

Committee Secretary  
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## Operation and effectiveness of the Civil Aviation Safety Authority (CASA) and other relevant aviation agencies

I am a retired CEO and company director with a background in technology research, development and commercialisation, and in international business. I am also a private pilot with a private instrument rating (PIFR) and more than 2800 hours flying experience. I own an aircraft which I use regularly for a variety of private purposes, all of which involve regular operations to and from regional airports.

### Overview

I applaud the decision to hold this review but add that yet another review of CASA and the aviation industry would not be necessary. If the recommendations of the Aviation Safety Regulation Review report released in May, 2014 had been implemented effectively, many of the problems that plague general aviation today would have been resolved.

The ASRR report stated that *“Leading regulators across the world are moving to performance-based regulation, using a ‘trust and verify’ approach, collaborating with industry to produce better safety outcomes and ensuring the regulator stays in touch with rapidly advancing technology and safety practices. On occasions, individual operators may push the boundaries and require close regulatory oversight and a firm regulatory response. An effective risk-based regulator will judge when a hard line is necessary.”*

*Other countries with advanced aviation regulatory systems have developed collaborative relationships between their regulators and industry, leading to open sharing of safety data. Due to the present adversarial relationship between industry and CASA, Australia lacks the degree of trust required to achieve this important aim. Sharing safety data is a fundamental principle of good safety management.”*

Despite claims by CASA that it has acted on all of the recommendations, there is no evidence of a “trust and verify approach” or “collaborative relationships” between CASA and general aviation.

### **1. Application of the *Civil Aviation Act 1988* and the *Civil Aviation Safety Regulations 1998* to Australia's aviation sector, and whether the legislation is fit for purpose;**

#### **The current Act is not applied as required.**

The Act requires a regulatory framework “for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.” It refers to civil aviation in general and does not distinguish among the various sectors. However, CASA has chosen to delegate its responsibilities for the recreational sector to an independent commercial organisation (Recreational Aviation Australia). In principle, delegation of authority should be, and generally is, welcomed. However, in the case of recreational aviation, it has done nothing to “prevent(ing) aviation accidents and incidents”. It is evident that accident and incident rates in the sector are significantly higher than in any other sector of civil aviation yet there is no evidence that CASA is pro-active in redressing an obvious safety matter for which it is ultimately responsible under the Act.

***What can be done*** – CASA should be directed to review the performance of all of the ASAOs (Aviation Self Administering Organisations) to which it has delegated responsibility for aviation safety, and take urgent action to reduce the accident rate in the recreational aviation sector.

**The current Act is not fit for purpose.**

The main objective of the Act is stated in 3A *Main object of this Act*, viz. “to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.”

While nobody disputes the importance of safety, it should not be the only objective of a Civil Aviation Act. Ignoring the importance of encouraging aviation, particularly general aviation, means there is no requirement to ensure a thriving aviation sector.

Other jurisdictions also have safety as an essential objective but they also recognise that there is much more to civil aviation than safety.

For example:

1. USA

The objectives of FAA include:

- encouraging and developing civil aeronautics, including new aviation technology;
- developing and operating a system of air traffic control and navigation for both civil and military aircraft;
- researching and developing the National Airspace System and civil aeronautics;
- developing and carrying out programs to control aircraft noise and other environmental effects of civil aviation; and
- regulating U.S. commercial space transportation.

2. New Zealand

The CAA “strives to perform its safety and security regulatory functions and deliver its aviation security services in a way that:

- supports economic growth and productivity;
- balances being an effective regulator with enabling the New Zealand aviation sector to prosper; and
- demonstrates value for money.”

3. UK

The CAA “plays its part in contributing to GA as a thriving activity with growing employment enabled by minimised red tape and burden.”

The absence from the Act of any requirement to ensure a viable and thriving general aviation sector removes any incentive for CASA to regulate only when necessary; to do so proportionately; to regulate where necessary and delegate where possible; and to minimise the amount and burden of red tape.

***What can be done*** – The Civil Aviation Act should be amended to include a requirement and incentive for CASA to:

- *balance being an effective regulator with enabling the Australian general aviation sector to prosper;*

- *regulate only where necessary and delegate where possible;*
- *reduce the amount and burden of red tape;*
- *ensure regulations are clear, concise and understandable;*
- *support economic growth and productivity; and*
- *demonstrate value for money.*

### **The current Regulations are not fit for purpose.**

The Civil Aviation Amendment (1998) provided for a regulatory reform program with the objective of replacing the Civil Aviation Regulations and Civil Aviation Orders with new Civil Aviation Safety Regulations. The principles to be applied in the program were that the new regulations:

- are harmonised internationally with the US Federal Aviation Regulations (FARs) and the European Joint Aviation Regulations (JARs);
- are clear, concise and understandable;
- have a safety outcome approach;
- are enforceable;
- avoid over-regulation; and
- are consistent with the role of CASA.

CASA announced in January, 2020 that the program is now complete. However, few, if any, pilots, aircraft engineers or others in the aviation industry would agree that the new regulations meet the principles above. The regulations are certainly not “clear, concise and understandable”; they do not “avoid over-regulation”; and some do not have a safety outcome approach. For example, the only justification for Part 61 is harmonisation with ICAO but the result is a pilot licence document that comprises 16 pages (larger than my 1975 licence) with no impact on safety.

Despite the decades of work and enormous costs expended on re-writing the CASRs, the results cannot be considered an improvement; if anything, they are a retrograde step. We now have a suite of regulations that are even larger than before, and among the most verbose, complex and confusing in the developed world.

The most serious consequences of the changes have been the loss of small, regional flying schools, charter operators and GA maintenance organisations, all of which are now almost non-existent; far less accessible training for new maintenance personnel; and a serious shortage of well qualified LAMEs.

***What can be done*** – *The industry does not want another re-write of the Regulations but CASA should be directed to review the existing Regulations to remove any where similar outcomes can be achieved by non-regulatory means such as voluntary codes of practice; and to ensure they are clear, concise and understandable by the people who use them i.e. pilots, aircraft engineers etc. CASA senior management should be given unequivocal targets and timetables for the tasks and failure to meet the targets and timetables should have serious consequences.*

## **2. The safety and economic impacts, and relative risks, of CASA's aviation safety frameworks**

Safety outcomes should be the primary performance indicator against which CASA is judged. Sadly, despite 30 years of the regulatory reform program, there has been no improvement in safety in general aviation.

The ATSB report Aviation Occurrence Statistics 2008 – 2017 states “The number of fatalities in general and recreational aviation during 2017 were consistent with the previous nine years.” The same report also notes “Recreational aviation, medical transport, remotely piloted aircraft systems, aerial work, flying training, recreational aeroplanes, survey and photography, sports aviation, and search and rescue all showed an increase in the number of occurrences which were reported to the ATSB over the study period.”

With recent advances in the technologies available for pilots, aircraft and air traffic controllers (e.g. GPS navigation, ADS-B transponders, engine monitoring systems etc.), it seems entirely reasonable to expect the relative risks involved in general aviation to reduce significantly. However, as noted above, CASA’s ever-increasing regulations have failed to deliver an improvement in safety in the GA sector.

Either the Regulations are ineffective, or CASA lacks the ability to implement them. Many in the industry would say both apply. Furthermore, as other jurisdictions have recognised, regulation is not always the best way to solve safety problems.

As noted above, there have been substantial economic impacts from the changes to the CASRs. The changes, together with their increased volume and complexity and the costs of compliance, have led to the losses of small, regional flying schools, charter operators and GA maintenance organisations, a reduction in convenient access to training for new pilots and maintenance personnel and a serious shortage of well qualified LAMEs.

The 2019 change to the Act requires CASA to “to take into consideration the impacts of costs and the relative risk environment of the different aviation industry sectors.” Unfortunately, the amendment imposes little, if any, additional pressure on CASA to change the way they regulate general aviation.

**What can be done** – *the Act should be amended to include requirements and incentives for CASA to:*

- *balance being an effective regulator with enabling the Australian aviation sector to prosper;*
- *regulate only where necessary and remove regulations that have no safety benefit;*
- *ensure regulations are clear, concise and understandable;*
- *support economic growth and productivity; and*
- *demonstrate value for money.*

### **3. The immediate and long-term social and economic impacts of CASA decisions on small businesses, agricultural operations and individuals across regional, rural and remote Australia**

The following comments apply only to the impacts on individuals; there are no comments on the impacts on small businesses and agricultural operations.

Legislative Instrument CASA 09/19 — Civil Aviation (Community Service Flights — Conditions on Flight Crew Licences) Instrument 2019 has directly increased the maintenance costs, convenience and satisfaction of volunteering to assist community service flight organisations.

In my own case, my aircraft maintenance costs have increased by about 30 % annually. Because my aircraft is used occasionally for community service flights and typically logs 120 – 150 hours per year, it is now required to have a periodic inspection after 100 hours rather than 12 months. The

aircraft did not suffer from any maintenance related safety defects during the many years it was maintained under its previous, CASA approved, system of maintenance and there is no evidence that the aircraft will be safer under the new inspection regime.

The same Instrument imposes very inconvenient restrictions on a pilot's ability to determine who can travel as a passenger on a community service flight. For example, a pilot is now prohibited from taking a spouse, another family member or a friend as a passenger unless that person is a member of the flight crew. As with the maintenance regulation, CASA is unable to demonstrate any safety benefit from this restriction and it is more likely that an additional passenger, even a non-pilot, will enhance safety.

It is universally recognised that community services flights are vital for Australians living in regional, rural and remote locations so anything that reduces the availability of these services without a demonstrated safety benefit creates a significant disadvantage for those rural residents who rely on the services.

**What can be done** – *Legislative Instrument CASA 09/2019 should be withdrawn and CASA should be directed to collaborate with organisations providing community service flights to develop mutually acceptable voluntary codes of practice.*

#### **4. CASA's processes and functions**

i. **its maintenance of an efficient and sustainable Australian aviation industry, including viable general aviation and training sectors;**

As noted earlier, nobody disputes the importance of safety but the Act and, therefore, CASA, ignore the importance of encouraging aviation, particularly general aviation.

CASA is not required by the Act to ensure a thriving aviation sector and there is no evidence that CASA does anything constructive to enhance general aviation in flying training, aircraft maintenance or general flying. At best, it pays nothing more than lip service to the economic implications of its regulations.

ii. **the efficacy of its engagement with the aviation sector, including via public consultation;**

It is evident that, while many individual CASA employees are highly regarded and respected in the general aviation community, the organisation itself is held in very low esteem by the vast majority of GA participants. The previous Aviation Safety Regulation Review report recognised CASA's poor relationship with the aviation industry and, despite attempts to prove otherwise, there has been little improvement since then.

(a) CASA, rightly, makes extensive use of IT in its engagement with the GA industry, but senior CASA personnel appear very reluctant to engage directly with industry participants. While IT systems enable very efficient communications, they are remote and impersonal; without a component of face-to-face interaction at a senior level, CASA misses (or, perhaps, deliberately avoids) valuable opportunities to properly gauge the sentiment of the GA community, to debate openly the implications of proposed changes to regulations, and to begin to rebuild the trust and respect of the GA community.

- (b) CASA also appears to make only token efforts to adhere to its own nine principles underpinning its regulatory philosophy. Two glaring examples are the debacle that was the introduction of Part 61, and the more recent Legislative Instrument CASA 09/19 for which CASA was severely criticised by the RRAT Senate inquiry in 2019.
- (c) A common criticism of CASA has been, and remains, that the interpretation of parts of the CASRs varies depending on which CASA employee is consulted. It is a common complaint that different interpretations of a particular regulation can be received different CASA personnel. At times, it is also difficult to obtain a clear and unequivocal clarification of a rule from even very senior CASA employees. If there is confusion within the organisation that creates the regulations, there will be greater confusion within the aviation community subjected to those rules. Despite assurances from CASA management that the problem has been acknowledged and is being addressed, it continues to frustrate many GA participants.

CASA's engagement with the GA sector is ineffective, inefficient and does nothing to improve the respect for the organisation within the general aviation community.

**What can be done** – *CASA senior management should be required to engage directly with organisations within the general aviation sector.*

iii. **its ability to broaden accessibility to regional aviation across Australia, considering the associated benefits of an expanded aviation sector**

CASA has neither the ability nor the incentive to encourage or expand the aviation sector while the sole objective of the Act is safety through regulation.

A vibrant general aviation sector can provide invaluable services to regional and rural Australians and, indeed, all Australians by:

- offering much greater route and time flexibilities than scheduled services;
- operating into smaller local airfields that are easier and cheaper to maintain;
- catering for the much smaller passenger loads that are characteristic of small regional towns;
- enabling newly licensed commercial pilots to gain essential practical flying experience under a wide range of conditions not readily available in RPT operations;
- creating employment opportunities for young people in regional towns, not only as pilots but also in maintenance and other aviation related activities.

**5. Other matters**

Although unrelated to the Civil Aviation Act, aspects of the aviation security regime are significant frustrations for, and impose substantial costs upon, pilots, airlines and regional communities.

- (a) Passenger screening is expensive to install and operate. At small regional airports, the costs must be borne by small numbers of passengers, adding substantially to their air fares. Since the risks of terror related incidents must be very low at these airports, it would seem more cost effective to screen these passengers on arrival at major airports before they transfer to other flights.

- (b) Security fencing at regional airports is farcical in many instances. There are airfields with security fencing in the vicinity of the terminal area but basic stock fencing around the remainder of the airfield. It is doubtful that security fencing entire airfields in isolated locations would have any real impact on aviation security but it would, at least, reduce the risks of aircraft colliding with wildlife and, therefore, improve safety.
- (c) Perhaps the greatest annoyance for general aviation pilots is the requirement to hold a valid ASIC for any airport that has RPT activity. There are numerous regional airports where RPT flights operate on only a few days each week; even at airports with multiple daily services, there are long periods where there is no RPT activity; there are also airports where the general aviation activity is a considerable distance from the RPT area. Fortunately, with a few exceptions, most regional airports take a sensible approach to this requirement and GA pilots' ASICs are rarely inspected.