

Comments on the Proposed Bills
AIRSPACE BILL 2006 and
AIRSPACE (CONSEQUENCES AND OTHER MEASURES) BILL 2006
by
Australian Sport Aviation Confederation (ASAC)

Dr. R. J. (Bob) Hall
President, ASAC
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SUMMARY

ASAC (Australian Sport Aviation Confederation) would like to comment on two aspects of these proposed Bills. Firstly, whether the regulatory structure proposed is appropriate, and secondly, whether any perceived 'problems' within CASA should be allowed to alter the proposed regulatory structure.

ASAC strongly supports the proposed regulatory structure, which places airspace policy with the Minister supported by an aviation group within DOTARS and airspace regulation with a separate Office of Airspace Regulation in CASA, as well as the process specified for the interaction between these two functions – policy and regulation – via an Australian Airspace Policy Statement.

A The Proposed Structure

The ASAC (Australian Sport Aviation Confederation) organisations strongly support the sensible and much needed reforms to airspace management in Australia proposed by the Government and which would be implemented by the proposed Airspace Bill 2006 and the associated Airspace (Consequences and other measures) Bill 2006. These changes were proposed following ongoing unsatisfactory experience with airspace reform culminating in the recent, totally unacceptable, experience with the introduction of stages 2b and 2c of the NAS.

The essence of these sensible and much needed reforms can be crystallised into three fundamental changes.

1. The separation of airspace regulation from the provision of air traffic management services.
2. Recognition that airspace regulation is different from other aspects of aviation regulation in that airspace is a limited resource and that management of this resource by the regulator requires consideration of matters of efficiency and equity consistent with good safety outcomes and that the regulatory structure must recognise and deal with this important difference.
3. Recognition that industry consultation backed by open and transparent risk assessment accepted by industry and governmental instrumentalities alike is central and essential to the resolution of the inevitable conflicts in the management of airspace.

These changes have already been implemented to the extent possible under the existing legislation by the creation of an independent Department within in Airservices Australia – AERU, (Airspace and Environment Regulatory Unit) which has been given the regulatory authority which currently resides within Airservices. This initiative has already achieved remarkable success and this approach clearly has the potential, for the first time since the beginning of airspace reform process in the early 1990s, to

make airspace reform and the resolution of differences of opinion and need between segments of the industry a rational process. This early success makes these concepts not just theoretical but factual.

Central to the success of these changes is the recognition that airspace regulation involves concepts of equity and efficiency consistent with good safety outcomes.

Matters of equity and efficiency do not lie easily with CASA as a regulator. Many in the industry believe that CASA should remain the safety regulator, bound by the requirement to act on safety grounds only and not become involved in the essentially commercial issues of efficiency and access. This approach has been successful especially, but not limited to, such matters as the classification of operations and the application of AOCs. This concept, which limits CASA to consideration of safety matters only, should not be changed where it applies to the current safety regulatory functions carried out by CASA.

These strongly held views raised the suggestion that the airspace regulator should be a separate body within DOTARS. However, careful examination of both functional and cost consequences of this decision, and considerable discussion with the industry, lead to the inevitable conclusion that this approach would be both cumbersome and expensive.

The solution to this issue lies in the separation of the efficiency and equity issues from the processes of regulation. This Bill proposes that this be achieved by the creation of a policy statement (Australian Airspace Policy Statement) created outside the regulator and within the ambit of the Minister and the relevant government department (DOTARS) which can appropriately take account of these matters. This policy statement will be supported by a small group of experts within DOTARS as well as the proposed consultation with industry, which will provide advice to the Minister in developing this policy document. The regulator is then required to exercise its powers and functions consistently with this policy except where this conflicts with its obligations to safe outcomes. CASA will then need to justify this deviation from that policy on safety grounds.

This approach very effectively deals with the balance between the assurance and primacy of good safety outcomes and the introduction of the concepts of efficiency and equity.

Further, there is logic in a structure which allows matters of policy to be discussed separately from the constraints and legalities of the regulations themselves.

The ASAC organisations support the proposal that this body should be managed by DOTARS and should be a high level policy setting body.

This approach allows the industry to achieve the efficiency and good safety outcomes resulting from a consolidation of all aviation regulation within CASA without the difficulties resulting from the need to take account of efficiency and equity in airspace regulation.

It is the view of sport aviation that there could be advantages achieved by the extension of this model to other areas of aviation regulation.

2. Perceived problems within CASA

Any suggestion that this desirable structure and approach to airspace regulation should be altered because of perceived 'problems' within CASA is clearly wrong headed. If problems affecting the ability of CASA to operate exist these must be fixed. It is unacceptable to allow these to continue uncorrected and it is absurd to distort this desirable regulatory structure to avoid correcting any such problems.

Based on direct experience, ASAC is of the clear view that the difficulties experienced by CASA in the recent past are directly due to the residual of a very deep seated 'culture' within CASA which evolved over many years. This culture and approach was one of the reasons which prompted the Government to dispense with the CASA Board and appoint the current Director of Aviation Safety and CEO of CASA. The current CASA CEO has delivered a sweeping restructure of CASA and its functions implemented in two deliberate and controlled stages, which is now delivering the necessary outcomes and change in approach by individual CASA officers.

This old culture was deep seated and led CASA Officers to believe that it was their job to hold opinions regarding the implementation of safety regulations and enforcement which resulted in inconsistent application of the rules and regulations. These officers appeared to honestly believe that their actions were soundly based on safety outcomes and accordingly this culture was very difficult to alter. In some cases change of personnel seemed the only possible path forward.

The whole thrust of the changes implemented by the current CEO are designed to eliminate this culture and these have already made much progress with this objective. It is no exaggeration to say that CASA is already a transformed organisation. Most certainly, I can attest that the interaction between sport aviation and CASA is on an entirely different footing since the involvement of the current CASA CEO and this interaction is now cooperative and highly productive. I am aware that in some other areas there remain some residual difficulties, however I am confident that, provided the current CASA senior management are given the external support they amply deserve and need, these changes will eliminate these residual problems in the short term.

It would be very difficult to overstate the difficulty involved in dealing with this problem while maintaining a functional regulator. This wrong headed culture affected such a large proportion of the CASA staff that correction by removal of offending staff was not only unjust but impossible. Re-education takes time especially where matters of perceived importance to safety is involved. However this process is well underway and is proceeding to a successful completion – as I said above given appropriate support from the government and industry. Which, I hasten to point out, I believe is being, and will continue to be, provided.

While sport aviation is not a major priority for CASA we have direct experience of this changed approach and can attest to the success of these changes.

It would be a wholly unjustified irony and a disaster for Australian aviation if, just as this very difficult problem is being solved, the ability of CASA senior management to maintain this essential change to the way CASA operates was damaged by lack of support from either the Government or the Industry.

These views are strongly held by sport aviation and I would be happy to confirm these views or provide further information if desired at any time either in writing or face to face.

Bob Hall

President ASAC

Attached is a brief CV of the author

Brief CV – Bob Hall

Dr. R. J. (Bob) Hall BSc (Chem. Eng) H1, PhD
38 Eucalypt Close
Wangi Wangi, 2267

Phone fax: 02 4975 5660
Mobile: 0438 675 051
email: rjphall@westnet.com.au

Responsible for negotiating, firstly, on behalf of the GFA (Gliding federation of Australia) and, then for the whole of sport aviation on airspace matters since before 1990. This included AMATS, Airspace2000, LLAMP and NAS IG as well as contributing to the development of the collision risk assessment model known as the ARM.

A glider pilot for more than 35 years, an instructor for more than 30 years, holding an instructor training rating for more than 20 years and a competition pilot for more than 30 years. Course director at many instructor courses within NSW.

Club CFI, assistant RTO(Ops) and then RTO(Ops) NSW (Regional Technical Officer – responsible for safety standards, training and club surveillance within the GFA in the area nominated – NSW), Chairman of the Operation panel (National responsibility for safety standards, training and oversight of club surveillance within the GFA)

GFA Board member, Vice President and then President of the Gliding Federation of Australia (GFA)

Currently president of ASAC (Australian Sport Aviation Confederation)

Since being made President of ASAC, also responsible for negotiation on all matters relating to the regulation of sport aviation.

Member of the Aviation Safety Forum (ASF) – a body created by the CEO of CASA to provide advice to the CEO and COO of CASA.

Professionally, a chemical engineer with more than 35 years experience in R&D management with considerable experience in complex mathematical modelling.