not contradict anything in legislation. They are admirable, if undelivered.

Regardless of attempts to clarify the role of the Board (see ASRR recommendations regarding the CASA Board having full authority), it still seems that the Board is not able to direct the DAS to fix any problems that are not ‘objectives, strategies and policies’ (see Sect 53 of the Act) .

While the same section of the Act dealing with Board functions makes it clear that the Board must also ‘ensure CASA performs its functions in a proper, efficient and effective manner’, there is little evidence of this happening, given the lack of functioning operational systems identified in this submission.

If the Board is curtailed in its oversight or discharge of its full powers under the existing legislation, then the existence and role of the Board must be considered in the face of questionable influence on CASA outcomes. Alternatively, further legislative direction could be provided to the Board.

Similarly, the CASA Regulatory Philosophy available on the CASA website, is aligned with the Act and SoE, although it is here that industry starts to question the differences between mere words and real-world actions.

- **The DAS** – the role and performance of the DAS is critical to the delivery of largely aligned directions given to CASA and produced by its Board.

It is at this critical point that over several decades and many DASs, industry sees a wide gap between promise and delivery.

A DAS that is keen to better align CASA outcomes with the direction of the Minister and the Board will be critical to delivering better outcomes for GA.

In particular, a DAS that is committed to the following will represent a key turning point for CASA and GA:

- holding key areas to account against the Ministerial Statement of Expectations and the Board responsibility under the Act for ‘proper, efficient and effective’ functions
  - implementing a more appropriate GA classification of operations and regulatory stance
  - enforcing the development and reform of simpler regulations and reasonable performance standards from CASA and its delivery of essential industry permissions
- **Outcomes** – While recent performance has been marginally less negative than when the ASRR was triggered, there is still significant room for better alignment between policy, performance and outcomes.

In particular, the potential for significant improvements focussed on GA initiatives has not been realised, the internal management of CASA processes

remains a mess, and the positive outcomes (Class II medicals, micro-DAMP exemption, and an improved consultation process through ASAP for example) remain as islands of common sense in a sea of inefficiency, overreach and inconsistency.

It is not an accident that all of these initiatives were delivered by the Stakeholder Engagement area rather than Operations, Standards or Legal.

It is often CASA's ongoing refusal to adopt standard, efficient business systems and methodology – or to try and build win-win scenarios with industry – that leads to the lack of positive outcomes.

In other words, **culture** remains as critical as ever.

This is especially true when seen through the prism of an essential appetite for continuous improvement, cooperation with industry and better control over CASA's internal weaknesses of inconsistency, decisions being made at the wrong level, overregulation and inefficiency.

AAAA believes there is significant scope to either recast the CASA Board as having full control of the organisation (not just 'strategic'), or to abolish it if greater control cannot be delivered.

The current significant and very awkward differences and lack of alignment between the Act, SoE, Board, DAS and actual outcomes should be of concern to anyone interested in Australia having a world-class aviation regulator.

## 7. Legislative and Regulatory Framework Underpinning CASA and others

### a) Regulatory Framework

The structural role currently assigned to CASA in developing, implementing, interpreting, enforcing and applying penalties and evidentiary standards against regulations remains a key impediment to efficacy, efficiency and fairness.

Serious consideration must be given to removing the regulatory development role and the assigning of penalties and evidentiary standards from CASA and assigning it to the Department of Infrastructure.

The current outcomes speak for themselves in terms of regulatory overreach, use of prescriptive approaches versus outcome-based or performance-based regulations, or length and complexity of rulesets as an impediment to clarity and compliance.

The costs of compliance were very clearly **not** countenanced in the development of regulations such as pilot licencing and training organisations through Part 61 / 141/142, or the maintenance licencing ruleset in Part 66 and others – both of which have outcomes of crippling the Australian aviation

training capacity. The industry advice to CASA over many years of the development of these regulations (AAAA sat on all relevant committees) was almost completely ignored, resulting in the mess of CASR Part 61/141 and the slew of exemptions and amendments required to make the Parts function.

The current CASA program to revisit both of these areas is both welcome and overdue.

Outcomes in both of these areas are critical to the health of GA and industry is again participating in the hope that some of the worst features of both can be remedied.

## b) Industry's Perspective

A key challenge to any business owner, manager, pilot or LAME is the complexity of current aviation regulations and the often-overlaid elements of regulation and a byzantine draft style.

This is of critical importance to general aviation.

Despite the best intentions of the CASA Regulatory 'Reform' program – which is anything but – a pilot currently trying to find what regulations may actually apply to any mission must have to have a sound working knowledge of:

- ***The Civil Aviation Act 1988*** – that contains 'high level' offences that could more appropriately be removed to the regulations. The Act, while being modified on occasion, has never been holistically reviewed. It would be good legislative practice to now review the Act, some 32 years after it first being made.
- ***The Civil Aviation Regulations 1988*** create complexity when overlapped with the CASRs – these must be repealed as CASRs reach full implementation. For example, a still extant CAR 206 outlines what type of operation triggers the requirement for an Air Operators Certificate despite this function being overtaken by CASRs.
- ***The Civil Aviation Safety Regulations 1998*** – allegedly meant to simplify regulations but which have largely resulted in a significantly engorged set of regulations to manage the same risks. For example, the previous approach to pilot licencing relied on Part 40 of the CAOs at about 208 pages of regulation. It was a safe, effective approach that worked.

The 'new' CASR Part 61, by comparison, is about 700 pages of regulation, which also relies on a Manual of Standards of another 700 pages. It is regularly amended to address shortcomings that were pointed out by industry during drafting and implementation.

This is not progress.

- **CASR Manuals of Standards** – drawing on a head of power in the CASRs - MOSs can be in the hundreds of pages of complex, legally drafted and disallowable instruments. They appear to be regulation by stealth. The most recent example under development (CASR Part 138 MOS) does not include just standards, but additional regulations.
- **Civil Aviation Orders** – many CAOs are still extant and create additional complexity in their application to different operations and sectors. For example, as a result of CASR Part 137 being for fixed wing aerial application operations only (regardless of industry advice), helicopters conducting identical operations are regulated under the CAOs. This introduces significant variations and complexity and is further compounded by similarly different approaches taken under new regulations – such as where Part 61 deals with helicopter Operator Proficiency Checks differently to the Part 137 OPC requirements. The CAOs must be repealed as the CASRs reach full implementation.
- **Quasi-regulatory requirements** including the AIP, ERSA, CAAPs, AMCs etc.
- **Exemptions** – the oil that keeps the creaking machinery of aviation regulation operating and one of the few pathways for simplicity, better practice and innovation. Clearly, over time, exemptions should be incorporated into regulation as part of a continuous improvement process. However, the current CASA mantra that exemptions are now ‘bad’ is a nonsense. While exemptions are essential, there is no coherent listing of all exemptions from CASA, with the CASA website list skipping numbers and clearly being incomplete.
- **CASA policy** and related manuals and documents – including the Enforcement Manual, the AOC Manual and DAS Directives / Policy etc
- **AOC holder Operations Manuals** – required by various CASRs, CAOs and CASA manuals. These manuals are subject to additional ‘approval’ and amendment demands from CASA staff, often in an extremely inconsistent and sometimes contradictory manner – often without a clear head of power.
- **CASA Forms** – while these should have no regulatory standing other than the ‘efficient’ collection of data in a form required by regulation, the CASA Forms are a *de facto* extension of regulation as many implement policy decisions from within CASA that have no head of power.

For example, Form 1214B for the Variation of an ‘aerial work’ AOC, creates some 42 sub-categories of operational approval required – in turn triggering Operations Manual inclusions – far beyond the specifications of CAR 206. Strangely, the Form does not even recognise CASR Part 137 Aerial Application operations, relying on the CAR 206 category of ‘agricultural’ operations. CASA struggles to comply with its own regulations.



This is clearly a make-work program for CASA that has no basis in safety or risk management or regulation. There is no industry engagement mechanism for continuous improvement – despite this issue being raised at the highest levels of CASA for years.

- **CASA officer interpretations** – an issue that was at the core of the ASRR Report findings and recommendations - individual officers within CASA continue to make interpretations that are not bound by regulatory heads of power, consistency, experience, sector knowledge or specific safety risks.

It is opinion parading as policy – and frequently ill-informed opinion.

CASA continues to lack a coherent, centralised policy interpretation and expertise centre to standardise regulation. Different offices have different interpretations, and generally CASA is not troubled by using subject matter experts that it may have on staff – as there is no centralised policy development system.

In a modern regulator that had this pointed out to them in an independent review (the ASRR), serious questions must be raised about why this situation is perpetuated by senior management.

It is clear that, over time, the older regulatory suite must give way to the more modern. However, there is no clarity from CASA as to when, for example, the CAOs will be completely repealed or the CAR's will be completely repealed – or even if they will.

A useful exercise to better understand this complexity is simply to try and find a few key regulations on the Government Federal Register of Legislation. This simple matter is so complex, AAAA has produced a fact sheet for members to aid finding the relevant regulations. There is no equivalent guidance from CASA.

Given the weight of this bulk of regulation on every pilot, LAME, AOC holder and business owner in GA, perhaps it should be no surprise that peak bodies such as AAAA continue to complain of 'overregulation'.

However, these warranted claims of overregulation do not arise simply because of the weight and length of regulation (as oppressive as that is) but also because of the complexity, prescriptiveness and over-reach of regulations.

A key concept with all regulation is the tension between 'prescriptive' legislation and 'outcome' based legislation. This in turn reflects the tension between the essential balance in aviation between clarity and certainty and the need for flexibility and innovation.

Well-founded and well-written regulation should be outcome based and buttressed by suitable guidance material to provide certainty for compliance purposes.

There is significant potential within the new rules (CASRs) to apply this more enlightened approach to regulatory drafting to ensure key safety messages and actions are not buried by poor drafting or the volume of material.

The actual impact on aviation safety of volume and complexity of rules has never apparently been considered – other than where industry has identified this complexity and breadth of paper undermining a clear focus on safety.

CASA still does not understand the difference between safety and compliance and continually considers itself to be the creator of safety, when in fact it is a well-informed, safety motivated and guided industry – flying, maintaining and organising aviation operations – that creates safety.

CASA clearly has an industry-accepted role in rule-setting, surveillance and enforcement – but it is industry that delivers safety.

The dimension of the daunting task facing anyone in GA in simply absorbing, recalling and using the vast amount of written regulation of the industry, is now a safety impediment in its own right.

### **c) Other Bodies**

#### **i. The Department of Infrastructure**

The Department's role in aviation policy is quite limited in an operational sense, however its oversight of other legislation such as the *Damage from Aircraft Act*, and its oversight of the State Safety Program is very important – and strongly supported by industry.

Some of its lesser known programs, such as NASAG (National Airport Safeguarding Advisory Group) and its support of the GAAN, play an important role for general aviation.

A significantly expanded role for the Department has been suggested above to remove the regulatory development role from CASA. This could be highly effective in remedying the current complexity and defence by CASA of the regulatory reform process, especially in terms of poor outcomes for GA, but only if the Department was to meet the same standards of consultation and regulatory development outlined in this submission.

#### **ii. ATSB**

The *Transport Safety Investigation Act* has provisions for closer work between ATSB and industry but this is yet to be taken up.

This could include the collection, reporting and analysis of incident information and potentially the use of an Industry Expert Panel when

investigations are focussed on operational accidents that are outside the experience of ATSB investigators – such as is sometimes the case in aerial application.

AAAA strongly supports the continuing role of ATSB in investigating all fatal accidents in GA and aerial application, as this is not only more efficient and likely to lead to safety insights, it is based on a sound knowledge of aviation safety principles and practices. This can be particularly valuable to police and Coroners in clarifying causes and interpreting often complex aviation issues. It is also of significant comfort to the families and colleagues affected.

There is considerable potential across all GA accidents/incidents of ATSB simplifying its approach to accident investigation to a 'probable cause' basis. This could be further buttressed by the application of a classification of operations approach that could lead to many GA accidents and incidents being investigated, analysed and safety recommendations identified in much shorter time frames than many current ATSB investigations.

However, such an approach would rely strongly on access to expertise in different operations (such as aerial application and firefighting) that ATSB may not have. This is where an industry-sourced Expert Panel could play a very useful role in allowing faster and more accurate accident reports. AAAA has had occasion to write to ATSB on a few investigations where it was clear a lack of expertise in agricultural operations had negatively affected ATSB reports.

A relatively minor issue is the incident/accident taxonomy used by ATSB being sometimes less than helpful in supporting safety education efforts by AAAA. For example, as AAAA has explained to ATSB, wirestrikes are often categorised differently within ATSB (eg wirestrike or CFIT), which sometimes leads to consistency issues with statistical analysis.

Of greater concern in accident investigations is the appearance of superfluous theories 'of no relevance to the accident investigation' (ATSB's words) being included in accident reports based on particular views of some within the agency, rather than a focus on the evidence in front of the investigator.

Sometimes, it is a simple lack of experience in or knowledge of the particular specialised operation – such as aerial application – that leads to questionable assumptions. This could be fixed by the establishment of the Expert Panel referred to above.

Nonetheless, ATSB's general work is valued by the industry as a key source of independent, authoritative safety information and AAAA has integrated it into its safety programs. AAAA has a very positive relationship with ATSB and is pleased to work with them in supporting

the production of safety promotional material such as:  
<https://www.atsb.gov.au/publications/2016/ar-2016-022/>

### iii. **BITRE**

AAAA relies on the industry-wide 'hours flown' statistics collected and published by the BITRE to establish sector specific safety trends by combining it with ATSB statistics or AAAA's own records.

Unfortunately, these BITRE statistics always suffer from a significant lag between collection and publishing. This lag has been as long as 5 years, and is generally 2 years.

For example, both AAAA and ATSB rely on 'hours flown' data to calculate accident rates for different sectors. This is a key safety performance indicator and is critical in maintaining a watch on emerging issues and safety performance. Any significant lag causes significant downstream issues for safety educators such as AAAA.

Consideration should be given to ensuring BITRE was sufficient resources to continue to publish GA relevant data in a timely manner.

One concern with BITRE statistics has been changes to the methodology for calculating hours flown across different sectors. Estimates have been used in place of real data, resulting in a poor correlation with, for example, aircraft on the registry and BITRE growth rate calculations for sectors. AAAA has written to BITRE on this matter and has highlighted the difficulties created for consistent comparisons across years due to changed methodology.

BITRE has no standing consultation mechanism with industry which AAAA sees as a weakness for the organisation and a potential lost opportunity in developing more meaningful publications for GA.

### iv. **Airservices**

The Airservices ASTRA consultation model works well and appears to be highly effective in ensuring an industry voice is heard when policy is made.

A key initiative that Airservices should consider since it has taken over the RAAF Tall Structures Reporting database is the development of a national app that provides low level hazard information to the GA industry – and especially potential users such as the aerial application industry.

The problem is that even if tall structures are reported (and many are not), it may take months before this information becomes available to the

pilot populations through maps and EFBs if it is included at all (many are not).

There is already a very useful model for the provision of relevant information for low level operations through the Ergon Energy 'Look Up and Live' app – which provides low level pilots with real time mapping of all powerlines in Queensland. See:

<https://www.arcgis.com/apps/webappviewer/index.html?id=5a53f6f37db84158930f9909e4d30286>

This has significantly improved the planning ability of mission focussed operations such as aerial spraying which is often conducted at 3 metres above ground level. It is also critical safety information for firebombing planning.

ATSB also wrote to Victorian energy regulators regarding the need to provide both mapping and marking of powerlines to pilots following this accident report:

[https://www.atsb.gov.au/publications/investigation\\_reports/2019/aaair/ao-2019-031/](https://www.atsb.gov.au/publications/investigation_reports/2019/aaair/ao-2019-031/)

AAAA has established a National Powerline Safety Program (see later).

However, the general indifference of powerline companies outside NSW and Qld must be noted in refusing to provide mapping information or to establish a powerline marking system.

A national program that takes a whole of government approach would be welcomed by all in the GA industry.

By combining powerline overlays with tall structures overlays (including windfarms, met masts, radio towers etc), the utility of Airservices information would be significantly enhanced, along with aviation safety for a relatively small investment.

## **v. Homeland Security**

While all aviators understand the motivation behind appropriate safeguards around security, ranging from ASIC cards to regional airport screening and access, it seems that policy has continued to drift towards an ever-greater burden on industry without a commensurate risk assessment.

AAAA would welcome a full and open policy review of the issues related to aviation security to minimise the cost and inconvenience of security measures on GA and to ensure that if risk assessments change, measures can be relaxed or tightened accordingly.

As a separate matter, the current procedures for the issuing and maintenance of an ASIC card should be urgently reviewed to ensure the measures are meaningful, efficient and fair, especially in terms of access for regional aviators. This is especially as a result of relatively new requirements to pick up ASIC cards in person – a significant cost and logistical problem for many pilots in regional Australia.

It appears that it is easier to attain an Australian passport than to attain or maintain an ASIC card.

The lack of an appropriate mechanism for review of aviation security arrangements for GA is an obvious shortcoming in current policy.

## **8. Basing Regulation in Risk Management**

### **a) Classification of Operations**

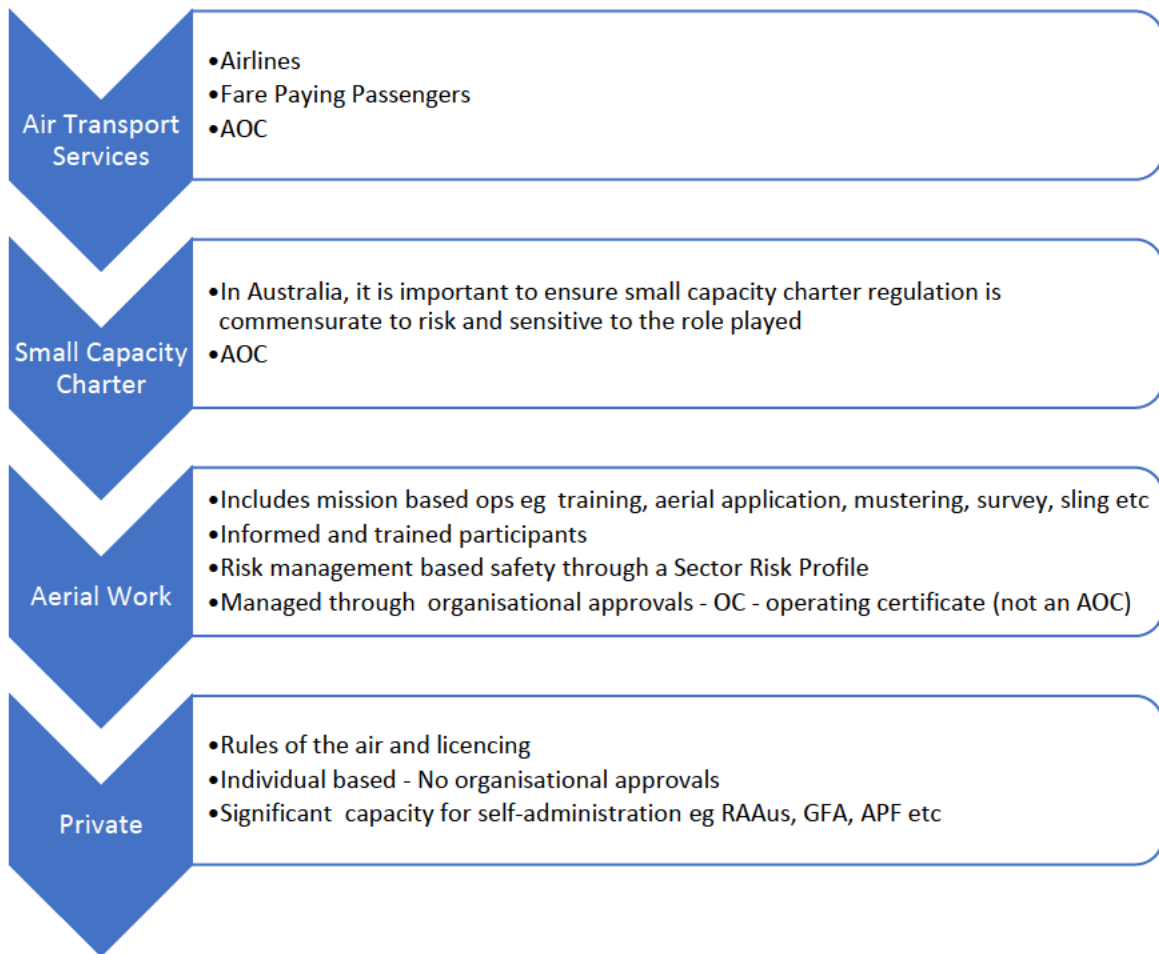
The Classification of Operations is a critical concept to understand in assessing the appropriateness of different regulatory approaches and in identifying the most appropriate approach to a sector based on risk.

This is a requirement of the Act, the Minister's Statement of Expectations and various CASA documents.

By taking different regulatory approaches to the four principle operations identified by ICAO below, CASA could vastly simplify its entire regulatory approach to general aviation because of its acknowledged lower risk and consequence.

Of the four categories identified in Figure 1 below – the lower 3 classifications would be considered 'General Aviation'.

**Figure 1: Simplified Classification of Operations**



AAAA has prepared many papers explaining the significant benefits from applying a risk-based classification of operations in the Australian context – a key explanation of the concept and its significance to improving and simplifying aviation regulation in Australia can be found at **Appendix 1**.

Over the last 20 years or more of regulatory reform, CASA has consistently failed a critical test – that of regulating for clearly identified risks.

The evidence for this is the broken circuitry in the CASA regulatory development process that does not commence with a deep understanding of the risks to which different GA sectors are exposed.

Instead, CASA's own staff – with generally little experience in the sector to which they have been assigned – prepare a draft, often containing all previous iterations of regulation from the CAR or CAO or elsewhere, which is then presented to industry for comment.

By that time, the regulatory approach has largely been decided – allowing no space or time for innovation, reform or simplification – and certainly no

reconsideration of first principles, matching risk to reg or developing a simpler framework.

The various industry consultation mechanisms (now ASAP and TWGs) are then forced to consider well-formed rule-sets which often do not address critical risks as may be determined through analysis of ATSB data and trends – as AAAA does.

A sad by-product of this process is that many project officers, having been involved in the development of 'their' regs, take a very defensive approach to any suggested changes from industry.

Industry is then forced to fight a rearguard action to remove some of the more inane and unworkable regulatory overreach from the drafts. Eventually, drafts are sent off for legal drafting where often the intent changes again, requiring further remedial work.

This is one of the many reasons why the CASA Regulatory 'Reform' Program is still not completed and the outputs have largely been condemned by industry for complexity, overreach, length and red tape.

## **b) Assignment of An Appropriate Regulatory Stance to Each Sector**

A very effective way forward for CASA would be to describe its regulatory stance to each of the different sectors in the classification of operations outlined above – down to different sectors in GA.

This would provide CASA staff and industry – especially if it was developed with input from industry – a more transparent approach to risk management relevant to sectors.

It offers enormous potential to simplify the current rule-set for GA, to remove unnecessary cost and to directly address the current complexity/volume/clarity conundrum.

If CASA were to adopt this approach, including, over time, a review of the current rule-sets to apply the agreed principles, a key vehicle to match risk to reg would be the use of existing or new Sector Risk Profiles.

## **c) Sector Risk Profiles**

AAAA was the leader in engaging with CASA in developing a Sector Risk Profile for Aerial Application in 2014. It involved pulling together a very experienced group of pilots, LAMEs, business owners and CASA staff with AAAA to identify, assess and minimise risks in aerial application.

Much of the risk assessment and control work had already been completed by AAAA through its development of the Aerial Improvement Management



System (AIMS) for AAAA members which is based on risk management, quality assurance and communication systems as well as independent audit.

Critically, the SRP process must be based on data – accident trends based on ATSB and BITRE data, identified opportunities for improvement – and very differently to other CASA approaches – recognition that industry can play a leading role in improving safety through various programs.

Other SRPs have followed.

See:

<https://www.casa.gov.au/sites/default/files/assets/main/media/download/sector-risk-profile-aerial-app-sector.pdf>

Unfortunately, the SRP process, while delivering a road map for more effective regulation, remains completely divorced from the various regulatory suites and certainly the development of more recent CASRs.

Sector risk profiles provide a strong starting point for the appropriate regulation of different GA sectors and should be made the building blocks for better regulation.

If a regulation is not addressing an identified risk, then it should not be made.

A key advantage of a SRP is that it enables the identification and empowerment of industry initiatives to drive better safety outcomes.

For example, in the Aerial Application SRP a number of AAAA initiatives were identified by the joint CASA/AAAA team working on the SRP, including:

- **AAAA Chief Pilot Course** – developed cooperatively with CASA, the first course (3 days face-to-face with assessments preceded by 10 pre-reading assessments over 3 weeks) has been held in 2019 with strong industry support and glowing references from participants – and full participation by CASA.

AAAA continues to wait for the formal CASA recognition to move forward so that future Chief Pilots in aerial application are better trained and supported than ever before. As a skills transfer and training-based solution, this is a quantum leap over the previous CASA interview process – often conducted by non-aerial application qualified CASA staff.

- **AAAA AIMS Program** – the Aerial Improvement Management System (AIMS) is an integrated management system for AAAA company members. It is based on significant training, templates and business blueprinting, the implementation of systems including safety, reporting and continuous improvement and an ongoing commitment to learning. The final accreditation is only achieved after independent audit.

AAAA continues to work with CASA to attain recognition of the program as a significant improvement over both minimum legal requirements and the CASA audit program. Recognition of 3<sup>rd</sup> party audits was a key recommendation of the ASRR/Forsyth report that has still not been implemented by CASA.

Regardless of recognition of such a program, CASA would still maintain significant safety oversight through the monitoring of key sector safety statistics or key performance indicators – if they existed within CASA.

- **AAAA Standard Operations Manual** – first approved in 2003, the AAAA SOM is a CASA-approved manual for aerial application that has made a huge improvement to industry standardisation, compliance, cost and regulatory change implementation.

The manual has been instrumental in removing the ability of CASA field staff to insist on pedantic changes based on their opinions rather than regulations. It provides a ready model for other sectors – and a key model of standardisation for CASA management of regional inconsistency and work-creation.

Once CASR Part 137 is reviewed to manage the co-dependent requirements of CASR Part 138 over the coming 12 months, the AAAA SOM will be rewritten and reapproved for another life – thus simplifying the implementation of the revised CASR Part 137 because of its widespread uptake by AAAA members.

These innovative programs deliver improved safety outcomes, are sector specific, address clearly identified risks and are far more efficient and effective than a simplistic regulatory approach alone. These are only some of AAAA's programs that are making a daily contribution to aviation safety.

Other AAAA programs (not recognised by CASA or the SRP) include:

- **Spraysafe** – the *de facto* national competency standard for all application pilots featuring a fully updated 2019 Spraysafe manual of 420 pages, exams and fully mapped against national competencies and accepted by every State and Territory for the issuing of a Chemical Distribution Licence.
- **Training** – a range of safety courses including wire and low-level hazard management, CRM, Human Factors
- **Professional Pilot Program** – Australia's only aviation sector-wide continuous professional development program that is attached to the renewal of pilots' Spraysafe accreditations. It requires pilots to firstly attain a baseline of knowledge through Spraysafe accreditation and examination, and then to attain 15 education units over each 3 year period to retain the accreditation or resit an examination. This program,

launched by CASA DAS Mick Toller in 2002, ensures enthusiastic participation in AAAA provided training as well as the recognition of other relevant training as part of an application pilot's commitment to life-long learning.

- **Aerial Application Pilots Manual** – this 268 page manual, published in 2011, represents a significant upgrade to previous versions and incorporated new Chapters on human factors in the aerial application environment. It pioneered a range of safety approaches that are now industry standards. The manual, along with the regulations, forms the primary reading material for the CASA Aerial Application Rating knowledge examination and was the model for CASA's aerial application knowledge syllabus.
- **AAAA Powerline Safety Program** - AAAA has established a National Powerline Safety Program which includes working with:
  - Standards Australia on the rewrite of AS3891 – Marking of Powerlines
  - State powerline companies and regulators to try and establish a national powerline mapping and marking scheme (so far only available in NSW and Qld)
  - Balmoral Engineering in developing and trialling a better powerline marker that can be placed live-line, thereby significantly reducing cost and improving safety – and which is now in widespread use in NSW and Qld.
  - Members for the purchase and installation of markers and the use of available mapping systems for mission planning

Clearly, these examples of safety innovation created by AAAA provide an extremely positive model for how CASA could begin to approach other GA sectors and how a win-win scenario or cooperation does not signify 'capture' of a regulator.

The concepts tested and found highly effective above could be augmented by additional work with CASA to further improve outcomes.

The combination of the following will all lead to a better regulatory environment, a better CASA and better safety outcomes:

- a sound Classification of Operations policy
- assigning a clear regulatory stance or approach to different sectors
- Sector Risk Profiles
- Risk based, outcome focussed regulations aimed at providing minimum safety standards
- cooperation with industry to recognise valuable programs and build capacity

## 9. Impacts of CASA Decisions

As a direct result of the problems identified above, the impacts of CASA decisions include:

- Divergence between regulation and risk management as the regs are not based on data or identified risks – and consequently, often have no impact other than adding cost and complexity
- Increased costs – not only through poor regulations and red tape, but through delays as a result of either CASA inefficiency or a particular staff member's interpretation of a regulation or requirement, and even to the extreme of having businesses shut down and aircraft grounded for no valid reason – as recently as late 2019 and early 2020.
- Systemic inefficiency – the rejection by CASA of its own forms, the time honoured response for time critical applications of 'we lost your paperwork, please resubmit', the delays of months for simple approvals and a range of 'make-work' requirements that do not have a legislative head of power - continues unabated despite inquiries, reviews, restructures or changes of leadership. CASA has no industry-facing mechanisms to address these issues.
- Lost opportunities – especially in terms of working with industry but also in business where a required CASA licence or approval may hold up a business for months – thus compromising industry's ability to react quickly to commercial opportunities. This is a huge cost imposition on industry and reflects poorly on CASA 'systems' across manufacturing, certification and operational requirements. CASA is the main reason GA manufacturing struggles to get ahead in Australia.
- People leaving the industry as CASA has made it difficult and costly to sustain a licence or business.
- Crippling of training pathways – as evidenced through pilot licencing through Part 61/141 or LAME licencing through Part 66.
- Jobs being exported – there is now evidence of pilots and LAMEs travelling overseas to attain a qualification (including to the US and NZ) and then returning to Australia to have their qualifications recognised – as it is cheaper, more certain and provides better international recognition. Australian qualifications are not valued internationally and the Australian system is seen as significantly inferior to other jurisdictions including the US, Canada and NZ.
- Loss of manufacturing capability – directly attributable to CASA causes through inefficiency, delays, poor understanding of their own regulations, lack of expertise or even non-compliance with their own regulations. This represents a direct cost to the economy, jobs and Australia's international standing.

## 10. CASA processes and functions

In brief, CASA problems identified above are the result of a range of missing or flawed processes and functions:

- CASA culture – there remains within CASA a deeply flawed culture that industry cannot be trusted and that only strong, highly prescriptive regulation from CASA ensures aviation safety. Industry has a strong vested interest in safety. The identification and suggested remedies through the ASRR process have not been implemented to ensure a positive change in the culture of CASA
- Lack of access to HECS or similar for CASA approved training schools due to CASA making no effort to liaise with other government departments on this critical issue
- Lack of recognition of industry programs
- Lack of a continuous improvement system that engages with GA
- Lack of a Quality Assurance System
- Lack of an effective complaints system – AAAA experience of Industry Ombudsman is quite negative with a formal complaint resulting in no discernible action and limited feedback to the complainant
- A consultation system that is weighted against industry experience in favour of often very inexperienced CASA staff.

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***Appendices***

- 1. AAAA Overview of General Aviation, Classification of Operations – prepared for the GA Taskforce and later the GA Advisory Group**
  - 2. AAAA ASRR Implementation Updated Scoresheet 2020**
  - 3. TAAAF Policy – Aviation 2019**
  - 4. TAAAF Policy – Building Better Regulations**
  - 5. TAAAF Policy – Revitalising GA**
  - 6. TAAAF Policy – Engineering Training**
-

## **Appendix 1: AAAA Overview of General Aviation, Classification of Operations – prepared for the GA Taskforce and later the GA Advisory Group**

### **GA and CLASSIFICATION OF OPS**

#### ***Introduction and definition of GA***

GA is, in AAAA's view, all aviation that is neither military nor regular public transport, or heavy passenger carrying charter.

Following on from AAAA's paper to the previous GA Taskforce regarding a new philosophy for GA (see attached Appendix 3 to this document), AAAA is of the view that the following is a more relevant definition of GA in the Australian context:

- Low capacity charter
- Aerial Work – with a change to the ICAO model to have 'aerial application' in place of agriculture and inclusion of Australian ops – eg mustering / application etc
- Private aviation – including business aviation

AAAA's key concern is not with the definition or the model or description of GA (especially if only the higher level descriptors are used – eg aerial work / private) but with the lack of marriage of the description to a simplified but still robust regulatory stance and processes that would effectively manage real risks – thereby leading to a better triple bottom line:

- improved safety outcomes
- a more viable industry and
- a more pleasant and vastly more efficient interface with the regulator

This approach of assigning a clear risk management strategy to the different sectors, informed by detailed work with the sector to understand and quantify the risks, will make a real difference to the performance of the regulator and the industry.

### **3 Streams**

There are currently three independent streams in play that have not been brought together:

- Description / Definition – largely done with ICAO and CASA models
- Risk Profile – some done for some sectors
- Assignment of Risk Appetite / Regulatory Stance – not done as a policy, but evidence of this thinking in some regs (eg Part 137)

Bringing these 3 streams together could make a significant difference, especially in terms of the overall impact on 'GA'.

#### ***Two Key Questions:***

Does the ICAO diagram effectively describe the Australian operational base?

Does ICAO (eg SARPS) have a standard approach to assigning risk appetite / regulatory approach to different sectors identified in the Classification of Civil Aviation Activities? See, for example - <https://www.icao.int/safety/UA/UASToolkit/Pages/Toolkit-Guidelines.aspx>

### **Description / Definition**

ICAO vs CASA – see Appendix 1 and 2

The organisation of a regulatory approach to civil aviation has previously been through splitting the activities into like-activities based on different considerations – passenger carrying / safety risk/ operational type etc – providing a useful administrative structure for different purposes.

In Australia, the Classification of Operations has never been attended by a coherent statement of the regulator's risk appetite or regulatory stance towards the different sectors, other than to say 'aviation safety has the highest priority' – whatever that means (eg see Minister's Statement of Expectations to CASA - <https://www.legislation.gov.au/Details/F2017L00288> )

What Australia has never done overtly, is to state the appetite for risk and the regulatory stance adopted towards the different sectors that have merely been **described** in the Classification of Operations.

In some cases, it is possible to discern a different approach to, say, the regulation of aerial application in Part 137 versus passenger carrying ops. However, to say this was part of a coherent strategy is to incorrectly assign any consistent policy position to CASA that might operate across all operational parts.

While the CASA 'bubble diagram' provides a roadmap to the different CASR parts and how they work together, it was never accompanied by a clear statement that differentiated in any way between, for example, passenger carrying ops and aerial work ops from a risk perspective.

### **Risk Profile**

The regulator must understand the key risks facing the sector.

This is best done through a SRP that directly engages with a representative peak body or individuals representative of the sector. This engagement must commence before any steps are taken to identify or treat risks – to put it bluntly, CASA does not know what it does not know.

The SRP must then be supported by an agreed implementation plan / strategy where specific actions by specific parties are taken within agreed timeframes and known resources. This approach has largely been missing to date, although CASA has recently been making progress on the implementation of the aerial application SRP.

Finally, the SRP must be kept meaningful by the development of agreed KPIs for the sector and safety performance indicators and review. Consideration must include where data is to be sourced and a statement of expectations in terms of performance



– ie what would be satisfactory. This approach has largely been missing to date, although AAAA has started this work with CASA.

This package of information can then be used to identify areas that need regulation or some other risk control.

However, existing SRPs do not assign a risk appetite to the different sectors - eg see <https://www.casa.gov.au/sites/g/files/net351/f/assets/main/media/download/sector-risk-profile-aerial-app-sector.pdf> .

Consequently, while existing SRPs do identify risks and possible treatments, they do so in a more reactive sense, rather than an informed, coherent policy sense.

Regardless of these shortcomings, SRPs have enormous potential to improve the overall approach to GA.

### **Assignment of Risk appetite / regulatory stance**

Interesting ICAO methodology for UAS regs -

<https://www.icao.int/safety/UA/UASToolkit/Pages/Toolkit-Guidelines.aspx>

Development of a similar approach for GA would mean that many current regulations would not have made it through the QA process of having to manage a known or predicted risk in accordance with a CASA-described risk approach to a sector.

In overall terms, it is important to set the regulatory stance early in the SRP – thereby providing direction that for GA, not all solutions will come from regulation.

A key – potentially the most critical - policy initiative is for industry and CASA to work together on a coherent CASA statement of policy approach to the different sectors.

This could, in brief, be informed by the recent work of the RAAA in considering this issue, but regardless, could use a simple set of threshold questions to determine the policy approach required to the different sectors listed:

- Who are the participants?
- What is their level of informed consent?
- What threats may be posed to other airspace users?
- What threats may be posed to 3<sup>rd</sup> parties (eg the public on the ground)?
- Are there any balancing considerations (eg emergency services / greater good etc)?

Where the participants are well informed of the risks, where the relative (ie controlled) risks to other airspace users are low, where there is little threat to other people – then CASA would have a rational position for significant simplifications in regulatory approach.

### **Key Outcomes for GA**

There is little point in doing this body of work unless there are tangible, relatively short term gains for GA.

The following is perhaps a starting point for marrying together the classification of ops/activities with risk management and outcomes.

### **Low capacity charter**

- Simplified maintenance to sustain local workshops and access – ie not Part 145 – but CAR 30 style
- Simplified approach to AOC and ops manual

### **Aerial Work**

- Abolition of CAR 206 (huge improvement in consistency)
- Bring CASA administration into line with improved Classification of Ops (eg Form 1214b)
- AOCs removed and simplified with Part XXX certificates
- Operations manuals simplified and do not seek to regurgitate the regs
- CASA processes can largely move from 'permissions' to 'notifications' if not removed altogether
- CASA audit process and risk matrix can be simplified to focus on companies with clearly identified issues from surveillance / reporting etc
- Significant simplification of training requirements by identifying training areas that can be pushed back onto industry (monitored/surveilled by CASA) eg abolition of fire endorsement / fixing OPCs for rotary with Chief Pilot etc

### **Private**

- Simplification of requirements

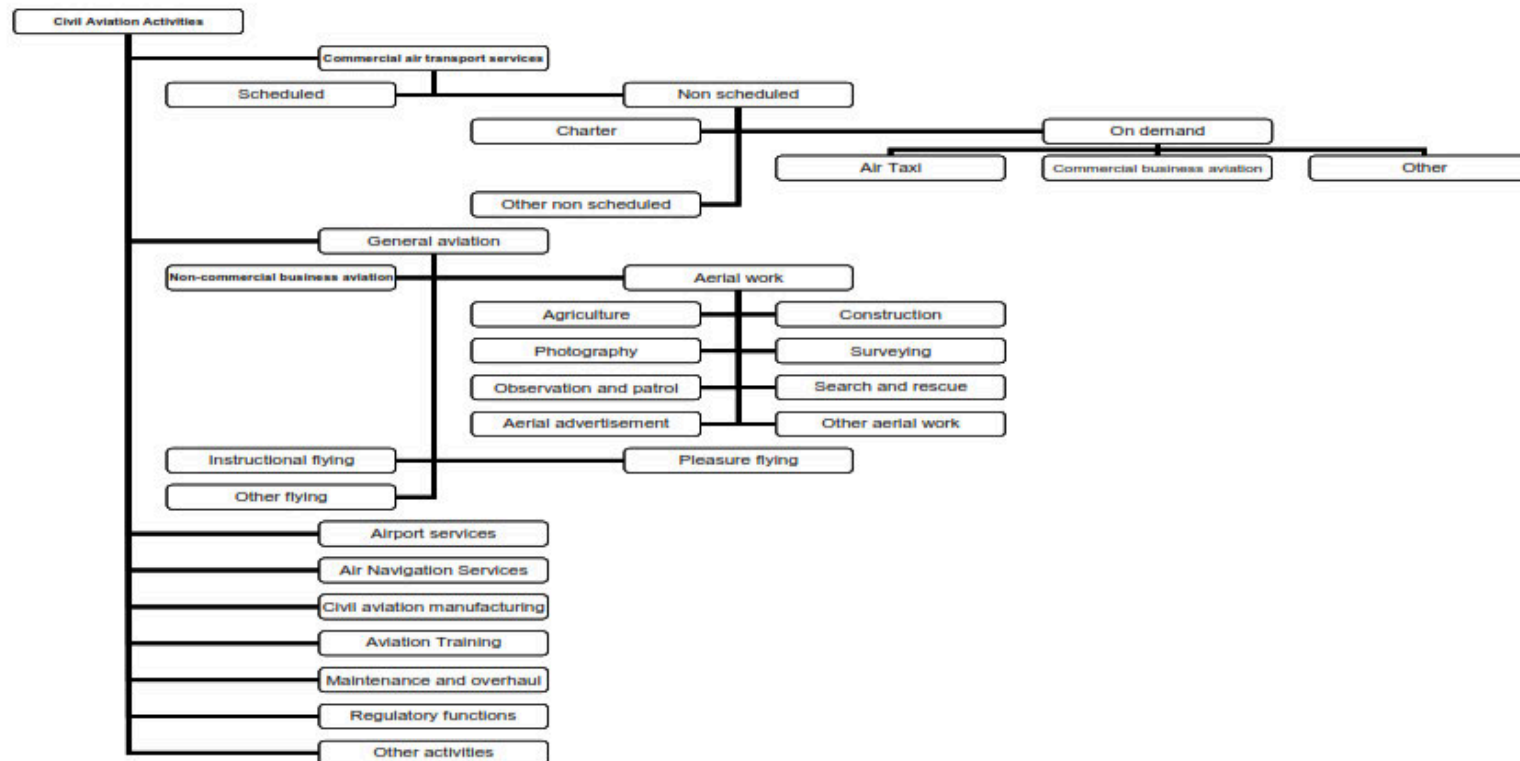
**Appendix 1.1**

ICAO Classification of Ops – see [https://www.icao.int/Meetings/STA10/Documents/Sta10\\_Wp007\\_en.pdf](https://www.icao.int/Meetings/STA10/Documents/Sta10_Wp007_en.pdf)

There are clear problems with the Aerial Work categories in an Australian context. And what is 'commercial business aviation' and 'non-commercial business aviation'? 'Pleasure flying' is just wrong. 'Aviation Training' – at least *ab initio* and aerial work – sits under 'aerial work' in Australia.

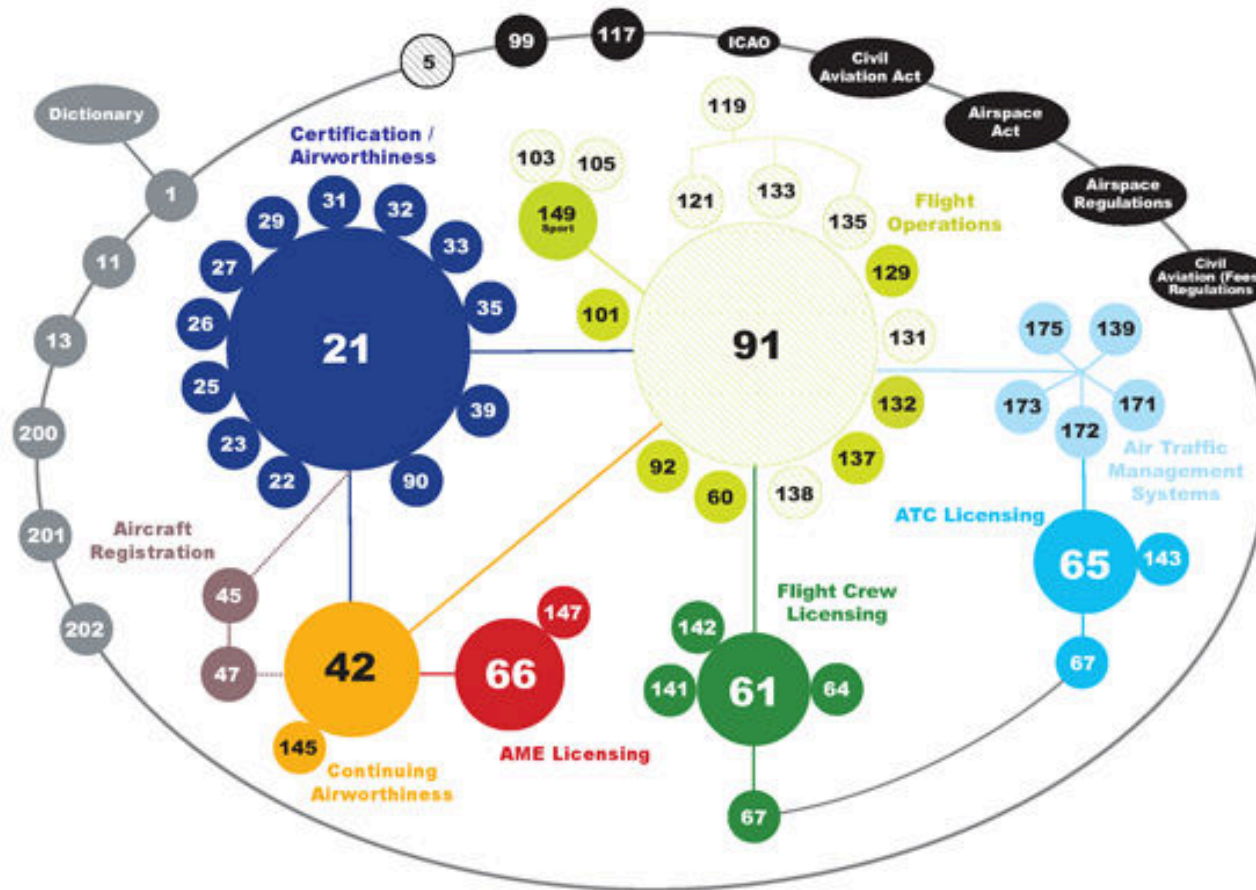
**APPENDIX A**

**PROPOSED ICAO CLASSIFICATION OF CIVIL AVIATION ACTIVITIES**



### Appendix 1.2 – CASA Bubble Diagram

While it *describes* the Parts, it says nothing about risk management etc, until you actually look at the regs for each Part – eg AOC required...



## Appendix 1.3

### ***Draft General Aviation Philosophy Statement***

*Version control: Draft 12/1/16*

*Prepared by: Phil Hurst, CEO, AAAA*

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#### **Contents:**

Preamble and Aim

GA Regulatory Philosophy Statement

Classification of Operations

Efficient Regulation of Small Aviation Business

*Appendix: CASA Regulatory Philosophy Statement*

*Appendix: PMC Office of Best Practice Regulation - Small Business Guidance*

*Appendix: OBPR Small Business Engagement Principles*

*Appendix: PMC Red Tape Reduction Principles*

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#### **Preamble and Aim**

General aviation is a very diverse, economically and socially vital part of Australia's aviation industry. It covers a range of aviation operations and sectors that underpin the health of communities, especially those in regional Australia, and provides a critical feeder training role for large airlines.

However, the nature of general aviation is that while it plays an important role, government has been unable in recent years to tailor efficient regulation of the sector to the economic capacity of the sector, resulting in sometimes severe contraction of the sector. Policy drift has led to the sector being unfairly penalised by a disproportionate regulatory burden.

The potential of general aviation to create jobs - especially in regional Australia - has not been subject to supportive policy settings, and the growing regulatory complexity from CASA has crippled many opportunities for growth for no safety outcome. This is especially true in GA manufacturing, maintenance and overhaul.

By adopting a strong philosophical commitment to nurturing general aviation through the removal of unnecessary regulation, Government will be in a position to reposition Australian GA businesses to be safer, more efficient and better able to take advantage of growth opportunities.

#### **A New Philosophy For General Aviation**

**Definition:** *philosophy* - a theory or attitude that acts as a guiding principle for behaviour.

One of the great challenges to the aviation sector over many decades has been the ebb and flow of different approaches to aviation safety regulation - based on often unspoken

assumptions regarding the philosophy of regulation and the capabilities of different sectors to manage safety, all of which have led to increased costs and red tape.

The GA Action group has an opportunity to recommend a transparent set of guiding principles that will inform regulators, such as CASA, how they should frame regulations so as not to damage the GA sector and remove the 'pendulum' effect of wildly varying approaches to regulation - from 'Big R' regulator to 'hands free' and back again.

CASA clearly has a legitimate role in overseeing safety across the industry, however, how it has approached that task over recent years has caused massive disruption to industry, introduced unsustainable inefficiency and raised costs that threaten in some cases to shut the GA sector down altogether.

Without dwelling on old ground well-described in Forsyth Report submissions and its report, the approach of 'one size fits all' aviation regulation is a failure. CASA itself has identified this in certain cases such as the micro DAMP exemption, but otherwise failed badly - eg Parts 61/141/145 and CAO 48.1.

By approaching the discussion from a philosophical perspective, there is a greater chance of striking a longer-term balance that will not damage GA, but will build on already existing strengths and encourage the sector to rise to the challenge of improved, cost-effective safety.

The regulation of GA needs to be more knowledgeable of the needs of different sectors, more accomplished at risk management, more aware of the low tolerance of cost and inefficiency by the sector and sensitive to the general inability to pass on costs.

Safety remains a priority, although one that can be addressed in different ways to get a sound result - without crippling the industry.

The safety response should be driven firstly by a revised classification of operations, to ensure that appropriate structures and regulatory responses are in place to ensure, as far as is reasonably practicable, safety in GA operations. While this approach fell out of favour over recent years, it remains a commonsense and ICAO-compliant approach.

Once a classification structure has been agreed, it can then be better informed by the use of sector risk profiles and a risk management approach sector by sector.

In the case of aerial application - the only published sector risk profile from CASA so far - the risks identified and the proposed controls stand in stark contrast to the regulatory burden on the sector. This is strong evidence for questioning how much regulation is actually performing a risk management task and how much is simply imposing red tape and cost - for no safety benefit.

Importantly, in the aerial application sector risk profile, industry programs (such as the independently audited AIMS program and the Chief Pilots course) are widely recognised as

playing an important part in reducing risk and improving safety. However, CASA is still struggling with this paradigm shift and appears reluctant to 'let go' because of its attachment to power over the industry - something the SRP does not really remove - it simply changes the delivery model to a far more efficient approach.

A philosophical benchmark of '*simple rules for simple operations*' would show-up many current approaches to regulation as being an unnecessary burden on industry.

A related consideration should also be the structure best suited to deliver a stronger correlation between types of operations and complexity and amount of regulation. For example, the US FAA has a GA Directorate for the GA manufacturing sector. Such a Directorate in the Australian context would greatly assist CASA in improving its knowledge of sectoral requirements, accessing expertise and thereby improve its regulation of and cooperation with GA.

While there is a range of strongly supported government statements ranging across red tape reduction principles to regulation of small business, these do not seem to have an impact on aviation regulation. They should.

Given CASA has recently published a regulatory philosophy that spells out a very clear departure from previous practice, a complementary philosophical statement of industry expectations regarding general aviation regulation would be an appropriate counterbalance.

Such a philosophy could include expectations for consultation, consideration of cost on the sector affected, efficient delivery of regulatory services, risk management based regulation, decriminalisation of regulation, transparency and accountability of regulators, or a range of other statements.

By recommending a new philosophy to drive change in the regulation of the GA Sector, the Action Group could provide a tool to inform significant structural and regulatory change, remove cost, improve efficiency and enhance safety.

### **Proposed GA Regulatory Philosophy Statement**

- 1) The GA sector has a legitimate role in being heard as a fundamental part of government policy development. All aviation agencies should have a formal consultative system to engage with GA. The performance of this system - in terms of issues raised by industry and successfully resolved - should be made a requirement for annual reporting of all aviation agencies (including CASA, ATSB, Airservices, BITRE, Dept etc).
- 2) All government regulation should be based on the identification and management of tangible hazards, risks and controls. Unless government is able to identify a clear, research-supported, risk management safety case for a regulation, it should not be

taken forward or should be repealed. The Government's red-tape reduction principles should be actively pursued by aviation regulators.

- 3) Aviation should be regulated in accordance with a classification of operations, with general aviation being characterised by 'simple regulations for simple operations'. Critically, where risks to fare paying passengers are low, regulations should reflect this reduced primary risk.
- 4) A sector risk profile approach, firmly based on the involvement of industry representative bodies from commencement, should become the main risk management vehicle to establish the need or otherwise for regulations or other actions - including education.
- 5) Consideration must be given to the economic impact of proposed regulations and policies on general aviation viability and level of activity, based on direct liaison with GA representative bodies. Where significant damage is likely to be caused by regulatory change, the aviation regulator concerned should withdraw the proposal.
- 6) Regulations should be outcome focussed for GA, but should be accompanied by an Acceptable Means of Compliance to facilitate easy compliance.
- 7) GA regulations should be decriminalised unless intent can be proven - ie strict liability for most offences should be removed ( see the useful NSW Parliament discussion paper).
- 8) Aviation regulators should seek to work with and support the work of GA representative bodies where the common interest in safety is most effectively and efficiently delivered through industry programs. This should include but not be limited to the replacement of CASA processes with superior value-adding industry programs (eg for aerial application the AAAA Standard Operations Manual, AIMS, Chief Pilot, safety training courses and Professional Pilot Program). Where such programs do not yet exist, aviation regulators should work with industry to establish and recognise such programs.
- 9) All government aviation policy and interaction with industry should be driven by the following principles:
  - Just culture.
  - Natural justice and a right of appeal on all decisions.
  - Systems for complaint management and protection of complainants from vindictive administrative or other actions from regulators, either formally or informally condoned or not by management.
  - Transparency and accountability for all decisions.



- Systems to drive quality assurance of regulation and continuous improvement and efficiency in regulatory service delivery.
- Centralised policy making and interpretation to support consistency.

### ***Classification of operations***

In aviation, a classification approach can be used to target different regulatory responses to different aviation sectors. While this approach fell out of favour over recent years, it remains a commonsense and ICAO-compliant approach.

The safety response should be driven firstly by a revised classification of operations, to ensure that appropriate structures and regulatory responses are in place to ensure, as far as is reasonable, safety in GA operations.

Safety remains a priority, although one addressed in different ways to get a sound result - without crippling the industry.

Aviation in Australia should be considered in four different categories:

- Regular public transport - including large capacity charter
- Low capacity Charter/aerial taxi operations (which is a part of GA)
- Aerial work (mission focussed involving generally only crew)
- Private aviation (same as use of a private vehicle on the road)

Each of the categories have very different characteristics, capacities, numbers (in both raw terms, investment etc) and public expectations of risk and potential consequence to uninformed participants as opposed to those aerial work operations with only crew.

### **RPT**

Where passengers purchase a ticket for transport from one place to another, the task will be performed by the RPT sector. There is a widely held expectation that, within the normal bounds of logistics and delays, the person will arrive safely at their destination – in other words, the risk is extremely low.

The sector is characterised by a systemised approach to safety and risk, is heavily and often prescriptively regulated, and safety compliance and systems costs form a significant component of the ticket price.

Competition in the sector is high although significant barriers to entry include high capital investment, highly specialised workforce requirements, and high regulatory standards.

While there is scope for significant improvement in the quality and efficiency of current aviation regulations, the low tolerance of risk on this sector, principally from the airline company owners as well as regulators and the travelling public, make the potential for significant removal of regulation low.

### **Low capacity charter**

The current approach to treating low capacity charter operations as a 'baby airline' is fraught with problems and costs.

Even an apparently simple new requirement for charter aircraft to be treated in a CASR Part 145 maintenance shop may result in many operators abandoning their previously viable businesses, or low capacity charter being driven 'underground' where there will be no regulatory oversight or guidance.

Simplifying regulations for this sector should be a major priority before damage becomes permanent.

### **Aerial Work**

Where aviation companies are engaged on a commercial basis to undertake tasks or missions for another party that does not involve the transport of ticket purchasing passengers, there is significant scope for simpler regulation - ie the aerial work sector.

CASA has already initiated a process that would lend itself to significant reduction of regulation. The Sector Risk Profile for aerial application is a unique vehicle for forging a healthy relationship between regulator – that has no or little experience in highly specialised areas – and the regulated – who hold the expertise and information about risk.

The Sector Risk Profile process will enable an agreed set of risks and treatments to be established. Any regulations that are not seen to be addressing those risks could then be removed.

In particular, recognition by the regulator of existing independently audited programs such as the AAAA AIMS program would significantly reduce the resources required to currently regulate the sector. AAAA is already involved with the CASA Sector Risk Profile process that recognised the important risk reduction role of AAAA education programs including:

- AIMS
- Chief Pilot Course
- PPP
- Safety courses

### **Private aviation**

This sector is not in need of heavy-handed regulation as the risks are better managed through basic regulations and a strong focus on education by the regulator.

## ***EFFICIENT REGULATION OF SMALL AVIATION BUSINESS***

There are already a range of whole-of-government policies that support the recognition of the needs of small business that have not been wholeheartedly adopted by aviation regulators.

By the establishment of aviation regulation principles that reflect the whole of government position, the regulatory burden on general aviation small businesses could be significantly reduced.

A good example is the CASA development of the micro-business exemption for Drug and Alcohol Management Plans which should have been available from the commencement of the regulations. Industry input and requests for exactly this approach were dismissed out of hand by the responsible project teams and their managers at CASA, only to be overturned when the burden of regulation, cost and regional inequity of the CASR Part 99 post-implementation, was exposed.

The impact of a classification of operations that provides guidance to aviation regulators that they have to treat GA differently from airlines should not be underestimated.

### ***Definitions***

Small aviation business is defined in different way by different organisations, for example:

'Small business' is defined differently by regulators and business in Australia. The Australian Institute of Company Directors and ASIC define small business as follows:

2 out of the following three apply:

- Company with less than \$25million turnover annually
- Company with less than 12.5 million in consolidated gross assets
- Company with less than 50 employees

The Australian Taxation Office defines a small business as one that has annual revenue turnover (excluding GST) of less than \$2 million. Fair Work Australia defines a small business as one that has less than 15 employees.

Despite these differences, many regulators have informally adopted the definition of 'small business' used by the Australian Bureau of Statistics (ABS), which is a business that employs fewer than 20 people.

In addition, it should be noted that the Office of Best Practice Regulation has guidance material available to agencies regarding considerations for dealing with small businesses.

The simple application of these differentiations to regulations would make a huge difference to small business - eg the CASR Part 99 micro business DAMP approach.

ENDS

## **Appendix 2 - AAAA ASRR Implementation Updated Scoresheet 2020**

### ***ASRR Recommendations Implementation Progress – AAAA Assessment at 3 February 2020***

Forum participants have been monitoring the implementation of the ASRR Government-accepted recommendations very closely. Participants have strong relationships with all government agencies involved and are well-placed to gauge the progress of implementation. The following table provides a summary of ASRR recommendations and an indication of the Forum's assessment of progress.

<b>Critical Dates</b>	<b>Action</b>
14 November 2013	ASRR Established
3 June 2014	Minister releases the Report of the ASRR
3 December 2014	Minister releases the Government's response to the ASRR Report
2 December 2015	Minister releases an update on progress on the implementation of the accepted ASRR Report recommendations

29 January 2016	Minister provides an update to the Aviation Industry Consultative Council on progress of the implementation of the accepted recommendations of the ASRR Report
28 April 2016	TAAAF publishes 2016 Aviation policies including a 'ASRR Industry Scorecard'
2 March 2017	TAAAF publishes the 2 <sup>nd</sup> ASRR Scorecard.
3 February 2020	AAAA undertakes 3 <sup>rd</sup> ASRR scorecard

Key

A = COMPLETED TO SATISFACTION OF INDUSTRY

B= UNDERWAY BUT SOME WORK STILL REQUIRED

C = COMMENCED BUT LITTLE ACHIEVED

F = NOT COMMENCED, OR TAKING A DIFFERENT DIRECTION TO RECOMMENDATION

UNKNOWN = DUE TO LACK OF COMMUNICATION

**ASRR Scorecard Summary 2020**

**37 Recommendations from ASRR:**

Rating	2016 Score	2017 Score	2019 Score
<b>A</b>	<b>4 (11%)</b>	<b>5 (13%)</b>	<b>3 (8%)</b>
<b>B</b>	<b>0</b>	<b>3 (8%)</b>	<b>2 (5%)</b>
<b>C</b>	<b>5 (13%)</b>	<b>8 (22%)</b>	<b>8 (22%)</b>
<b>F</b>	<b>21 (57%)</b>	<b>21 (57%)</b>	<b>24 (65 %)</b>
<b>Unknown</b>	<b>7 (19%)</b>	<b>0</b>	<b>0</b>

Rec #	Issue	Government Response	2016 Score	2017 Score	2020 Score
1	State Safety Program - improved coordination	Agreed	C	A	B – but no transparency with industry – so largely unknown

2	DIRD plays stronger role in SSP	Agreed	C	B	B – as above
3	ATSB investigate as many fatal accidents as resources permit	Agreed	A	A	A - however, further improvements regarding priorities, classification of operations, taxonomy and resources required.
4	ATSB / CASA work to accredit CASA observers to investigations	Agreed	UNK NOW N	C	F – lack of sector expertise in ATSB and CASA compounded by an unwillingness to engage with sector experts – significant additional work required to effect ‘just culture’, especially in CASA
5	Gov appoint ATSB commissioner with aviation experience	Agreed	A	A	A - Critical to maintain quality of appointment as Commissioner Manning term expires
6	CASA Board exert full governance control and have appropriate skills	Agreed	F	B	F – CASA Board has no control over CASA and does not appear to add any value for significant cost – the key issue remains the quality of the DAS
7	Next DAS have leadership and management experience in cultural change	Agreed in principle	C	B	F – current DAS has no aviation experience and relies heavily on operational advice from Ops and Standards staff that continues to cause issues.
8	CASA reinstate KPIs, hold a stakeholder survey, accept regulatory applications on-line and adopts PS Code of Conduct and Values	Agreed, with in-principle agreement to PS Code of Conduct	F	F	F – no evidence of significant improvement or engagement with industry on strategic issues.

9	CASA establish staff exchange with industry	Agreed in principle	F	F	F - industry has no evidence of progress and no staff exchanges occurring.
10	Airservices <i>et al</i> reconsider 'Assessment of Priorities' policy	Agreed	UNK NOW N	C	C
11	ATSB & CASA amend MOU to be more definitive re: interaction	Agreed	A	A	F – clear antagonism between ATSB and CASA continues. CASA is not engaged in safety as distinct from regulation.
12	CASA delegate responsibility for day-to-day management of airspace to Air Services	Noted.	UNK NOW N	C	C – largely unknown. Industry does not believe the intent of the recommendation has been implemented and this requires further work. Eg fire NOTAMS etc
13	DIRD and Defence establish agreed position on safety oversight of civil ops into military airports	Agreed	UNK NOW N	F	F – no change to outcomes for users.
14	CASA changes its regulatory philosophy and builds an effective collaborative relationship with industry	Agreed	C	C	F – despite significant effort from industry, there is no indicator of collaboration with CASA outside of very specific programs from AAAA (Chief Pilot Course) that continue to be fought against internally – and the work of ASAP trying to reverse previous cultural issues through regs.
15	CASA continues to provide indemnity to delegates	Agreed in principle	F	F	C – indemnity now available but concern as to its limitation across Part 61 qualifications (eg examiners)

16	CASA overhaul its training program	Agreed	F	F	F - there is no recruitment policy and industry is yet to see any significant change
17	CASA adopt 'just' culture	Agreed	F	F	F - while various publications from CASA discuss 'just culture' there remains a significant gap in what is experienced at the coal-face.
18	CASA reintroduce a 'use of discretion' procedure	Agreed in principle	UNK NOW N	C	F - while there has been some change to the regulatory philosophy and enforcement manual, there remains a significant difference with actual industry experience at the coal face.
19	ATSB transfer information to CASA on Mandatory Occurrence Reports without redaction of de-identification	Agreed in principle	UNK NOW N	F	F - industry remains opposed to this until CASA is able to demonstrate a functioning 'just culture'
20	ATSB transfer safety promotion role to CASA	Not agreed	A	A	A – Never supported by industry
21	CASA change its structure to a client-oriented model	Noted	F	F	C – there has been some structural change with a GA Branch, but it is clearly hamstrung but not also having control of GA policy and regs.  Sector Risk Profiles remain an outlier that are not allowed to inform policy, safety or regulation.
22	CASA establish small offices at specific locations	Noted	F	F	F - none have been established and there has been no consultation with industry on the issue. There continues a lack of



					central control, policies and systems, problems remain with the Service Centre.
23	CASA share outputs of its risk process with certificate holders	Agreed in principle	F	F	F - AOC holders have seen no change. Industry remains concerned that SkySentinel is not an appropriate or fair risk management tool to oversee safety. Audits are largely irrelevant to safety, not informed by SRP and not conducted by sector-experienced staff.
24	CASA makes full disclosure of audit findings at exit	Agreed	F	F	C – some improvement – but CASA audits remain compliance audits with a focus on items irrelevant to safety.
25	CASA introduce gradings of NCNs	Agreed	F	F	F - AOC holders have seen little change in this area.
26	CASA ensures consistency of audits and report times	Agreed	F	F	F - AOC holders have seen little change in this area. There has been no discussion with industry of this subject
27	CASA implement a system of 3 <sup>rd</sup> party audits as a supplementary tool	Agreed in principle	F	F	F – despite a fully independent program being put forward by AAAA, CASA has failed to recognise any 3 <sup>rd</sup> party audit systems. Work is continuing with CASA, but there is concern that ‘recognition’ by CASA will be meaningless and it will continue with its own audit program in addition to industry providing accredited, audited operators.
28	CASA establish a safety risk management hierarchy based	Agreed	F	F	F - CASA has failed to announce any change and has not engaged with industry on this long-standing issue.

	on the classification of operations				
29	Recreational aircraft to be registered by organisations under CASR Part 149	Agreed in principle	C	C	F – No Part 149 orgs have been approved.
30	CASA change to a 3 tier regulatory structure	Agreed in principle	F	F	F – despite industry efforts through TWGs, there is no CASA appetite for less regulation or more effective methods of regulation eg Part 138.  There has been no change in this area and industry has not been consulted over this matter. Regulations continue to be drafted as previously.
31	CASA restructure all regulations not yet made into 3 tier structure and review those already made	Agreed in principle	F	F	F - there has been no change and industry has not been consulted on this issue. Regulations continue to be drafted as previously in a prescriptive format.
32	CASA reassess penalties in the CASRs	Agreed	F	F	F - there has been no change and industry has not been consulted on this issue.
33	CASA apply project management to all unfinished regs and have drafting completed within one year	Agreed	F	F	C – the new ASAP process is working better but is hamstrung by the same project officers refusing to adopt new systems of regulation.  While the ‘6 pack’ and ‘3 pack’ are made, there is evidence that these regs will be extremely problematical when they become extant in 2021. They

					<p>largely retrace the same mistakes as previous regs such as Part 61 where they are overly complex, long-winded, prescriptive and largely ineffective in terms of risk management.</p> <p>Some critical regs such as Part 137 are still not being rewritten to support to 2021 'go' date. AAAA anticipates delays and significant exemptions being required from March 2021.</p>
34	CASA DAS meet with industry to develop an improved SCC	Agreed	F	F	<p>C – the 'new' ASAP and TWG process is more effective, however there is now evidence emerging of the Ops and Standards areas seeking to circumvent the process and ignore ASAP.</p> <p>Some TWGs are being hamstrung by previous project officers continue to maintain opposition to change or a better way of drafting regulations.</p>
35	CASA devolve to DAMES the ability to approve medicals	Agreed in principle	UNK NOW N	C	<p>C – there has been some improvement, but more could be devolved and the 2<sup>nd</sup> guessing of expert medicos by CASA continues.</p>
36	The Government amend regulations to simplify requirements for an ASIC card	Noted	F	F	<p>F - there has been no change and industry has not been consulted on this issue</p>
37	CASA amends the terms of	Agrees in principle	F	C	<p>F- the process is a waste of time and delivers nothing.</p>

	reference for the Industry Complaints Commissioner				The ICC remains secretive and completely unsatisfactory for complainants, including AAAA.
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### Appendix 3 - TAAAF Policy – Aviation 2019

The Australian Aviation Associations Forum is an alliance of the majority of Australia's major aviation associations to ensure the industry presents a united voice to Government on key aviation issues and policy, characterised by expertise and a wide representations of people and organisation committed to aviation. The Association currently comprises 13-member organisations collectively representing more than 12,500 individual and business members.

Industry supports a resilient, independent aviation regulator that employs best practices as measured against international benchmarks. However, the regulator can assist industry to thrive by discharging its obligations with pragmatic and collaborative engagement and consultation. This policy is aimed directly at strengthening and improving the operational and strategic output of the regulator so that it is more effective and efficient while still remaining focussed on continual improvement in safety and risk management. While there are many other issues relevant to aviation policy, the primary focus should remain on ensuring CASAs commitment to modernise and innovate in order to deliver safe and pragmatic objectives through prudent and responsible management while not obstructing the industry's efforts to do the same.

1. **Legislative reform of CASA** - CASA remains in need of substantive reform by way of a major review of the Civil Aviation Act. The proposed Civil Aviation Amendment Bill that lapsed with the 45<sup>th</sup> Parliament should be reintroduced with bipartisan support and include:
  - a. Amendments that address the aviation safety issues and the challenge to the primacy of the Civil Aviation Act raised by the High Court decision in the Outback Ballooning / WHS NT case.
  - b. Addition of the cost and sector risk approach considerations outlined in the previous Bill
  - c. A major readjustment of the CASA Board to have full powers over strategic, operational and administrative direction and actions of CASA
  - d. The CASA Board must have a majority membership of people with significant and relevant experience in the aviation industry
  - e. Change of DAS board membership from director to ex-officio member of the board per standard corporate practice.
  - f. Review of the position of DAS/CEO with a view to revising the responsibilities of the role and increasing accountability to the board of CASA.
  - g. Establishment of a formal consultative mechanism with industry focussing on peak body engagement with both the Board (on strategic issues) and staff on lower level issues
  
2. **Structural Reform of CASA** – CASA structure to be reformed to better reflect industry including the removal of internal bottlenecks and the facilitation of fair and equitable decision making that is consistent across regional and national offices. The legal branch should be adequately resourced and given stronger direction to deliver timely outcomes. Sector Risk Profiles coupled with post implementation reviews of regulatory reform must play a greater role in determining operational policy and CASA structure.

Action is required to ensure that industry requirements are met in a timely manner in accordance with published service delivery targets. Consistent delays in delivery of regular items (medicals, licence processing, etc.) along with regulatory reform, consultation, investigations and other CASA responsibilities create uncertainty for industry and constrain investment.

3. **Matching risk, regulation and cooperation to sector** – In accordance with proposed changes to the Act (see above) and the Minister's Statement of Expectations to CASA, the Board and the CEO/DAS should construct, with close industry involvement, an improved sectoral approach to risk management that aligns CASA's response to individual sectors. In particular, aerial work, private operations and activities involving only informed participants should have a simpler rule set; direct recognition of 3<sup>rd</sup> party audits and industry safety programs in place of CASA involvement; and a greater commitment to research, education and explanation.
4. **CASA Staff and Recruitment Strategy** – With respect to recruitment of CASA leadership and executive, the philosophy should support a recruitment culture representative of industry through relevant experience and knowledge commensurate with respective position requirements. Military experience should not be considered adequate by itself. CASA must establish a recruitment policy that creates a culture of competence, consultation and cooperation relevant to different sectors.
5. **Aviation Training Initiative** - Immediate action must be taken to align aviation training and licence outcomes and support for both pilots and LAMES.

For pilots - recognising all CASA approved training schools delivering a CPL and further specialised training relating to the needs of industry (e.g. aircraft ratings and operational ratings essential to the industry) by granting access to Government sponsored student loan programs or a related loan support program. Recognition of relevant aeronautical experience (e.g. 3-axis experience gained through self-administered organisations) for all flight crew licences.

For maintenance professionals - significant direct investment in apprenticeships for LAMES and further simplification and alignment with existing apprenticeship requirements through CASA regulatory reform. Furthermore, recognising prior learning for trades outside of aviation and creating clear pathways for people with these qualifications to move into the sector.

6. **Continuous Improvement Program for CASA** - Establishment of a joint industry/CASA task force to identify and recommend to the Minister the removal of poor outdated regulations, systems and practices within CASA while also identifying opportunities for cooperation with relevant industry bodies to improve safety. This should also include work with Attorneys General to improve and simplify the current complexity of drafting style in regulation.

**ENDS**

## Appendix 4 - TAAAF Policy – Building Better Regulations

### ***Building Better Aviation Regulations by December 2019***

*A policy paper from TAAAF – March 2018*

#### ***Issue***

Australia's aviation safety record is one of the best in the world. The aim of government regulation should be to provide an effective policy and regulatory safety framework to sustain that record and to adapt to a rapidly growing and changing industry.

The three key objectives in achieving these goals should be to:

- address unmitigated risks relevant to different aviation sectors in a timely manner
- provide easily understood legal requirements as minimum acceptable safety standards and
- not unduly impede the ongoing development of the industry by unnecessary regulatory complexity or associated cost.

As was highlighted by the Aviation Safety Regulation Review (ASRR) report, the development of regulations under the Regulatory Reform Program (RRP) has been hampered by:

- the absence of a strategic policy development framework that is based on an understanding of risk and capabilities relevant to different sectors of the industry, and
- regulatory outcomes that are complex and driven by a legalistic, prescriptive approach to compliance.

The rewriting of Australia's aviation regulations has, as a result, been plagued with issues and disagreements that have dragged on for almost two decades. To say the least, all those involved, both in CASA and in the industry, have acute regulatory fatigue.

The tools to address these regulatory issues are well known and are incorporated into ICAO recommendations and the practices of other leading aviation nations including the US, the EU, Canada and New Zealand. They are addressed in this paper.

#### ***Regulatory program timeframe***

The aim of completing the remaining parts of the regulatory program by end 2018 was initially well received. However, as that deadline gets closer, TAAAF is questioning whether the timetable is achievable.

TAAAF offers the following recommendations for discussion in an effort to identify a new way to manage these regulatory challenges. TAAAF believes that with a clearer regulatory policy and with renewed industry support it should be possible for both the outstanding regulations and remedial action on those regulations that have already been promulgated to be completed within a two-year timeframe.

#### ***Background***

##### ***Strategic Policy Framework***

The ASRR report identified the need for CASA to establish a safety oversight and risk management hierarchy based on a classification of operations to ensure that regulations and surveillance priorities were proportionate to the safety risk.

Without a recognised system for managing risk, CASA and the Aviation Safety Advisory Panel (ASAP) will continue to find it difficult to work through and complete the regulatory program in a reasonable timeframe.

### ***Consultation processes and Aviation Safety Advisory Panel***

CASA has made positive advances in the improvement of the consultative structure through the establishment of the ASAP and industry acknowledges that this is the first critical instalment of an improved regulatory reform system.

However, more work on the 'back end' of the system is needed.

For example, the early work of the ASAP, through the technical working group which has examined the rewritten Part 91, has revealed that while the policy intent has generally been agreed, the resulting draft regulation is not consistent with that policy intent. It has been written in what is now the all-too familiar highly prescriptive and complex legal drafting style.

The establishment of the ASAP process has injected a new level of industry advisory involvement into the regulatory program. The Part 91 example has indicated that to complete the regulatory program it would be helpful for the principles upon which regulations are drafted to be re-examined.

### ***New regulatory drafting principles***

Industry has long been of the view that Australia's safety regulations need to be reduced in size and drafted in a style that is concise and easy to understand by both the regulator and the industry.

To achieve this, the ASRR report called for a change to the drafting framework for aviation safety regulations, specifically for the introduction of a consistent three-tier structure of Acts, Regulations and Standards drafted in a simplified and succinct manner. This was agreed to in principle by the Government. The primary intention of this recommendation was to remove detail out of the regulations, making them short and succinct, with guidance material included at the third tier.

TAAAF believes that the ASAP consultation process will be enhanced if the following principles form the basis of a new regulatory drafting policy:

- Three tiers of regulation being the Act, Regulations/MOS (disallowable instruments) and advisory material including Acceptable Means of Compliance;
- Outcome-based regulations that recognise that the regulator and industry are both responsible for managing risk; and the
- Removal of penalties and strict liability in outcome-based regulations.

TAAAF believes there are advantages of a nuanced three tier structure of Act, regulations/ MOS/ Instruments (disallowable instruments) and advisory material including Acceptable Means of Compliance.

This is the approach which has been broadly adopted by other leading aviation nations. This approach could significantly simplify the task of completing regulatory reform.

### ***Recommendations***

**TAAAF recommends to ASAP that to establish a strategic policy framework, CASA:**

1. Engage with industry through ASAP to identify and develop a policy hierarchy to guide the regulatory development process.



2. Establish a strategic policy framework that includes Board policy statements, DAS Directives and Sector Risk Profiles that will assist in keeping regulatory development and review focused on pre-approved objectives.
3. In pursuing the establishment of a strategic policy framework, develop a clear classification of operations policy that will inform the development of Sector Risk Profiles and regulations based on the different risks facing each sector.
4. Establish a policy development pathway and management system within CASA that ensures decisions taken in the field or at lower levels of the organisation are more clearly visible to senior management and vice a versa.

**TAAAF recommends that for the development of drafting principles, ASAP convene a Technical Working Group to:**

1. Examine CASA's regulatory drafting framework and assess whether it is consistent with the objectives of ASRR recommendations 30 and 31.
2. Make recommendations back to the ASAP on the regulatory drafting framework.

**The TAAAF recommends to ASAP that for the regulatory reform program, CASA:**

1. Re-assess the current timeframe for completion of the regulatory reform program by the end of 2018 - which should include the work involved in producing the remaining regulations and the consultative and legal processes involved. Adequate time needs to be allocated for a review of each regulation by technical working groups commissioned by the ASAP. Allowance may need to be made for significant redrafting which could elongate the timeframe.
2. Establish key principles for regulatory drafting - these issues are discussed in this paper.
3. Consider an alternate timeframe that could involve:
  - Agreement to a new strategic framework to identify risk and required mitigation.
  - Adoption of a nuanced three tier regulatory framework.
  - Agreement to new principles for outcome-based regulatory drafting which could simplify drafting over a shorter timeframe.
  - A program of remedial action to fix the major issues with the existing regulations.
  - A program to complete outstanding regulations.
  - Restatement of the specific involvement of the ASAP and its technical working groups in the review process.
  - A renewed commitment from industry to support the revised program and provide resources to complete it to an agreed timeframe.
  - A two-year program and
  - An on-going stakeholder communications program.

**ENDS**

## Appendix 5 - TAAAF Policy – Revitalising GA

### ***Revitalising General Aviation in Australia***

#### ***A policy paper from the Australian Aviation Associations' Forum***

##### ***Issue***

A series of issues have led to the decline of the general aviation industry in Australia. They are:

- Overly prescriptive regulation impacting on flying and maintenance operations
- A lack of focus on the general aviation sector within Australia's aviation safety regulator
- The failure of Federal and State training policies leading to a shortage of skills
- The cost of access to training airports and facilities

In response to ongoing concerns, the Government has commissioned BITRE to prepare a report into the state of general aviation in Australia which is expected towards the end of 2017.

##### ***Background***

While many issues have contributed to the decline, some of the key barriers to revitalising this important sector are within CASA's ability to remedy.

Currently, the CASA Board and CEO are considering changes to the structure of the organisation and TAAAF suggests there is now an opportunity to remedy some of the management and regulatory issues contributing to the decline.

The key issue is that CASA has struggled with general aviation issues for at least a decade largely because it has not enunciated a clear policy or organisational structure that relates risk and controls to the different needs and capacities of the different sectors it regulates. This has led to a slow and overly complex regulatory reform process and significant new costs and complexity.

TAAAF suggests that implementation of the new organisation structure provides the opportunity to establish a renewed focus on the general aviation sector.

##### ***Recommendation***

TAAAF recommends that CASA:

1. As part of the restructure of CASA a General Aviation Directorate is established to provide both a focus on resolving long standing GA issues and a more relevant regulatory stance towards the sector as identified in the ASRR.
2. Resume the work undertaken by CASA on a classification of operations and, in consultation with industry, provide an overt statement of intent in terms of risk management and regulation of general aviation with the aim of maintaining safety while reducing cost and red tape.
3. Revive the previous work on Sector Risk Profiles and for existing SRPs establish, jointly with industry, an implementation plan and key performance indicators for each sector, with an initial focus on aerial work sectors. Where existing SRPs identify risk controls that are the responsibility of CASA, move urgently to implement the risk controls, including recognition of industry programs as identified.

**ENDS**

## **Appendix 6 - TAAAF Policy – Engineering Training**

### ***ENGINEERING AND TRAINING FOR THE AUSTRALIAN AVIATION INDUSTRY***

***A Policy Paper from The Australian Aviation Associations' Forum (TAAAF) - October  
2017***

#### ***Issue***

Australia has international treaty obligations to ensure our suite of aviation regulations is compliant with regulations issued by the International Civil Aviation Organisation.

Australian Aircraft can only be maintained by suitably qualified and experienced Licenced Aircraft Maintenance Engineers (LAMEs). LAMEs who are required to hold a national licence issued by the Civil Aviation Safety Authority (CASA). The current LAME training regulatory and funding framework is producing training where Australian-issued licences are not fully compliant with the ICAO regulations and as a result are not recognised internationally. This situation has created major issues for the Australian aviation industry.

#### ***Background***

In 2004/5 the then Minister gave a direction to CASA that, as far as possible, the Civil Aviation regulatory suite was to focus on enabling mutual recognition and international harmonisation. Around the same time COAG directed that training for jobs requiring licences be conducted under the National VET system. Thus CASA transitioned its traditional role of assessing licencing from its internal resources to the Registered Training Organisations (RTO) sector under Australian Skills Quality Authority (ASQA).

In recent years in particular, the engineering training framework has all but collapsed in this country. In 2009 there were 779 apprentices, in 2013 the number was 398, and by next year it is estimated there will be fewer than 100.

In 2007 there were several aviation engineer training providers including 6 major facilities, and in 2017 there are only 4 approved to conduct training to a licence standard, of which two are relatively small. This is due to a number of reasons but there are two significant issues. Firstly there is a lack of a transparent training pathway for students to enter the industry and identify and career pathway and secondly, the funding arrangements for RTOs across the various States are confused and diverse. Additionally, these RTO's are now required to have an additional CASA Approval, namely as a Maintenance Training Organisation (MTO).

The first issue is well in hand. CASA is working collaboratively with the industry, including the Australian Defence Force and a complete review of the training regulations is underway. CASA, under the new CEO, is to be congratulated on this fresh approach.

The second issue may not be so straight forward to resolve, particularly in the detail. Essentially, a single organisation is required, to fund and oversight the compliance of RTOs in order to deliver nationally consistent training that will meet the CASA standards found in the proposed regulations. These soon to be amended regulations need to be fully compliant with International Civil Aviation Organisation (ICAO) thereby ensuring the new LAME will be both trained to an appropriate level and their qualification will be recognised globally.

#### ***Recommendation***

That the Federal government assume control over the funding and management of the training requirements specified by CASA in order to produce appropriately skilled engineers whose licences include greater scope and are recognised internationally.

**ENDS**