

Rural & Regional Affairs and Transport Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Supplementary Budget Estimates October 2012
Infrastructure and Transport

Question no.: 148

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: OH&S protocol

Proof Hansard Page/s: 73-74 (16/10/12)

Senator GALLACHER asked:

Senator GALLACHER: I asked a question on notice regarding a protocol for dealing with OHS concerns raised by airline personnel. I thank CASA for the education you have given me by responding and saying that, yes, you do have one. So my supplementary question is: can I get a copy of the written protocol and an indication of the number of OHS concerns raised with CASA by airline personnel?

Mr J McCormick: Yes, we will take that on notice.

Answer:

CASA has a protocol for dealing with the receipt and use of safety related information it receives, from airline personnel or anyone else (copy attached). This is consistent with provisions in CASA's Enforcement Manual. CASA has no specific OH&S jurisdiction, and hence no authority to deal with matters having exclusively OH&S-related implications. If a safety-related concern is raised that may also have an OH&S component, CASA will examine and deal with the aviation safety-related aspects of such matters only.

148 – Attachment A

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Question no.: 149

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: Casino Aerodrome

Proof Hansard Page/s: 74 (16/10/12)

Senator FAWCETT asked:

Senator FAWCETT: Mr McCormick, last estimates we spoke about the role CASA has in aviation safety. We talked about the heads of power that you have to influence safety at an ALOP aerodrome that is not directly controlled by the department. We talked about, for example, a body of water that could attract birds. You asked for a specific example and I gave you the example of Casino. What response can you give now in terms of your investigation into what actions have occurred?

Mr J McCormick: Are you referring to a question on notice? I do recall a discussion.

Senator FAWCETT: Yes, we had the discussion. Just looking at the transcript here, the flow got interrupted and I do not know whether it was recorded as a formal question on notice. But there was an undertaking to look into it, so I am just wondering whether that has been looked into. In what way are you able to exercise that head of power where there is a safety issue at an aerodrome that is not a leased federal aerodrome?

Mr J McCormick: Sorry, I do not think we captured that as an actual question. Is it acceptable for me to take that on notice now and get back to you next time?

Senator FAWCETT: If you could take it on notice now, that would be great. Thank you.

Answer:

CASA has limited powers in respect of aerodromes that are not certified or registered. In accordance with Civil Aviation Safety Regulation 11.245, CASA may issue a direction about any matter affecting the safe navigation and operation of aircraft. That provision is very broad but must be reasonably exercised so that it is likely that CASA would only give directions about limiting or stopping aircraft movements at a place rather than the removal of features such as dams (depending on the nature of the threat to aviation safety).

CASA may also designate an area of Australian territory to be a prohibited area, a restricted area or a danger area. Regulation 6 (4) of the Airspace Regulations 2007 states “CASA *must not declare an area to be a danger area unless, in the opinion of CASA, there exists within or over the area an activity that is a potential danger to aircraft flying over the area*”.

A pilot who lands or takes off from a place that in all the circumstances is not a suitable place for use as an aerodrome for the purposes of the landing or taking-off would contravene Civil Aviation Regulation 92(1) and could be subject to CASA enforcement action.

In the absence of direct regulatory control over uncertified or unregistered aerodromes, CASA publishes advisory information in Civil Aviation Advisory Publication (CAAP) 92-1(1), which sets out the minimum requirements for physical characteristics, marking,

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lighting, condition of the runway pavements as well as environmental considerations. This advisory material makes clear that a pilot should not use a landing area or have an aeroplane engine running unless the aeroplane is clear of all persons, animals, vehicles or other obstructions; and that a pilot should not use a landing area without taking all reasonable steps to ensure the physical characteristics and dimensions are satisfactory. For aerial work and charter operations the operator should provide evidence to the pilot on the suitability of a landing area prior to its use.

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Question no.: 150

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: Maintenance Regulations

Proof Hansard Page/s: Written

Senator NASH asked:

1. Can the department clarify whether the new regulations, and specially those contained in CASA Part 21, Subpart M, applies to the General Aviation industry?
2. Did the department adequately consult with all key stakeholders, including the AMROBA (Aviation Maintenance Repair and Overhaul Business Association), as to the scope of these changes and to which sectors of the industry they will apply before enacting the changes?
3. If so, can the department explain why there is so much confusion surrounding the impact of these new regulations?
4. Has the department sought to clarify, beyond the statement released by the Director of Aviation Safety, the effect of the new regulations on the industry since its implementation?
5. How advanced is the department in its steps to introduce new regulations relating to maintenance standards for the rest of the industry if the General Aviation industry is not covered by the changes recently implemented?

Answer:

1. Civil Aviation Safety Regulation (CASR) Part 21 Subpart M has application to all sectors of the aviation industry. Of the other maintenance regulations:
 - CASR Parts 42 and 145 which cover the continuing airworthiness and approval of maintenance organisations only apply to Regular Public Transport operations.
 - CASR Parts 66 and 147 apply to the licensing of maintenance personnel and approval of maintenance training organisations across the industry.
2. Yes. CASA consulted on the maintenance regulations with a broad range of stakeholders including AMROBA.
3. The new suite of maintenance regulations that came into effect in late June 2011 only applies to operators and maintainers of regular public transport aircraft. At the time CASA clearly and publicly stated: "Revised maintenance regulations for other sectors of aviation such as charter, aerial work and private operations will be developed at a later date, after wide consultation with these sectors."
4. CASA has made a number of announcements and has undertaken discussions with the aviation industry.
5. CASA has been working, in conjunction with representatives from the aviation industry, on proposals for new maintenance regulations for the general aviation sector. These will be subject to a consultation process which will include the release of discussion papers, notices of proposed rulemaking and draft regulations and which will give industry ample opportunity to comment.

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Question no.: 151

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: Wind farms and Crookwell aerodrome

Proof Hansard Page/s: Written

Senator HEFFERNAN asked:

1. On 18 May 2012, Ministers (Federal & State/Territory) agreed to implement the Safeguarding Framework at the Standing Council on Transport and Infrastructure (SCOTI) meeting – were wind turbines discussed at this meeting, and if so, what discussions took place, what outcomes/policies were released in relation to wind turbines? Please provide details.
2. The DOIT website states “Obstructions in the vicinity of an airport have the potential to create air safety hazards and to seriously limit the scope of aviation operations into and out of the airport. Activities that could result in a penetration of the protected airspace must be approved prior to the proposed penetration” – do wind turbines fall into this category? Please provide details.
3. In relation to CASA Project AS 06/07 Assessment of obstacles including wind turbines and exhaust plumes in the interest of public safety, can you please provide a copy of this Report? If not, why not?
4. Is this report available to the public, if not, why not? Please provide details.
5. It appears there is currently no legislation covering the protection of aerodromes from wind turbine obstructions, turbulence and wake plumes, and although the DOIT Guidelines D is an attempt to furnish guidelines, there still is no legislation. Is this correct? Is legislation being considered by CASA and the government?
6. My understanding is the Project AS 06/07 was to address this deficiency, having resulted from industry lobbying the authorities, and by your website’s own admission Project AS 06/07 established a report that was never released. Is this correct?
7. Can CASA provide details of ALL industry and stakeholder submissions in relation to Project AS06/07?
8. In Advisory Circular 139-18(0) Sept 2004, “5.1 CASA strongly discourages the siting of wind turbines in the vicinity of an aerodrome” – does CASA still support this statement?
9. What are CASA’s guidelines in relation to air space between aerodromes and wind turbines?
10. Is the designated air space regulation supposed to be 30kms?
11. How many reported aircraft accidents/incidents have occurred at Crookwell aerodrome for past 10 years?
12. Has CASA had any dealings with Aviation Projects Pty Ltd? If so, please provide details with dates and description of dealings?
13. Has CASA had any dealings with the company Goldwings, owners of the Gullen Range Wind Turbines near Crookwell? Is so, please provide details.
14. Has CASA been involved in the decision in relation to the 11 Turbines which were removed at Crookwell by the NSW Land and Environment Court?

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15. What is CASA's policy of lighting of wind turbine structures? Is there a policy? If not, why not?
16. Mr Paul Trotman (Manager, CASA Corporate Relations) in a letter to a concerned constituent (dated 7 December 2009) admitted "at the present time CASA has no regulatory power over obstacles not in the vicinity of a registered or certified aerodrome. CASA has, however, commissioned a review into how to identify and manage the risks associated with man made obstacles, including wind farms which are located outside the vicinity of certified and registered aerodromes" – has this review been undertaken and published? Is so, can we have a copy? Please provide details of the findings? If not, why not?
17. CASA proposed to develop a suite of regulatory requirements relation to such obstacles – has this occurred, please provide details of the regulations?
18. Does CASA liaise with State/Territory Departments of Planning in relation to location of wind farms?
19. Can CASA overturn the development and location of wind farms in Australia? If so, are there regulations and legislation? If not, why not and will CASA be undertaking more regulations?
20. Has CASA and the Department Of Infrastructure and Transport commissioned any proper scientific evaluation/studies and measurement of wind farm wake plumes, to actually come up with a determination of a safe distance and allow for a buffer zone around aerodromes: circling areas, Procedures for Air Navigational Services— Aircraft Operations (PAN-OPS) and Obstacle Limitation Surface (OLS), irrespective of the registration status of the aerodrome or an infrastructure that regularly supports aircraft landings. Please provide details of these studies.
21. Considering the wind turbines near Crookwell NSW are on the top of the hill, which is 320 ft above the Crookwell aerodrome making it approx 800 plus ft total height, sometimes the top of the hill is in the mist, with south easterly winds in the summer and low cloud in the winter, is ATSB concerned about the safety of helicopters (eg South Care) and fixed wing flying through the gap under low cloud, would ATSB undertake a review? Or only undertake a review once an accident/ incident occurs? Please provide details?

Answer:

1. The National Airports Safeguarding Framework, agreed by the Standing Council on Transport and Infrastructure on 18 May 2012, included agreement of *Guideline D: Managing the Risk of Wind Turbine Farms as Physical Obstacles to Air Navigation*.
2. Proponents of tall structures around the 21 leased federal airports, including wind turbines, which will intrude into prescribed airspace, must seek an approval under the Airports (Protection of Airspace) Regulations 1996.
3. A copy is attached.
4. The Report had limited distribution to workshop participants and was published on the Standards Consultative Committee Airspace and Infrastructure Users Group internet Forum in July 2010. The report was not made public as its subject matter was largely overtaken by initiatives of the National Airports Safeguarding Advisory Group and Airspace Protection Taskforce which are facilitated by the Department of Infrastructure and Transport.

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5. There is legislation providing very limited protection to federally leased, certified and registered airports, but not uncertified or unregistered aerodromes.

An Airspace Protection Taskforce has been established to examine the current Commonwealth legislative, regulatory and administrative arrangements concerning airspace protection at, around and beyond aerodromes in Australia. This Taskforce is led by the Department of Infrastructure and Transport.

6. See answers to questions 3 and 4.
7. While Aviation Projects Pty Ltd (the company contracted to carry out the research) consulted with stakeholders in the preparation of the report, CASA has no record of any submissions made as part of that process. The report was published on the Standards Consultative Committee Airspace and Infrastructure Users Group Forum website and no submissions were made in response to that posting.
8. Yes.
9. CASR Subpart 139E – titled Obstacles and Hazards requires aerodrome operators to establish the Obstacle Limitation Surfaces (OLS) for certified and registered aerodromes in accordance with published standards. The OLS can extend as far as 15 km from the end of the runway depending on the size of the aerodrome. At uncertified and unregistered aerodromes, guidelines are provided as to the minimum obstacle protection and this is normally not more than 1 km from the end of the runway.
10. In addition to the OLS, designated flight procedures at certified and registered aerodromes established under the Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) may extend as far as 30 km from the end of the runway.
11. From 2002 the ATSB reports one incident at Crookwell airstrip in September 2009 involving a tractor being driven onto the airstrip.
12. CASA has had a number of contacts with Aviation Projects Pty Ltd, as this company provides consultancy services on a variety of aviation related developments including aerodromes. In respect of wind farms CASA records show correspondence with Aviation Projects Pty Ltd, requesting CASA’s regulatory advice in respect of (i) the Gullen Range wind farm in April/May 2010 and August 2012, (ii) the proposed Palings Yard wind farm in August/September 2011 and (iii) the proposed Salt Creek wind farm in September 2011.
13. Not directly, but as noted above, CASA received correspondence from Aviation Projects Pty Ltd advising that Goldwind Australia Pty Ltd planned to commence construction of the Gullen Range wind farm.
14. No.
15. In relation to certified or registered aerodromes, Civil Aviation Safety Regulation Subpart 139E enables CASA to make a determination that a structure is hazardous because of lack of marking or lighting. CASA can publish in the Aeronautical Information Publication particulars of the hazard. If such an aerodrome is “open to public use by aircraft engaged in international air navigation or air navigation within a territory”, Civil Aviation Regulation 95 enables CASA to require that the obstacle be lit or removed.

The Civil Aviation (Buildings Control) Regulations 1988 provide that a person may construct a building or structure (or construct a building or structure above a certain height in certain areas around an airport) only in accordance with an approval given under the Regulations by CASA or a person authorised by CASA. This only applies to a proposed construction at the following airports: Sydney (Kingsford Smith), Bankstown, Moorabbin, Adelaide, Melbourne and Essendon. An approval may be refused if the

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obstacle will be a hazard to aviation or affect the operation of the airport. If an approval is given, a condition of an approval may require the obstacle be marked or lit.

The Department of Infrastructure and Transport has responsibility for protecting the airspace around leased Federal airports under Part 12 of the *Airports Act 1996* and the Airports (Protection of Airspace) Regulations 1996. The Secretary of the Department may approve a proposal subject to a condition that a building, structure or thing be marked or lit.

If a proponent of the wind farm chose to provide obstacle lighting, CASA would recommend that it be provided in accordance with the standards specified in section 9.4 of the CASR Part 139 Manual of Standards (MOS).

16. See answers to questions 3 and 4.

17. See answers to questions 3 and 4.

18. Requests for CASA's views are received from proponents and local planning authorities relating to proposed wind farm developments. CASA must be advised by proponents and local planning authorities of the proposed construction of all wind turbines which infringe the Obstacle Limitation Surface (OLS) of certified or registered aerodromes or the PANS-OPS surfaces of certified or registered aerodromes that have published terminal instrument flight procedures. CASA will provide advice to the proponent on whether the proposal is acceptable from an aviation safety perspective.

19. See response to question 15. The Airspace Protection Taskforce is reviewing the adequacy of current legislation and regulations.

20. CASA is not aware of any study conducted to measure wind farm wake plumes. CASA is following work already done overseas, particularly the work being done by the UK Civil Aviation Authority.

21. See response to 158 (4).

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Question no.: 152

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: OH&S Rules

Proof Hansard Page/s: Written

Senator XENOPHON asked:

Senator Gallagher asked a question on notice (No 93) at Budget Estimates in relation to OH&S. My questions are:

- (a) For an aircraft in flight, what OH&S rules apply when it comes to hazards or injuries to passengers or crew?
- (b) Who is the responsible agency?

Answer:

Under the civil aviation legislation, all aircraft operators are required to have an Operations Manual and operators authorised to conduct regular public transport (RPT) operations are required to have a Safety Management System (SMS).

An operator must be able to demonstrate to the Civil Aviation Safety Authority (CASA) that they have developed an effective hazard identification and risk management process as part of their SMS and that this has been communicated to all operational personnel.

These personnel in turn must have received appropriate training in hazard identification so as to more effectively identify potential hazards in their workplace and report them into the SMS.

The broader application of OH&S legislation is a matter for the Department of Education, Employment and Workplace Relations.

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Question no.: 153

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: International Flights

Proof Hansard Page/s: Written

Senator XENOPHON asked:

I asked you about the distinction between “an international flight sector and a domestic flight sector?” You replied that those terms are not used in the Act. Forgive my imprecision, but the term international as a description of flight operations occurs quite often in the Civil Aviation Act, for example in s21(2) the phrase “aircraft engaged in interstate or **international air navigation** or air navigation within, to or from a Territory” is used. Similarly, s26 is titled “Aircraft on **international** flights to have permission”.

- (a) How does CASA determine if an aircraft is engaged in international air navigation or characterised as an international flight?
- (b) And at the risk of being repetitive, in the context of the regulatory responsibilities of CASA, can a flight be characterised as both an international flight sector and a ‘non-international’ flight?
- (c) Do you take the formulation in s21(2) to indicate that the alternative forms of ‘air navigation’ are mutually exclusive?

Answer:

- (a) The word international or the term “international flight” is not defined in the *Civil Aviation Act 1988*. Accordingly, CASA will resort to the ordinary dictionary meaning of the word “international”. Accordingly, CASA treats a flight as an international flight if it is to or from a place in Australia from or to a place outside of Australia (i.e. another country).
- (b) No. Not for the purposes of the civil aviation legislation.
- (c) Yes.

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Question no.: 154

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: Jetstar surveillance

Proof Hansard Page/s: Written

Senator XENOPHON asked:

I asked you about in-cabin line surveillance of the final sectors of the Jetstar ‘tag’ flights. You responded that you have conducted in-cabin line surveillance of “Jetstar’s international operations”. Obviously my previous question wasn’t specific enough.

- (a) How many in-cabin line surveillance flights have been conducted on Jetstar aircraft for each of the last 4 financial years?
- (b) How many in-cabin line surveillance flights have been conducted on Jetstar aircraft engaged in international air navigation for each of the last 4 financial years?
- (c) How many in-cabin line surveillance flights conducted on Jetstar aircraft engaged in international air navigation have involved sectors between Australian airports (i.e., ‘interstate’ air navigation) for each of the last 4 financial years?

Answer:

- (a) CASA has conducted ten in-cabin line surveillance flights on Jetstar aircraft over the last four financial years (2009-2013):
 - 2009-2010: 4
 - 2010-2011: 0
 - 2011-2012: 3
 - 2012-2013: 3
- (b) CASA has conducted four in-cabin line surveillance flights on Jetstar aircraft engaged in international air navigation over last four financial years (2009-2013):
 - 2009-2010: 0
 - 2010-2011: 0
 - 2011-2012: 2
 - 2012-2013: 2
- (c) CASA has not specifically targeted in-cabin line surveillance on Jetstar flights involving international sectors between Australian airports (i.e. ‘interstate’ air navigation) for each of the last 4 financial years.

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Question no.: 155

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: Access to ATSB reports

Proof Hansard Page/s: Written

Senator XENOPHON asked:

The proposal by the ATSB to provide CASA open access to mandatory reports has been brought to my attention. I believe that this access is not currently available.

- (a) Has CASA been active in seeking access to this information?
- (b) If such access becomes available, will there be any restriction on CASA initiating enforcement action based on information in those mandatory reports?
- (c) Does CASA believe that the granting of open access to mandatory reports will have an adverse impact on aviation safety reporting?

Answer:

A Memorandum of Understanding (MOU) between CASA and the ATSB is publicly available on the ATSB web site and contains a clause advising that ATSB will provide notification reports to CASA on a daily and weekly basis. The ATSB Notification form posted on the ATSB website has a privacy notice which states: *The Australian Transport Safety Bureau collects information for the purposes of enhancing transport safety. The collection of aviation incident information is required in connection with the Transport Safety Investigation Act 2003. Some information may be disclosed to the Civil Aviation Safety Authority (CASA) and other bodies or individuals for the purpose of enhancing aviation safety. Where possible the identity of individuals will be protected. If the information is the subject of an investigation, it will only be used and disclosed in accordance with the Transport Safety Investigation Act 2003.*

These arrangements have been in place for some time – the ATSB notification form was updated in 2008 and the current MOU was signed in February 2010. CASA believes that appropriate access to some ATSB notification information will not have an adverse impact on aviation safety reporting.

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Question no.: 156

Program: n/a

Division/Agency: (CASA) Civil Aviation Safety Authority

Topic: A380 Airport Ratings

Proof Hansard Page/s: Written

Senator EGGLESTON asked:

1. What airports in Australia are rated to *regularly* accommodate A380 movements?
2. What airports in Australia are rated to accommodate A380 movements in emergency circumstances (e.g. medical diversion)?

Answer:

1. Sydney and Melbourne.
2. Any aerodrome that meets the operational requirements of the A380.