

**AERIAL AGRICULTURAL
ASSOCIATION OF AUSTRALIA
LTD.**

ABN 13 002 501 886 • ACN 002 501 886

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20 January 2014

Mr David Forsyth AM
Chair
Aviation Safety Regulation Review

Dear Mr Forsyth

Please find attached the Aerial Agricultural Association of Australia's submission to the Aviation Safety Regulation Review Panel.

AAAA has a very strong track record of working positively with a range of government agencies wherever that has been possible.

AAAA has made every effort to offer a positive way forward to improve the regulatory system, but in so doing it has been essential to highlight the current unacceptable performance of at least one key agency within the system.

AAAA believes that the intelligent application of standard industry and government practices and systems would go a long way to addressing the cultural and performance shortcomings identified in this submission. However, that will require new leadership.

I would appreciate the opportunity to again meet with the review panel at an opportune time in the near future. AAAA reaffirms our offer of facilitating a visit to an aerial application operation should the panel's schedule permit that.

If you require any further information I can be contacted on 02 6241 2100.

Yours sincerely



Phil Hurst
CEO

AERIAL AGRICULTURAL ASSOCIATION OF AUSTRALIA LTD.

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Aviation Safety Regulation Review Submission

20 January 2014

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Executive Summary

In any review of the Australian aviation safety regulation system, it is critical to return to first principles to establish what makes a good regulator.

The *Public Service Act 1999*, the Productivity Commission Report on ‘*Regulator Engagement with Small Business*’, and the Commonwealth government report ‘*Ahead of the Game: Blueprint for Reform of Australian Government Administration*’, all have common features which establish a baseline of admirable values, systems, behaviour and outcomes.

In addition, a broader understanding of what ‘best practice’ means in a commercial business setting is instructive, including the important roles of culture, communication and continuous improvement.

When the various aviation structures are held up to the light of these principles, there appears to be little ‘structurally’ wrong. The various agencies have reasonably clear objectives and loci of operations.

While some key improvements are still possible by refining the current model at the macro level (for example, moving safety promotion to ATSB from CASA and moving policy and regulation development from CASA to the Department), there is considerable improvement available *within* agencies, especially in terms of embedding key principles and outcomes such as:

- Transparency
- Quality
- Efficiency
- Consistency
- Accountability
- Continuous Improvement
- Competence and expertise

However, one agency must be singled out for urgent attention and significant reform. CASA is now a low-trust organisation, with all of the implications for efficiency, performance and relationships that brings. Industry is trusting the aviation regulatory review and government to rectify this situation.

CASA is now performing so poorly as to demand significant change of its internal management and its relationship with industry so as to implement practical systems that will lead to commonly accepted benchmarks of practice and outcomes. CASA is dysfunctional at nearly every level, its relationship with industry has been junked, and it is suffering from such a pathological culture that major surgery will be required to realign the organisation with the common hallmarks of a sound safety regulator. CASA must walk the talk.

This submission provides evidence of CASA’s (and other agencies’) problems **AND** a clear pathway forward, modelled on previous acceptable strategies that were more closely aligned with the principles, values and systems identified above.

Industry desperately needs a resetting of the relationship with its key regulator, something that will only be achieved through both a significant change of Board and senior management at CASA and the introduction of systems across all agencies to deliver continuous improvement in Australian aviation safety regulation.

The aviation industry is not asking for exceptional performance – it is simply asking for sound management of regulatory responsibilities based on well-accepted and broadly endorsed standards of quality – something that it is simply not receiving from some key agencies.

Industry calls for greater efficiency, smarter ways of doing business and better standards of service from aviation agencies should not be seen as industry carping. It is actually the responsibility of aviation safety agencies to respond to calls from government, public service leaders and industry for the adoption of continuous improvement as a normal part of their business model.

1. Introduction

AAAA's support for efficient regulation

No other aviation association has built up the track record of positive engagement and cooperation with the various regulating agencies that AAAA has sustained for many years.

The AAAA outlook on interaction and relationships with regulators has always been one of positive engagement, striving to ensure that regulators have the best possible understanding of the risks, the existing systems of management and the opportunities available to them to pursue better regulation.

AAAA wishes to state at the outset that it supports a strong and effective regulatory system.

This is based on the recognition that, in a commercial aviation world, there are competitive and financial pressures that can add to and complicate the already significant safety management burden.

By having a strong, respected and efficient regulatory system, the community has confidence in industry, competition can be conducted on a level playing field, and regulation can be delivered in a way that does not skew the marketplace in a negative way.

Australia has managed to maintain, in the broadest sense, an aviation regulatory system that has, until relatively recently, been able to deliver on the ideals identified above.

However, some aviation regulatory agencies are now clearly performing better than others.

While a more detailed report card on each agency is provided later in this submission, suffice it to say that the stand-out exception is CASA which can most optimistically be described as underperforming, and at its worst is clearly pathological and in need of significant surgery and cultural rejuvenation.

In the early 2000s, AAAA worked closely with the then CEO of CASA, Mr Mick Toller, to establish a small and highly effective working group that included the Executive Manager of Industry Relations and the Assistant Director of Regulatory Services who were to consult directly with AAAA. The aim of the working group was to develop new business models that would reduce CASA delays in issuing AOCs and permissions for agricultural operators, streamline and simplify processes, improve consistency of policy advice and regulatory interpretations and remove red tape that delivered no tangible safety outcome.

The very successful outcomes of that process and the model they present of a different and better way of doing business – including the establishment of a ‘one stop’ Agricultural Unit within CASA – are all detailed in the following section on ‘New Business Models for CASA’.

Unfortunately, the structures and philosophy that led to that period of success has clearly been abandoned by CASA and replaced with the mantra that CASA is now a ‘Big R’ regulator. This has set a course within CASA for increasingly belligerent, conflict-ridden, bullying and intimidatory behaviour and culture that has fundamentally damaged the relationship between regulator and industry.

This critical shift in philosophy from this regulator not only flies in the face of best practice management and models of sound engagement, but it ignores the fact that industry has a strong vested interest in safety and is the means through which aviation system is constructed and delivered.

By contrast, AAAA has also worked positively with ATSB on a range of issues, including providing expert advice on issues such as managing powerline strike risk, human factors for application pilots and in a number of investigations. That relationship has largely been characterised by openness and a willingness to work together, even where there may not be agreement on every point. The difference in outcomes in comparison to CASA is relatively stark.

Historical perspective – the ‘messiah’ versus systems

Many people in aviation believe that the critical component in sound aviation regulation is to have the ‘right’ person in key jobs, such as the CEO of CASA.

Unfortunately, this ‘messiah’ approach is fundamentally flawed if not supported by longer-term strategic approaches, systems and checks and balances, as demonstrated by the history of CASA and its predecessors.

AAAA deals with a wide range of regulators and government agencies, both state and commonwealth, outside the aviation industry. Agricultural chemicals form a significant part of the work of AAAA, and the principles identified here in relation to aviation bodies have been confirmed through working with other agencies.

In addition to having decent, competent and culturally appropriate people in place, there is much to be gained by imposing upon organisations a range of well recognised systems and disciplines that will force the delivery of quality outcomes almost regardless of who fills the top executive positions. Key delivery mechanisms for such systems could be through the Minister’s letter of strategic direction or by a Board’s strategic plan.

As a start, each agency should be tasked with developing or identifying existing systems which deliver across the following critical values:

- Transparency
- Quality
- Efficiency
- Consistency
- Accountability
- Continuous Improvement
- Competence and expertise

Clear external benchmarks and performance indicators should be developed against each of these values that permit an objective view of an organisation’s performance to be reached, rather than the current approach by many government aviation agencies of producing glossy annual reports that provide little real insight into performance. In reality, most current public reporting seeks to obfuscate actual performance. It all looks good on paper, but the reality is much uglier at the coal-face.

A good benchmark is the simple question of how much industry has been asked to comment or participate in the development of the Annual Report or Corporate Plan. For most aviation agencies there is simply NO involvement.

The latest glossy publication from CASA – the inaugural *Aviation Safety Yearbook* – is an excellent example of a costly exercise that portrays CASA’s performance as rosy, when the message from the industry coal-face is jarringly different. Such a publication contributes nothing to aviation safety or the reputation of the regulator. It is a cynical and embarrassing publication if it has been released to

try and project a better image of CASA, its management and its Board at a time when the government has instituted a significant review into that and other aviation agencies.

The systems-based ‘futureproofing’ of an organisation described above reduces the risk of any individual or group taking an organisation in a direction where its deviancy can be normalised, its culture corrupted and its essential relationship with industry junked.

Of course, the need to have competent, experienced and ethical people in key positions is clearly going to be part of the answer, but by at least committing at a Ministerial and Board level to well-recognised management strategies to deliver against clear and positive values, and ground-truthing that against actual performance experienced by industry, the potential for any part of the regulatory framework to run off the rails is significantly reduced.

In the case of CASA, however, the relationship with industry and objective performance of key functions has degraded to the point where it is critical for a significant change of senior personnel to signal a resetting of the aviation regulatory agenda and a new start to CASA’s relationship with industry.

This change must include both the existing Board (who have demonstrated no industry leadership and no strategic grasp on CASA), as well as the top two to three levels of CASA management that has created outcomes that are now pulling down the safety culture of the entire industry.

Sham consultation vs genuine engagement

Consultation with industry and the public should be a genuine engagement to identify the best approaches to regulation and strategic direction. It should not be allowed to deteriorate into a sham where documents are produced internally, comment sought and feedback ignored.

Some government aviation agencies are much better at genuine engagement than others.

The formal engagement philosophy, structures and outcomes of Airservices, for example, are a much more mature and successful model than that of CASA, whose performance is at the other end of the spectrum and is pathological in its outcomes.

For example, problems and issues raised by industry with CASA on CASR Part 61 in 2003 are in many cases identical to the concerns raised in 2013. AAAA has already supplied copies of submissions to CASA from 2003 and 2013 to the review panel to reinforce this point.

If an organisation is incapable of fixing significant problems with a regulatory proposal over a 10 year period, despite industry contributing thousands of hours of free work to the cause and both identifying the problems and offering practical solutions, then clearly the organisation has failings at the strategic, managerial, policy development and implementation levels.

The fact that Part 61 has now been deferred, after industry predictions 12 months ago that this would be essential because of the lack of the critical Manual of Standards which CASA is yet to codify, is evidence of the depth of sham-consulting that CASA has engaged in.

The cynicism demonstrated by CASA in attempting to manipulate the consultation process to simply approve CASA’s preferred position has been further highlighted in recent years by the gradual withdrawal of industry support for structures such as the Standards Consultative Committee. While many industry organisations, including AAAA, continue to attend various committees, reviews and

working parties, it is on the understanding that input is likely to result in no changes from the CASA position. The debacle that is the maintenance licencing system is clear evidence of these types of outcomes.

Other agencies, such as ATSB and the Department of Infrastructure, do not have any formal structures for general consultation or engagement with industry. While there have been a few specific consultation groups established (such as with the Department's NASAG processes), these have been relatively fleeting, specific issues, with little to no feedback loop to industry.

Consequently, agencies rely on informal networks or, more accurately and frequently, industry contacting them and driving essential changes.

BITRE do not even appear to have the benefit of informal channels and essentially have no engagement with industry and especially general aviation.

The general malaise in terms of industry consultation reaches a peak of cynicism with CASA sham consulting, but is actually an endemic problem across almost all aviation agencies which seem to share a troubling, insular, near-sighted and reactionary philosophy – despite the fact that it is industry that actually undertakes aviation, not the agencies, and close contact with and knowledge of industry is critical to agency operations.

A fundamental change to the philosophy of consultation across all agencies is now essential. By the use of sound systems and formal structures, government aviation agencies can engineer robust mechanisms to keep in touch with industry concerns, develop appropriate policy responses before they become critical and ensure policy and regulations are, on most occasions, a win/win scenario.

Establishment of a Ministerial Advisory Council by the Minister will be a strong start to changing the consultation landscape, however, each agency must also be tasked with having adequate and genuine consultation mechanisms and engagement with industry in place.

By making these relationships more overt, any question of industry 'capture' of regulators is made redundant. While AAAA recognises that, at some times, the objectives of regulator and regulated may not be reconcilable, AAAA has proven over many years that there is probably a lot less to argue about if the regulator is actually in touch with how industry operates, has relevant expertise available to it, and is able to independently verify that what it is being told is accurate, reasonable and practical.

Unfortunately, in the case of CASA, the cultural resistance to genuine engagement and the philosophical move to becoming a 'Big R' regulator, may require significant surgery – and time - to remedy.

Trust is easy to destroy, but very difficult to rebuild.

Perpetual Inefficiency vs Continuous Improvement

All credible modern management theories and systems include a focus on the importance of continually striving to improve the organisation. This simple fact is also recognised as a key value in all Australian public service guiding documents – from legislation, to oversighting agencies (eg Public Service Commission, Productivity Commission) to individual agency corporate plans.

However, the concept is not honoured in practice with significantly variable quality across Australia's aviation agencies. Some do it better than others, while at least one – CASA – does not embrace the concept at all, nor exhibits the management leadership or systems to deliver it.

AAAA well understands the critical importance of establishing a culture of continuous improvement. In researching, developing and implementing its comprehensive Aerial Improvement Management System (AIMS) for members, it became obvious that the critical components of education, management commitment and systems had to be brought together into a coherent, integrated program that would enable business owners to sustain a focus on continuous improvement.

Despite previous successes in the early 2000s, for example, CASA now has no systems to work with industry on improving service delivery. The delays and generally long processing times experienced by all companies or individuals dealing with CASA are now so significant as to feature in industry business plans, where up to six months can be required by CASA for simple approvals, amendments, AOC issuing, key personnel appointments and a host of other interactions.

Industry is perfectly placed to assist CASA – and other agencies – in identifying processes that cause bottlenecks and systems that can be simplified.

CASA is causing economic and strategic damage to aviation companies because of its inefficiency and its seeming inability to learn lessons from previous failures. CASA has become a significant barrier to entry into the aviation industry and its inefficiency is now compromising the ability of companies to adapt to changing circumstances. CASA seems in many ways to be trapped in a 1950/1960s paradigm of relating to industry and its systems are simply not up to the requirements of a modern, dynamic, more fluid industry.

One area in particular that struggles with continuous improvement is CASA's aviation medicine branch. Examples are plentiful of questionable rulings on pilot medicals that fly in the face of genuine expert opinion (for example in cardiology) and result in the trashing of careers for no safety purpose. The ability of the branch to hide behind the facade of medical qualifications is well known in industry and under current systems, is an almost unassailable position that has drifted far from actual safety issues, or the leading non-CASA advice on medical issues.

The relatively simple introduction of a peer/expert review panel system within CASA would both drive continuous improvement as well as making the organisation's decisions more transparent and accountable. Such a system would probably also save both CASA and industry significant resources by reducing appeals to the Administrative Appeals Tribunal.

This criticism of CASA is not in any way an attempt to deny the legitimate role of a regulator. It is simply to highlight the missing standards of performance that are expected of all government agencies and which are essential to industry responding to changing circumstances – economic and social.

As AAAA knows from delivering its own programs, it is simply not enough to mouth the words 'continuous improvement'. Systems to facilitate communication (including an understanding of authority gradients and other issues routinely taught in CRM courses – including AAAA's), systems to actively engage with 'clients' or stakeholders, and an open learning culture are critical to embedding a meaningful continuous improvement ethos within an organisation.

2. Current Structure Report Card

Overview

While the current aviation regulatory *structures* are probably capable of delivering a world class aviation regulatory system, this has simply not been the reality due to a number of competing dynamics, including:

- inter-agency hostilities, especially between ATSB and CASA
- the regressive regulatory philosophy of some key agency heads and their management teams
- the lack of commercial aviation expertise or experience in key senior management positions and on Boards
- the apparent lack of oversight of management by Boards – especially CASA
- disengagement of previous Ministers from a commitment to strong policy development and direction
- the lack of application of acceptable whole-of-government standards to aviation policy, including regulatory development, drafting and consultation.
- the lack of coherent quality assurance systems, industry peer review processes and sound industry engagement and cooperation systems to underpin a progressive business model.

In fact, it appears that most of the system functions at an acceptable level and simply requires refinement – with the standout exception to that generalisation being CASA, the CASA Board and CASA senior management.

This next section of the AAAA submission will focus on proposing a new business model for CASA that would significantly lift the performance of that organisation and significantly improve the health of its current culture that appears to lack a commitment to openness and cooperation.

Australian Aviation Association Forum Policies

For the first time in decades, the Australian aviation industry has a coherent representative group working together to not only identify problems but to offer solutions to government on the best way to both improve Australia's aviation safety and to have the most efficient and effective regulatory regime.

The Australian Aviation Associations Forum has been operating for approximately four years and is made up of a number of membership organisations including:

- AAAA
- Australian Association of Flight Instructors
- Australian Business Aviation Association
- Australian Maintenance, Repair and Overhaul Business Association
- Regional Aviation Association of Australia
- Royal Federation of Aero Clubs
- Women Pilots Association
- A representative of the Australian aircraft manufacturing sector

The previous Government's White Paper was widely condemned by industry as contributing nothing to the policy debate and, in fact, being little more than a packaging exercise for pre-existing programs.

The Forum saw this policy failure in urgent need of rectification – especially as considerable resources from industry had been wasted in making detailed submissions to the Green / White Paper process. Consequently, the members of the Forum developed their own policy position to amply demonstrate that there was considerably more that government could do to improve aviation regulation in Australia.

The Forum policies were published in 2012 and offer a comprehensive approach to government policies and structures, regulatory reform, taxation, education and training, regional equity, airports, security, insurance, research and non-aviation impacts on aviation.

The work of the Forum puts paid to various accusations of industry not being able to work together and present a coherent position to government.

Unlike some in aviation agencies, AAAA believes that aviation regulation is not always a zero-sum game – ‘If you win, I lose’. There are many policy areas where the outcomes desired by industry and regulators are very much in harmony – and the main conflicts are about the cost and complexity of the different models preferred to deliver those outcomes.

AAAA recommends the Forum policies to the review panel as an excellent starting point for consideration of possible improvements. Multiple copies have already been provided to the Review secretariat.

Forum policies can also be found online at: www.aerialag.com.au/ResourceCenter/Policies

Agency Report Card

The overall context of a report card for each agency is better informed by considering key overarching goals and requirements from both government and the agencies charged with improving the public service – notably the Australian Public Service Commission.

To start, the *Public Service Act 1999* incorporates the following values:

10 APS Values

Committed to service

- (1) The APS is professional, objective, innovative and efficient, and works collaboratively to achieve the best results for the Australian community and the Government.

Ethical

- (2) The APS demonstrates leadership, is trustworthy, and acts with integrity, in all that it does.

Respectful

- (3) The APS respects all people, including their rights and their heritage.

Accountable

- (4) The APS is open and accountable to the Australian community under the law and within the framework of Ministerial responsibility.

Impartial

- (5) The APS is apolitical and provides the Government with advice that is frank, honest, timely and based on the best available evidence.

In 2010, the then Prime Minister indicated that the Government had accepted all of the recommendations in the report *'Ahead of the Game: Blueprint for Reform of Australian Government Administration'*:

"We are committed to building an Australian Public Service with a culture of independence, excellence and innovation - in policy advice and service delivery."

(see http://www.dpmc.gov.au/publications/aga_reform/aga_reform_blueprint/)

The Blueprint also identified that:

"The APS must continually seek better ways to do business, to spend public funds efficiently and effectively, and to be accountable for its spending."

(see Blueprint for the reform of Australian Government Administration)

Similarly, the current Government's commitment to an efficient and effective public service – across all agencies – focuses on the importance to the Australian economy of removing unnecessary regulation:

The Coalition understands that a radically different approach is needed to address the constant growth in the size and scope of government regulation that is harming Australia's productivity and competitiveness.

The relevant Coalition election policy also identified the importance of an organisation's cultural outlook to the way that agency might approach regulation, risk management and service delivery:

Cultural attitudes to risk adopted by regulators can significantly influence the regulatory compliance burden placed on those targeted by regulation. In a recent draft Productivity Commission report entitled "Regulator Engagement with Small Business," the Productivity Commission found that:

*Government agencies and business groups have suggested that risk aversion can lead some regulators to require excessive evidence of compliance or to rely on overly harsh enforcement approaches which do not adequately take into account small business efforts required to mitigate risks and a realistic assessment of the risk posed by the individual businesses. **Areas where regulators reported using comparatively harsh penalties (such as criminal proceedings) with no risk based assessment, included several transport agencies and an animal welfare body.***

The Coalition supports the adoption of a risk based approach to enforcement by Commonwealth regulators as a means of ensuring that compliance burdens are the minimum necessary to achieve regulatory objectives.

To ensure that the Commonwealth adopts a consistent approach to regulatory enforcement and risk management, the Coalition will move to develop and implement an overarching whole of government risk management framework for Commonwealth regulators.

Furthermore, the Coalition agrees with the Productivity Commission that:

Governments in all jurisdictions develop a common set of performance measures across different regulators to provide an opportunity to measure and compare regulator performance over time. Such measures would facilitate transparent assessments of regulator performance and the implementation of agreed business engagement principles. In addition to rates of compliance, emphasis should be on measuring effectiveness in achieving outcomes, while minimising compliance costs.”

(AAAA bolding)

(see <http://www.liberal.org.au/boosting-productivity-and-reducing-regulation> - Section 15)

And:

‘The Coalition considers that regulation should only be imposed where absolutely necessary and should not be the default position in dealing with public policy issues.’

(see <http://www.liberal.org.au/boosting-productivity-and-reducing-regulation>)

By considering these goals it becomes clear that the aviation industry is not asking for any exceptional performance – it is simply asking for sound management of regulatory responsibilities based on well-accepted and broadly endorsed standards of quality – something that it is simply not receiving from some key agencies.

Industry calls for greater efficiency, smarter ways of doing business and better standards of service from aviation agencies should not be seen dismissed as industry carping.

It is actually the responsibility of aviation safety agencies to respond to calls from government and public service leaders for the adoption of continuous improvement as a normal part of their business model.

Airservices Australia

A relatively professional and competent organisation, with comparatively sound and well functioning consultation methods, but still charging too much and turning a significant profit which amounts to an additional tax on industry.

Due to the low level nature of the operations of AAAA members, AAAA does not actively participate in the key Airservices’ consultation forum, but maintains a watching brief in case any specific issues arise.

The key issue is that information and consultation is available, open and transparent.

AAAA recommends the Forum policies to the review panel for additional coverage of Airservices policy issues.

ATSB

AAAA still has some concerns with the lack of competence/expertise/experience of some investigators, especially when confronted with an aerial application accident. In particular, AAAA expressed strong concerns to ATSB management with previous attempts during investigations to attempt to mould evidence to fit a theory, rather than objectively analysing and presenting the evidence available.

ATSB has also demonstrated this approach in squarely stating that a particular issue (the example being agricultural weights) had nothing whatsoever to do with the particular aircraft accident being investigated, but that they thought an additional report was required – despite there being no evidence of an ‘issue’. This preoccupation by ATSB continues despite many more of these aircraft types operating safely at the same heavier weights in the US, Canada and NZ.

The practical challenge of having ATSB staff with experience across all areas of aviation operations should suggest that a different business model may be a useful approach, where existing independent industry expertise can be called up as required. Similarly, there may be other ways of capturing or utilising industry expertise – such as a joint venture with AAAA, for example – whereby investigators will not have to learn ‘on-the-job’ or by their mistakes and wrong assumptions, as is occasionally the case.

The *Transport Safety Investigation Act* allows for ATSB to recognise other organisations and their programs for fulfilment of responsibilities for reporting under the Act. Unfortunately, this avenue has never been genuinely pursued, despite various offers from AAAA to work with ATSB to develop such a program.

ATSB itself has identified underreporting of aviation safety incidents as an issue, but seems unable to link underreporting with the most obvious likely cause – the fear of regulatory or administrative action by CASA because ATSB reports are not adequately de-identified before publishing. Inclusion of VH registration numbers and very specific locations in ATSB reports means that ATSB reports are NOT de-identified, and certainly not de-identified enough to provide protection to reporting pilots.

This is a very significant safety issue that goes to the heart of the reporting system and the Australian aviation safety regulation system. Ongoing CASA efforts to undermine this system will simply further damage the essential protection pilots and maintainers require to report aviation safety incidents and accidents.

There is considerable sympathy and support from industry for ATSB efforts to protect the confidentiality of reporting from being ravaged by CASA.

There is also significant industry support for the ATSB’s turn-around in focus to provide more useful safety promotion products through improved analysis and reports.

AAAA also fully supports the addition of safety promotion responsibilities and resources to ATSB that are currently held by CASA, as recommended in the Forum policies.

BITRE (Bureau of Industry, Transport and Regional Economics)

Aviation statistics are mandatorily collected by a number of organisations including the Australian Bureau of Statistics, CASA, BITRE and others.

A consistent complaint of industry has been the apparent de-link between the mandatory requirements and costs to contribute a wide range of statistics and data to government aviation agencies and the lack of comprehensive statistical analysis outputs made available that would help industry make better decisions.

It appears to be data collection for its own sake, with a very limited amount of analysis, interpretation or prediction flowing back to industry and especially GA.

This issue was recently highlighted during the CASA post-implementation review of CASR Part 99 when industry challenges to CASA to present meaningful data on the performance of the Drug and Alcohol Management Plan (DAMP) programs, or even to identify the sectors where there had been breaches or concerns, was met with blank stares by the CASA officers concerned.

Industry representatives wondered aloud how you could review a very expensive scheme when there was no data, benchmarking or performance indicators either being used or even being contemplated.

From an educational perspective, industry representatives further put to CASA that the lack of statistics or feedback to industry on what the alcohol and drug testing regime had revealed completely undermined any ability to develop and provide to industry participants meaningful educational programs and resources that would support sound behaviours. Promises to industry to provide additional data have not been honoured.

The lack of comprehension of these fundamental program management principles clearly demonstrate the delink between policy goals and objectives, the costly processes involved, and critical feedback to industry – including educational organisations such as AAAA that will add significant value to government outputs where they are available.

However, the ongoing lack of sound management approaches within CASA to one side, a key organisation in collecting and disseminating statistical analysis should be the BITRE.

BITRE should have a central role in establishing a ‘collect once – use often’ aviation statistics philosophy and system, rather than AOC holders and others having to contribute the same data to many agencies, always in a slightly different format – thereby placing an additional cost on industry for no safety outcome.

BITRE (and CASA for that matter) appears to be an organisation that has lost its way in terms of producing statistics that can actually *help* the aviation industry, as well as informing government.

There is *no* BITRE engagement with industry – other than that initiated by industry when trying to access information – and the outputs are simply not relevant to many sectors of aviation and particularly GA. What little there is is certainly not made available in a timely manner.

Previous series of statistics that were relevant to GA have either been abandoned or are currently running over 12 months behind the previously unacceptable lagging timeframe of several years. There is significant potential for BITRE to improve its performance for the aviation industry.

The Aviation Associations Forum has already run a successful Aviation Outlook event at Parliament House in 2012. The aim was to send a clear message to parliamentary representatives that without appropriate policy attention and reform, the aviation industry in Australia would not fulfil its potential over the coming decades. Information presented included the aviation economic outlook, likely demands for pilots, maintainers and others and the training implications and opportunities, and sectoral outlooks covering airlines, regional aviation, aerial work and private flying. It is puzzling that this information can be sourced by industry and presented in a meaningful manner, but not by the Government agency tasked and funded to do exactly this type of work.

The Forum would welcome the involvement and support of an organisation such as BITRE in building the Aviation Outlook concept into an annual event that brought together key players to inform government, industry and the public of emerging issues and trends.

The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) has committed to an annual Agricultural Outlook conference for decades and has built it up to be a major domestic and international event. (see <http://www.daff.gov.au/abares/conferences-events/outlook>).

AAAA believes a similar positive future could be sustained for an Aviation Outlook event.

CASA

There has been a complete breakdown in the relationship with industry at the highest levels, an example which has now cascaded throughout almost the entire organisation.

There are many good people working in CASA who are simply unable to make headway against the prevailing culture. They are increasingly isolated and powerless.

There are also some who delight in the culture of ‘gotcha’ that exists and is encouraged at various levels, where the ‘zero-sum game’ against industry is strongest. The lack of systems and confidence to allow the free flow of information both up and down the chain of command within CASA sustains the negative aspects of the CASA culture, and reinforces and encourages behaviour that in a healthy, open and just culture, with a clear focus on cooperation with industry and positive safety outcomes, would simply not be tolerated.

As with all cultures, the problem starts and is sustained at the top.

CASA demonstrates no strategic engagement, with industry withdrawing from meetings and discussions that involve senior management due to fatigue from being lectured to.

There appears to be a complete disconnect between words spoken by senior CASA management and what happens on the ground – with no consistency of policy or interpretation being a long-standing concern. CASA encourages industry to adopt sound management principles and systems such as SMS, ‘just’ cultures and strong executive control of aviation companies, but is hypocritical in not applying these same principles and practices to its own operations.

CASA does not have ‘aviation issues’ – it has management and cultural issues. A resetting of the CASA/industry relationship is critical to establishing a more mature regulatory safety culture in Australia.

The aerial application sector has enjoyed good performance and sound relationships with CASA before and the outcomes from that period are testament to the sense of working for ‘win-win’ outcomes.

Similarly, there is ample evidence available of models of behaviour and practice from other public service agencies – including international agencies - that do not demonstrate the same pathology as evident in CASA’s relationship with industry.

AAAA works with a wide range of government regulators – including in the chemical and environmental fields – and so has a broader experience of the quality of different public service regimes. A clear conclusion from this experience is that those government agencies that seek to work with industry (with the understanding that they also have to enforce compliance) outperform those agencies that only interpret their role as one of strict enforcement without any significant role for cooperation or education. These higher performing agencies actively involve industry associations in

their programs, have an open culture and good communication skills, and have established strong internal management systems to deliver transparency, consistency and quality.

By contrast, these are the very systems and commitments that are missing from CASA.

It appears that the key change that has led to the current downward spiral in both relationships and performance – across regulatory reform, day-to-day operations, and policy – has been the philosophical change to a ‘Big R’ regulator by senior management – assumedly with at least tacit support of the CASA Board.

This significant cultural shift over the last five years away from cooperation and best practice to a low-trust environment, where bullying, intimidation and fracturing of engagement with industry is accepted by the CASA Board and senior management, is a serious challenge to the delivery of the goals of the *Civil Aviation Act 1988*:

3A Main object of this Act

The main object of this Act is to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

The most recent incarnation of the pathology of CASA’s relationship with industry was when CASA attempted to blame industry for the deferment of the start date for CASR Part 61 – Pilot Licencing.

In fact, it was clearly CASA that had failed to produce the essential Manual of Standards in time, CASA that had failed to map out a coherent transitional plan for existing pilots, CASA who had no advisory material in place to support implementation, CASA that was unable to provide adequate training to its own staff on the operation of Part 61 so that industry could in turn be educated, and CASA who did not have the approval system in place for the supporting CASR Part 141/142 training organisations.

Unjustifiably trying to scapegoat the ‘regulated’ for the failures of the ‘regulator’ is a novel approach to building good relationships, especially after industry has contributed – at its own cost - thousands of hours of support, experience and advice through the various Standard Consultative Committee and working groups. AAAA alone has been involved in more than eight CASA working groups and committees since 1999 and many of the issues identified back then remain current today because CASA appears to be incapable of positive, progressive outcomes.

Cultural change is difficult in any organisation or sector – AAAA well understands this through delivering significant cultural shift through its own education, training and accreditation programs such as AIMS and Spraysafe over the last 30 years. The task of reforming CASA will not be easy and will not happen overnight, but without a dramatic improvement in CASA’s performance, then the integrity of the entire aviation safety regulatory system in Australia will remain compromised.

This submission, in Section 3 – ‘Fixing CASA’ - provides further information the identifies current failings within CASA and offers new business models that would significantly lift CASA productivity and improve safety outcomes.

Department of Infrastructure

The Aviation Associations Forum has highlighted the need to reconsider the current practice of having both policy development and regulatory interpretation and enforcement vested solely with CASA.

The Forum policies recommend the entire regulatory reform and policy development role be removed from CASA and placed with the Department and this is strongly supported by AAAA.

AAAA's relationship with the Department has been characterised by openness, cooperation and appropriate access to senior management as required.

In particular cases where issues have fallen within the control of the Department (as distinct from CASA or a specific agency) such as the reform of the *Damage From Aircraft Act* and the work of the National Airports Safeguarding Advisory Group (NASAG), AAAA has been impressed with both the outcomes and the processes.

However, there has been some reluctance in some policy areas for the Department to play a stronger role – even one of facilitating coverage of an issue that may require the cooperation of a number of agencies – such as the aviation safety impacts of windfarm developments.

The current situation where, for example, CASA can simply say it has no role to play in areas such as the appropriate marking and mapping of wind monitoring towers, and the Department appears powerless to redirect what appears to be an unsubstantiated interpretation of the CASA legislation, means that the overall aviation regulatory system works more as a competition between warring tribes than as a coherent and seamless system.

AAAA believes this would also be resolved by the Department itself being given responsibilities and resources for a stronger policy development focus, whereby it has a clear head of power to direct agencies to provide action in certain policy areas or to undertake the work itself. Of course, this must be managed within appropriate legal heads of power, however, a stronger leadership role for the Department – especially on policy and aviation regulatory reform, would be welcomed by AAAA.

Office of Transport Security

'Whoever has the best imagination – wins'.

While not seeking to belittle the important role played by the transport security component of the Department of Infrastructure, the concept of perpetually tightening security measures regardless of cost, practicality or current risk assessment level must be reconsidered in any review of aviation safety.

While this area has some consultation mechanisms in place, AAAA has not had any significant policy contact with this area for a lengthy period of time – highlighting the lack of an 'outreach' capacity within this area. AAAA ceased participation in the key forum when it became clear communication was in one direction only and that industry would be told what was going to happen – regardless of the lack of knowledge or industry expertise of the officers concerned.

This may be an appropriate response in the earlier days of responding to 9/11, but with better understanding of the issues concerned and the passage of time, that operational-style response should give way to a more considered and mature policy-based response.

There are a range of areas where the regulatory burden arising from aviation security measures could be reduced. A critical element is being able to reduce security requirements when the threat level

reduces. The number of staff now employed in this area is also of concern and does not appear to reflect outputs, liaison with industry or policy development.

The ongoing cost, complexity and validity period for ASIC cards should be reconsidered to ease the burden on those aviation employees who generally work at regional airports.

AAAA recommends the policies of the Australian Aviation Forum for additional coverage of this issue.

3. Fixing CASA

Introduction

CASA is clearly the ‘problem child’ of the Australian aviation safety regulation system.

In any objective assessment, CASA fails against normal standards of service delivery, efficiency, cooperation and regulatory probity.

Previous successful systems of consultation, planning and oversight have been abandoned in recent years and replaced with an aggressive model that has alienated industry and encouraged a low-trust culture of bullying and intimidation.

Rather than acting as a catalyst for mature consideration of aviation safety, CASA has forced industry to take a defensive posture that is stifling the improvement of aviation safety and hampering innovation and cooperation.

Unfortunately, the current philosophy, vision and culture that drives CASA’s performance has the organisation increasingly isolated from the very expertise and knowledge it so desperately needs.

Rebuilding trust between industry and regulator is essential to deliver improved performance on both sides. Industry must have the confidence that the regulator is fair, playing by the rules, and more interested in safety outcomes than prosecutions.

Three components of management need to be overhauled to ensure the aviation safety system in Australia gets back to business and is enabled to drive efficiency, effectiveness and cooperation and deliver against the main object of the key legislation:

- The Minister’s letter of Direction to CASA
- The CASA Board
- The CEO

Minister’s Direction

Under Section 12 of the *Civil Aviation Act 1988* the Minister may provide direction to the CASA Board on a range of issues, including consultation, performance of its functions, the exercise of its powers and strategic direction.

In November 2003, the Federal Government issued CASA with a new Charter Letter.

In the Charter Letter, the former Minister for Transport and Regional Services, The Hon John Anderson MP, summarises the Government’s directions for CASA:

‘I wish to see CASA demonstrate world’s best practice in the area of aviation safety regulation. In its daily dealings, CASA must exhibit those behavioural attributes of a good regulator including consistency, accountability, fairness, flexibility and efficiency.’

AAAA finds CASA’s current performance totally at odds with the behavioural attributes defined above as well as the performance objective of ‘best practice’ for regulation. Similar observations are

obvious when considering any CASA corporate documents, including the Corporate Plan, where what is presented in terms of vision, objectives and strategy is generally unrecognisable from the coal face. The same often applies to the CASA Staff Code of Conduct. So much of CASA's self-representation and reporting seems to be fiction to industry – based on individuals' personal knowledge of how CASA does business in the field.

AAAA strongly recommends to the review panel and the Minister that a new letter of Direction be issued to CASA that requires CASA to establish systems that will help to break-down the current industry/CASA malaise and recalibrate the expectations and the reality of CASA's performance to somewhere closer to 'best practice'.

Systems such as the following would force a more open and transparent culture on CASA and provide the Board and the Minister with greater independent evidence as to the performance of CASA:

- establishment of expert peer-review of appealed decisions
- more collaborative regulatory reform panels (including paying for industry expertise)
- centralised policy and regulatory interpretation and
- specific sector 'desks' (such as aerial application)

Importantly, AAAA does not trust CASA to deliver significant change to its own culture and business models and believes improvements will have to be enforced by an external agency having greater oversight of CASA – most likely the Department of Infrastructure. AAAA believes it would be totally appropriate for the Department to have greater powers of assessment over CASA's performance, in the same way that the Department has some oversight of other Departmental agencies. While this may require clearer heads of power or even legislative change, it may be possible to provide some increased oversight of CASA performance through administrative means.

AAAA also believes it is critical that a new Minister's letter of direction should include clear instructions for CASA to differentiate between passenger carrying operations and aerial work operations in terms of the philosophical approach and complexity of regulation of these two very different sectors.

By more clearly annunciating a classification of operations policy that would allow simpler regulatory approaches for relatively simpler operations such as aerial application that pose a lower risk to the fare-paying passenger or the wider community, CASA would be enabled to free-up considerable resources and to simplify compliance and reduce costs for those sectors.

Such an approach has a proven track record for safety, innovation and cost within the last decade and would have significant positive impacts in policy areas such as drug and alcohol management, entry control, surveillance etc.

CASA Board

The lack of engagement of the CASA Board with industry is extremely problematical. There has simply been no discussion or opportunity for AAAA or its members to meet with the CASA Board at any formal level. To industry, the CASA Board has simply been invisible over recent years – in stark contrast to previous CASA Boards or those associated with other government agencies.

Australian Directors of management boards are generally expected to bring both their own expertise to the table along with a willingness to engage with the relevant stakeholders. They are entrusted with a

responsibility to set the general strategic direction of the organisation as well as monitoring the organisation's financial performance. However, they also have a responsibility to inform themselves of industry issues, to measure the performance of the organisation against plans, and to ensure performance is at a level commensurate with other organisations of a similar type. Directors should also play a 'quality assurance' role to independently verify that what they are being told by management is in fact a fair and reasonable representation.

How the CASA Board has been able to discharge these fundamental responsibilities with no interaction with industry is not clear.

The CASA Board has not met the needs of industry by ensuring that the organisation they are charged to oversight is, in fact, in good health and fulfilling its responsibilities in a manner that serves aviation safety.

The current Board should be replaced with members who have expertise in aviation, have experience in managing an aviation organisation and who have a commitment to establishing a culture within CASA that is just, based on sound relationships with industry and the efficient performance of CASA's responsibilities.

Urgent consideration should be given by the Minister to ensuring that the constitution of the CASA Board is completely refreshed and the new Directors and Chair have the confidence of the industry.

The CEO of CASA

The effective day-to-day operation of CASA clearly falls within the purview of the Chief Executive Officer.

Under section 73 of the *Civil Aviation Act* the Director is 'to manage CASA subject to the directions of, and in accordance with policies determined by, the Board.'

Given the problems of the Board identified above, AAAA again underscores the importance of the CEO also establishing and maintaining strong and positive relationships with industry based on mutual respect, openness and cooperation. Many other government agencies – including some in aviation - achieve the balancing act between effectively discharging those responsibilities raised by legislation and the need to have a sound relationship with the industry being regulated. Unfortunately, CASA has not achieved this in recent years.

When industry first heard of the shift of CASA to being a 'Big R' regulator, industry accepted that clearly that was the right of the regulator and, industry assumed, was being done with the support of the CASA Board and the Minister. What industry did not anticipate was that the move to a 'Big R' regulator was code for the introduction of a bullying and intimidatory culture that would lead to a breakdown in relationships between CASA and industry, a significant reduction in the focus on innovative safety programs and increasingly shrill policing activities that are not delivering real safety improvements.

As previously stated, no aviation association has the track record of AAAA of working positively with CASA for the improvement of aviation safety and regulation. But it is not possible to continue to return to the table when it is clear that there is no trust and no respect being shown for industry's genuine concerns and its innovative suggestions for improvement.

It is now critical to move forward in resetting the relationship between CASA and industry to a more mature and respectful stance, based on establishing common goals and the acceptance that industry will generally have a strong role to play in any safety initiative or regulatory reform.

The industry/CASA relationship simply cannot be reset with the current management of CASA.

Key Management Systems for CASA

Transparency

CASA is characterised by a lack of transparency – in decision making, in relationships, in regulation, in interpretations and in motives.

Without a culture of openness and cooperation – something CASA preaches but then ignores – the difficulties of recent years will simply repeat themselves.

That culture must be generated from the top – driven by the CASA Board and the CEO.

However, there should be an independent, confidential means of industry reporting any instances whereby the ‘old’ culture of bullying and intimidation is evidenced.

The role of the CASA industry Complaints Commissioner should be reinforced with direct reporting lines to either the Minister or the head of the Department of Infrastructure, and the inclusion of all CASA staff, including the Executive of CASA, within the Commissioner’s purview.

Quality Assurance

CASA has eliminated any quality assurance measures that were in place under the previous CEO, Mr Byron, including the various directives issued that established risk management focussed panels to review new regulations before they were put up for making.

CASA must now reconsider how it proposes to establish quality assurance so that the ongoing debacle of regulatory reform is put onto a business-like footing where the outcome of regulatory reform shifts from process to quality of the outcome.

Key initiatives could include:

- Establish a public website for all CASA policies and regulatory interpretations that can then be enforced on CASA staff by industry.
- Peer/Expert Review Appeal mechanism within CASA – especially for aviation medicine, but including operational issues and the ability for Associations, AOC holders and individuals to appeal decisions (eg WA mosquito spraying policy).
- Establishment of an Aerial Application Unit within CASA.
- Recognition of industry programs for safety that are independently audited – eg AAAA AIMS

- Recognition of industry safety and training courses and accreditations – eg AAAA Chief Pilots Course, AAAA Aerial Improvement Management System (AIMS), and AAAA Human Factors, CRM, and Wire Risk Management courses

Efficiency

CASA has studiously avoided involving industry in active consideration of being more efficient - despite industry being the key stakeholder and receiver of all of the poor outcomes, delays and costs associated with CASA inefficiency - and best placed to identify shortcomings.

Much of CASA inefficiency continues because CASA does not seem to be able to grasp the benefits that may come from more strategic approaches.

For example, use of a standard operations manual – as exists for aerial application companies through the AAAA Standard Ops Manual originally approved in about 2005 - could greatly reduce waiting time and CASA resources required in assessing AOC applications.

Similarly, applying a more educated risk management assessment to entry control for aerial work operations could significantly reduce costs and speed up approvals.

Again, there is no evidence that the cost of the current Drug and Alcohol regime is warranted – especially when contrasted against the significant cost to small operators.

Much of what CASA does – especially in aerial work regulation - can be characterised as duplication, or requirements that do not improve safety but add to cost and delays.

Key initiatives could include:

- Establishing an ‘Efficiency Panel’ including industry members tasked with identifying, reviewing and directing systemic changes to the way CASA does business.
- Building on the ‘micro-business’ model established for the Part 99 – Drug and Alcohol - exemption.
- Establishing an internal reporting system that captures time required/costs for licence issuing, medical approvals/reviews, entry control (AOCs/certificates/permissions) and making the results available to industry. Such a system should also be able to ‘red flag’ any applications exceeding agreed benchmarks, identify ‘best practice’ from various CASA offices/states, and facilitate free transfer of better processes between CASA offices.

Consistency

One of the longest term industry complaints regarding CASA performance has been inconsistency between CASA offices/States.

Inconsistencies in interpretation of regulations, the making of policy on the run, the proclivity for CASA regional offices to believe they are fiefdoms with no allegiance to the organisation’s centre, the lack of coherent policy or a place to find previous decisions are all alive and well in CASA today.

Industry has always struggled to understand the lack of a centralised policy area in CASA that is available to industry so that industry can help CASA enforce the requirement that decisions are made consistently, in the full knowledge of formal CASA processes and previous decisions.

Key initiatives could include:

- Establishing a central policy website/page where CASA decisions and interpretations can be found
- Establishing a system within CASA for policy/regulation interpretation, especially one that binds all CASA staff.
- Elimination of the ability of CASA staff to make up interpretations and policy on the run and then require/demand industry to comply. Establishing a mandatory pathway in CASA for all interpretations/policy through a centralised area that has itself a procedure to include industry consultation/expert review would be a significant improvement.

Accountability

A key discipline missing within CASA is that no-one appears to be held to account for failure, delays or unacceptable dealings with industry.

While CASA established some years ago a Service Charter, it does not seem to have gained a lot of traction within CASA.

Behaviour change demands consequences that are immediate and certain, and therefore to change CASA and its culture will be very challenging without a significant improvement in the systems within CASA to ensure reasonable performance and accountability.

Key initiatives could include:

- Significant change in culture driven from the top and with a focus on quality and outcomes.
- Re-invigoration of consultation mechanisms so that industry has a greater opportunity to express concerns. This will be meaningless unless the current culture of not listening to industry is changed dramatically. The proof is in the failure of the regulatory reform program despite consistent advice from industry for years on problems – see for example the Part 61 submissions from AAAA from 2003 and 2013.
- Strengthening the role of the industry Complaints Commissioner as highlighted above.
- Introduction of peer/expert review of decisions as highlighted above.

Continuous Improvement

CASA does not demonstrate any commitment to or understanding of continuous improvement in its business management systems. It seems inexhaustible in terms of making the same mistakes over and over again and discarding any lessons that may have been learned.

For example, AAAA and CASA worked together to introduce a range of initiatives that significantly improved CASA's performance in the oversight of aerial application operations in the early 2000s.

Not only did CASA fail to extend those principles more widely to reap the benefits, it actively dismantled the successful structures under the current management.

From an industry perspective, this lack of a commitment to continuous improvement resigns CASA to being a mediocre regulator at best and more likely a lazy, overfunded, bureaucracy-ridden organisation incapable of self-improvement.

The clear evidence of continuous improvement should be in ongoing cost reductions, reduction in waiting times, staff savings, innovative programs and the widespread support of industry. None of this is to be found.

Key initiatives could include:

- Establishing an ‘Efficiency Panel’ including industry members tasked with identifying, reviewing and directing systemic changes to the way CASA does business.
- Establishment of a continuous improvement system within CASA that encourages staff to identify problems and propose solutions.

Specific CASA Issues

Safety Promotion

AAAA believes there is greater synergy in shifting the responsibilities and resources for aviation safety promotion from CASA to ATSB.

Not only does ATSB have a more natural ‘fit’ because of their work with accident investigation and analysis, but they have a better track record of working with industry.

Safety Reporting

The independence of ATSB and protections for pilots and operators from CASA actions must be strengthened, not diluted.

Confidentiality of incident reporting is critical – CASA should not have access to VH or location details or this threatens to undermine all reporting.

While the current MOU between CASA and ATSB on the sharing of information makes a number of relevant commitments – especially on the CASA side – AAAA has examples of where this MOU is currently not being honoured by CASA staff.

A key issue is CASA currently using ATSB incident/accident reports to launch its own ‘independent’ action against operators and pilots, despite CASA staff not having expertise in the specific area or operation and thereby not understanding the risks or how they are already being managed. This is a regulatory eddy that consumes resources, destroys trust, adds to costs for operators, imposes significant stress into an often already stressful environment and makes no contribution to an improvement in safety.

CASA already has significant powers, resources and staff to enable the appropriate surveillance of individual licence holders and organisations. It is capable of mounting an audit program that identifies any shortcomings, and it certainly has adequate powers to manage non-compliance.

In addition, it has the resources to use a wide range of statistics and data to identify safety trends, develop programs and implement safety education and promotion.

CASA does not need and should not be given access to protected data as that will completely undermine the aviation safety reporting system in Australia as is currently happening in the wake of CASA activities.

If anything, additional protections for individuals and companies reporting incidents or accidents should be introduced to the *Transport Safety Investigation Act* to bolster participation in reporting as part of putting meaning into the terms ‘just culture’ and ‘no-blame’ reporting.

Regulatory Reform

The regulatory reform program is certainly not ‘reform’ any longer.

There is no overall goal in play – ‘safety through clarity’ has been abandoned and there is no real reason for regulatory reform other than for its own sake. Key outcomes, goals, timelines (ie strategic planning) must be established.

Key goals for regulatory reform should include increased safety, reduced cost, simplification and harmonisation.

Key regulatory triggers or thresholds must be established – ie if CASA staff have a good idea, that does not mean, *ipso facto*, it becomes law. It should have to meet the key goals identified as a trigger for reform. Similarly, if it adds considerable cost for little or no safety benefit, it should not become law.

Regulation should be seen as the final option when other approaches have been exhausted – such as education and safety promotion including joint ventures with industry associations – rather than the default setting and starting point for guiding all aviation activity.

This is a fundamental shift in CASA’s worldview. It is the view of best practice regulators the world over. Of course there need to be rules, but there do not need to be rules for every possible eventuality.

The different approach between outcome-based regulation as opposed to prescriptive regulation appears to be lost on CASA and its legal advisers, despite the previous position of CASA on regulatory reform of being committed to outcome based regulation.

The fact that over the last five years or so CASA has produced little in the way of advisory material to support new regulations and to aid interpretation, while ramping up the production of black letter regulation with accompanying strict liability offences, speaks volumes for the current CASA worldview being driven by legal advice that emphasises the need to micromanage every liability by regulation – especially the political or public scrutiny liability that might come CASA’s way.

CASA’s current regulatory response to managing aviation safety and the outcomes this produces are miles away from the spirit of the *Civil Aviation Act 1988* with its focus on safety, or the current government’s stated policy position that:

'The Coalition considers that regulation should only be imposed where absolutely necessary and should not be the default position in dealing with public policy issues.'
(see <http://www.liberal.org.au/boosting-productivity-and-reducing-regulation>)

There is a lot more to being a mature and clever regulator than simply more regulation. The safety toolbox is a lot bigger than that.

The pace of reform should match industry's capability to absorb change safely – including its ability to provide meaningful input to new regulations.

At SCC meeting after meeting, AAAA has warned that the workload being asked of industry was simply too great to allow adequate consideration of issues and detailed responses.

The 'on again, off again' pace of reform has not only been frustrating to industry, the seeming inability of some project officers and their managers to actually deliver drafts that reflect discussions and what industry thought were previously agreed points has set the process back by years.

One of the complicating factors in recent years has been that in addition to the significant workload generated by the regulatory reform process, CASA has insisted on additional projects going ahead that have also required industry attention. In 2012, AAAA identified to CASA in excess of 50 individual projects requiring industry consultation in addition to the regulatory reform process.

So in addition to significant regulatory reform work across several working groups such as the immense Part 61, Part 138/136 and others, industry was also being asked to comment on and work on projects as diverse as unmanned aerial systems, electronic flight bags, the post implementation review of Part 99, the new flight and duty time regime under CAO 48.1 and some 50 other projects.

While AAAA understands the demands being placed on CASA to conclude the regulatory reform program, it simply does not make sense to continually flood industry with a workload that appears to be out of control.

Regulatory Language Complexity

In addition, the current language insisted on by various legal areas is now an impediment to aviation safety.

The Attorney General's department is blamed by CASA for the current complex drafting style of legislation. A simple quality assurance check between, for example, a Civil Aviation Order (say CAO 40.6), an older regulation (say Part 137 from 2007), and new regulations (say Part 61), shows a marked recent departure from any commitment to clarity, plain English or operational use.

If AGs are in fact the problem, then they need to be cut out of the loop by a return to CASA producing ICAO compliant operational standards under a regulatory head of power (ie 'three tiers' of regulation). The danger with this as recently seen with the new CAO 48 is that it gives CASA unilateral power not subject to disallowance by the Senate and without a requirement to consult with industry or meet objective positive safety benchmarks.

Regulatory Application of Strict Liability

The Criminal Code and strict liability have been applied in recent years to almost all CASA operational and other regulations. This serves to criminalise operational and administrative non-compliances to facilitate CASA prosecutions and improve the odds of CASA winning AAT cases.

The very serious step of introducing strict liability offences into an operational setting has been consistently glossed over by CASA when raised by industry – which has been the case for at least the last decade. A very useful paper on the role of strict liability and the very serious consideration that must be given to its (preferably limited) use, can be found at the NSW Parliament website:

1.14 Article 14(2) of the International Covenant on Civil and Political Rights sets out this fundamental human right: Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

1.15 The Committee considers that there are appropriate circumstances in which to impose strict or absolute liability. However, it also considers that the potential of strict and absolute liability offences to trespass on this fundamental right means they should only be imposed after careful consideration on a case by-case basis of all available options and taking into account the potential for such a serious trespass.

(see:<http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/88212F7A0A84B436CA2571870022BC55>)

It seems incongruous for a regulator that purports to not only understand human factors and the role they play in aviation, to ignore that knowledge and insist on the application of strict liability offences in matters where it serves no safety purpose.

This approach seldom, of itself, adds to safety. However, it does encourage a climate of bullying and intimidation from CASA and cover-up from industry. It is anathema to sound aviation safety principles.

A return to CASA promulgating ICAO compliant operational standards to which strict liability is not required to be applied may assist in removing this impediment to a mature aviation industry, while leaving CASA with existing adequate policing tools to control operators who are genuinely unsafe.

Regulatory Consultation Structures

Consideration needs to be given to the entire regulatory reform consultation process and structures.

The Standards Consultative Committee has become an ineffective CASA briefing session – with the last meeting in 2013 being embarrassing because of the almost complete silence of industry participants who are heartily sick of being lectured and not listened to.

AAAA feels that scrapping the overarching SCC may be viable if it were replaced by a much smaller group made up of key industry associations who play a representative role as well as providing expertise.

It may be viable to keep the working groups, but bind CASA staff to a written performance strategy and outcomes. The working groups' membership needs to be reviewed to ensure they are not only providing particular expertise, but that they also have the right balance of personnel, including participation of a number of operators who actually have money invested in the relevant sector, as distinct from pilots who may see the regulatory environment as rich for mandating better conditions.

Where CASA has no expertise, more use can be made of Associations – as per AAAA and ATOs recently writing the application competencies for Part 61

Each part should have an implementation strategy that includes using the key sector Associations to help deliver tailored messages.

A New Way of Doing Business

CASA needs new ways of doing business if it is to become a more effective regulator.

CASA has lost the confidence of industry because of its ongoing hostility, unacceptable practices and attempts to intimidate and bully.

Its inefficiency has, however, been a mind-numbing constant.

The chronic inefficiencies that industry witnesses every day, the interminable delays that cost industry dearly, and the archaic work practices and processes that CASA doggedly maintains all indicate that CASA's management approach is outdated and in many ways, pathological.

By rethinking the way CASA can do business, significant savings can be identified as well as improved performance.

AAAA knows this to be so because we have previously helped CASA adopt very successful ways of doing business that have delivered real benefits to industry and to CASA – but which have been abandoned in recent years for no good reason.

Action on the following suggestions would serve to reset CASA's direction to become a positive, engaged, efficient, best-practice regulator:

Classification of Operations

CASA's interpretation of CAR 206 has been at the heart of many difficulties experienced by the aerial work sector, where bizarre rulings have led to unnecessary complications and costs being imposed on essentially simple operations that do not involve the carriage of passengers.

A good example is the spraying of mosquitoes, where CASA now has a policy that mosquito spraying in a helicopter away from agricultural areas does not require an agricultural rated pilot. Any mosquito spraying operation in a fixed wing aircraft does require – rightly – an agricultural rated pilot. That competence should be seen as a key risk mitigator in a difficult low level operation. This is recognised by all Australian States who require any pilot applying pesticides to hold an agricultural rating issued by CASA. CASA's motives in this policy ruling must be questioned – why create an unlevel playing field for operators by undermining the very competence it is charged with regulating?

CASA would free itself up from many problems if it were directed by the Minister and the Board to have simpler rules and approaches for those AOC operations that do not involve the carriage of passengers. These directions have previously been given to CASA in various Minister's letters setting CASA's strategic directions, as empowered by the *Civil Aviation Act*.

This could mean, for example, that Drug and Alcohol Management Plans (DAMPs) and all of the complications that go with them (especially in accessing pathology services in rural and isolated areas) could be maintained for passenger carrying ops, but that only CASA's random testing regime would apply to aerial work operators. The results of the current regime simply do not deliver a cost/benefit ratio that can be supported.

Similarly, accepting that the risk to the fare paying public or the general community is generally less in aerial work operations (with some exceptions which can be risk-managed in other operational ways), CASA would enable itself to greatly simplify the processes for AOC issue and management.

As an example, when Part 137 – Application Operations Fixed Wing – was introduced in 2007, CASA agreed to remove the requirement to list all aircraft types on an AOC and to replace it with a generic statement of ‘Single engine piston or turbine powered aeroplanes engaged in aerial application operations, other than amateur built or kit built aeroplanes, unless permitted by the CARs 1988 or the CASRs 1998’.

At one stroke, this removed years of bureaucracy and cost that required an entire *new* AOC to be issued each time an aircraft type was added to the operator’s equipment. That situation is still in place for rotary agricultural operations, and all other aerial work.

If CASA were able to apply this simplification principle to all of its aerial work processes, there would be considerable savings in cost and time for industry, and the potential to significantly reduce CASA internal costs and staffing.

Micro Business Concept

AAAA was instrumental in encouraging CASA to adopt a micro business model for management of DAMPS – the current micro-DAMP exemption being a direct result of AAAA suggestions.

Extending this concept – where AOC, maintenance and training organisations with less than 10 people can avail themselves of simpler but still effective and safe processes - is both good for industry and resource saving for CASA while still delivering safety improvements.

Consultation

The key reason CASA continues to struggle with regulatory reform is that it simply does not understand the concept of consultation. CASA seems to think that consultation means you have to hear industry express their views, before ignoring them and implementing what you wanted anyway.

This is why Part 61 is such a mess. AAAA has sat on the Standards Consultative Committee and the Part 61 Working Group since 1999. We – along with many others in industry - have contributed thousands of hours of work to try and make the regulations better and more effective for safety.

During that time we have seen project officers consistently ignore practical advice and refuse to acknowledge agreements of the working groups and CASA, managers refuse to engage with the process or to take any action to resolve issues, and senior management attempting to bluff and bully their way to implementation as part of their performance pay appraisal.

For example, after years of offering to support CASA by pulling together a group of senior application operators, pilots and Authorised Testing Officers, CASA was still insisting that they alone would write the competencies for aerial application to be included in the Part 61 MOS. It was only in 2013 when they finally allocated a project officer to this responsibility that they had to admit they had no competency in the area and were unable to write the competencies required.

AAAA immediately convened the AAAA ATO/operator panel and over a one day meeting and a few out of session emails, was able to deliver to CASA a full suite of competencies for both aerial application and firebombing, a detailed structure for the supervision of inexperienced aerial application

pilots, and an outline of outstanding issues and concerns with Part 61 requiring further consultation and resolution. Unfortunately, CASA managed, while accepting much of the content into Part 61 MOS, to miss many of the nuances included such as recognition of prior learning when assessing the holder of an aerial application rating for the award of a firebombing endorsement. Consequently, there is no doubt that the Part 61 MOS – and probably the Part itself – will require further amendment before it becomes useable.

Part 61 remains a complex mess of regulations because CASA has not listened to industry over the last decade. In fact, the version of Part 61 that was extant in about 2005 was superior – through greater clarity, simpler structure and simpler legal drafting style - to the ‘made’ regulation from 2013.

For example, Part 61 creates a new qualification for an aerial application specialist instructor. The 2005 draft included an agreed position that such a person would only require 2000 hours of application experience, completion of a course in principles and practices of instruction and 5 hours of dual training learning how to instruct. The most recent CASA amendment proposals to Part 61 include none of this detail and reduce the experience requirements to 100 hours – meaning that an application pilots who is still under supervision or a more experienced pilot would be eligible to instruct aerial application.

As a further example, the requirement to hold both an aerial application rating and an aerial application endorsement is nonsense when one understands the much simpler approach of the current system – and of the systems currently operating in the US, Canada and NZ. AAAA consistently warned CASA officers against this approach, but like much else in Part 61, this advice was ignored.

AAAA has provided copies of the 2003 and 2013 submissions to CASA, but further details and submissions are available should that be considered useful. The concerns and warnings are remarkably consistent when considering why CASA has had to postpone the implementation of Part 61.

Building Strategic Alliances

Far from industry ‘capture’, CASA needs to source relevant expertise where it simply has none.

The current cultural and philosophical approach of CASA seems to be to not trust industry. This ignores the fundamental truth that industry has a very strong vested interest in safe operations. With encouragement rather than constant censure and aggression, industry has continuously proven it plays a critical role in safety performance and that it can lift the performance, reach and influence of the regulator when a more cooperative culture is in place.

AAAA has always accepted that regulation is essential and that industry will not always get its own way. However, it is a wise regulator that recognises optimum safety performance will only be reached where industry and the regulator are working together, rather than being in conflict as is currently the case.

CASA needs to re-engage with representative organisations so as to rebuild trust and to map out a way of returning to positive dialogue that guards safety while also recognising the needs of industry.

By identifying key associations to work with and support, CASA would be able to reduce its costs and increase its reach across a range of regulatory and safety promotion activities.

AAAA was aghast when the CEO of CASA unilaterally cut sponsorship support of a number of Associations and then linked that action to criticism of CASA by those Associations. AAAA has no problem with CASA spending its sponsorship dollar where it thinks it will get the best return – after all, most of the ‘dollars’ come from industry.

While the size of support AAAA received was immaterial (\$9,000 per annum to support the National Convention – for which CASA received considerable commercial sponsorship benefits) the principle of trying to intimidate Associations by manipulating funding was simply disgusting.

To draw a direct line between CASA patronage and intimidation of free speech not only flows against public service guidelines or good practice, it is an unethical approach to managing the relationship between CASA and representative industry bodies that have previously worked genuinely with CASA over many years to deliver regulatory change and safety promotion.

The main reason many Associations have purposefully withdrawn from any contact with the senior management of CASA is because it is a completely unfruitful and hostile environment. AAAA certainly feels that the resources of members are more usefully applied in areas other than trying to maintain a clearly failed relationship with the current senior management of CASA.

This review of Australian Aviation Safety Regulation offers a unique chance to reset the relationship for the longer term and to embed key principles into the CASA/industry relationship such as accountability, transparency and efficiency.

Sector Specific Units or ‘Desks’

AAAA previously managed to influence CASA to establish a unit to deal specifically with aerial application issues. That two person unit (the officers had other general duties as well) was made up of a Flying Operations Inspector and an Airworthiness Inspector based at the Tamworth office. Both had some previous experience in dealing with the sector cooperatively and successfully. The ‘Ag Unit’ operated very successfully for a few years from around 2002-2003 and with only one staff member until about 2007 and the introduction of Part 137.

Importantly, the Ag Unit had senior management support, and the annual work program was actually discussed openly with AAAA to identify key areas for safety priorities and areas where efficiencies could be delivered.

Despite assurances to the Senate from the current CEO of CASA, the Unit was never re-established after it was disbanded.

Among the ‘Ag Units’ successes were:

- Approval of the AAAA Standard Operations Manual – now with over 100 issued and a revised version awaiting CASA approval, the manual has greatly assisted in standardising and improving industry practices, and making the transition to Part 137 safe and efficient.
- Part 137 – the simplicity of the part is still not as good as the US or NZ version of the same regulations (the US version is less than 20 pages, the Australian version is 43), but it is certainly more understandable and practical than more recent regulations such as Part 61.
- Ag weights – aircraft manufactured in the US or operated in Canada or NZ can operate at weights greater than the flight manual under certain conditions – essentially trading off design

‘g’ for increased weights and reductions in handling limits. Australia previously had a similar regime that maintained safety while allowing pilots the discretion to carry heavier weights because of the jettison system fitted to all application aircraft, and because of the strong design of the aircraft. We now have the bizarre situation, thanks to CASA intransigence and the removal of the previous exemption regime, where an aircraft can carry a full load in the US, Canada or NZ – but in Australia is restricted to a significantly smaller load (up to 80% less) for no evidence-based safety reason. Industry – and the manufacturer of Thrush Aircraft – are now working to develop an Australian-unique STC to allow the aircraft to fly with the same weights it is allowed to carry in the US, Canada or NZ without the cost of a superfluous STC.

- Consistent policy decisions across CASA – the Ag Unit was able to provide consistent policies and interpretations to offset the particular foibles of different State regions or CASA officers.
- Education and assistance to industry – the Ag Unit members regularly spoke at AAAA events on matters of safety and the interpretation of regulations.
- Positive relationship with AAAA and industry members – because of their knowledge of the industry, the Ag Unit was able to engender a relationship where operators and pilots were more open about their concerns, issues and safety problems. Overall, the Ag Unit enabled CASA to be more proactive and less reliant on policing type activities based on lagging indicators.

Other aviation regulators – including the FAA – have taken a similar approach by establishing structures to actively deal with the particular issues that are relevant to particular sectors – such as the establishment of the FAA “Small Airplane Directorate” for small aircraft certification and other issues.

This model has been shown to be very effective in Australia and AAAA would anticipate significant and rapid improvement in both CASA performance and tangible reductions in costs and delays for industry.

Recognition of Industry Accreditations and other programs

AAAA has a wide range of programs available that support members, standardise approaches to compliance and promote leading edge safety initiatives – including the adoption of SMS and CRM, even in small companies.

CASA could greatly reduce its workload and save resources if it worked more closely with AAAA and other associations that provide programs that engender greater safety, and in some cases, require it through independent safety audits.

AIMS – the Aerial Improvement Management System - is an integrated management system that covers aviation SMS as well as all other regulatory and safety requirements. It is independently audited every three years, with an 18 month ‘health check’ required to maintain accreditation. Over half of the AAAA membership has signed on to the program, with 16 operators now holding AIMS accreditation. AAAA membership accounts for over 90% of all aerial application operations in Australia.

The AIMS program includes templates, training and ongoing support to ensure its long-term success. Recognition of AIMS by CASA could reduce the auditing workload on CASA staff and significantly lift standards and performance across the industry. AAAA would welcome an approach that included

CASA auditing the AAAA systems and sample auditing techniques. The program is already recognised and supported by QBE Aviation Insurance and others.

AAPM – The Aerial Application Pilots Manual was originally a joint venture with CASA, until CASA strangely required AAAA to take over the manual and not include the CASA logo. It is now a world-leading manual on aerial application and integrated human factors and risk management. It forms the basis for the aerial application/agricultural rating knowledge syllabus, although the CASA website still refers to the previous edition, and the CASA exams have not been updated to incorporate the new information.

Chief Pilot Course – AAAA has already run two Aerial Application Chief Pilot courses in conjunction with British Aerospace in the early 2000s. That course lapsed due to a lack of recognition by CASA. AAAA has since redeveloped the course and hopes to offer it in 2014. If CASA were to engage with AAAA and recognise the course, it could replace the current antiquated approach to the appointment of an aerial application Chief Pilot where CASA insists on a flight test and an ability to fly all aircraft on the AOC, rather than a clear focus on being a competent company safety manager. AAAA has long argued that the Chief Pilot position should be included in Part 61 and a set of competencies developed for it. Along with many other suggestions from industry, that has also been ignored by CASA.

International Harmonisation

It appears that CASA still cannot grasp the importance of harmonising its regulatory approach with that of other ICAO contracting states – especially where many states have a much simpler approach, such as in aerial application operational standards in Part 137 in the US or NZ.

The complete debacle of the significant upheaval in the industry from the new maintenance licencing regime introduced in recent years is a prime example.

While the GA sector never supported the proposed ‘EASA-fication’ of maintenance licencing, there was grudging acceptance that under the new forced regime there was at least to be a GA licence structure called the ‘B3’ licence that had as a principle that it would enable a LAME in regional Australia to return an aircraft to service after a 100-hourly as they would have coverage across the relevant ‘categories’ – airframe, powerplant etc.

It was an unpleasant surprise to industry and the GA sector when the new licencing structure was made and the ‘B3’ licence category had been dropped completely and without consultation or advice.

After all the talk, sham-consultation, misrepresentation by CASA, and hundreds of hours of industry discussions, the outcome has been a system of maintenance licencing that has the following features:

- Unique Australian qualifications that are not recognised by the FAA or EASA, or by other Pacific nations or ICAO contracting states
- A structure that does not allow automatic recognition of overseas qualifications
- A licence that identifies what a holder is not permitted to do, rather than what privileges they hold (this has enormous implications for overseas recognition, compliance, ease of employment, job creation, employer liability, duty statements, workplace health and safety etc)
- A licence structure that is so unsuitable for general aviation use that CASA has established a new working group to develop a licence structure that is more suited to GA
- Lack of a clear transitional pathway from the GA environment to the airline maintenance environment and vice versa

- Widespread confusion in industry and in maintenance training organisations as to the future of the maintenance sector and its ability to compete with other sectors for candidates at a time when the industry and the supporting training sector should be experiencing growth.
- Creation of likely significant additional costs on small maintenance providers and specialists such that many are considering retirement rather than transitioning to the new regulations. This would precipitate a maintenance crisis in Australian aviation and especially GA in regional Australia.

Most of the GA industry now supports the adoption of the NZ maintenance regulations as one way of getting Australia back to some level of international harmony, while at the same time removing the current system that is failing.

The accompanying regulatory requirements for maintenance organisations, especially GA organisations, are still viewed by industry as a major threat to viability for no safety benefit. The imposition of additional costs for no improvement in safety is a direct challenge to the main object of the *Civil Aviation Act 1988*.

In fact, AAAA has been warning CASA for some years of the potential impact on maintenance organisations being so significant that it may drive small charter operations ‘underground’ (due to the accompanying higher costs of maintenance of an aircraft in charter category vs private category – this requires a separate discussion as to the nature of the concept of ‘airworthiness’ or AAAA can provide its most recent submission to CASA on this and related issues).

If the potential outcomes of current CASA approaches are to actually decrease aviation safety, then not only is the organisation in breach of its legal responsibilities under the objects of the *Civil Aviation Act 1988*, but intervention from a higher level, in this case either the Minister or a panel of review, becomes an imperative.

Another example of cost and delays for no good reason is the current system of CASA not automatically recognising flying qualifications from other ICAO contracting states.

While AAAA believes that preference should almost always go to Australian pilots flying in Australia and that reciprocity of access is a principle in international relations that should not be glossed over, there are circumstances where the lack of harmonisation or recognition of overseas qualifications by CASA impedes industry needs for no safety outcome.

Aerial application currently has a skills shortage. The industry would prefer to fill all positions with Australians, but there are difficulties in doing this after the long drought that ended in 2010 and the three year lead time required to develop a fully productive application pilot.

There are also significant difficulties being caused by the lack of a coherent CASA pathway to becoming an application trainer – something that Part 61 was meant to remedy, but which for the foreseeable future has created a bottleneck for aerial application training in Australia.

When an application company seeks to bring a pilot to Australia through the 457 visa program, delays are inevitably encountered in the time CASA requires to process the application because their licences are not automatically recognised and CASA has to issue a temporary authorisation for them to fly in Australia. Generally, these authorisations only last a few months, at which point another application is made and the process repeated. There is no safety issue – especially with the recurrent approval – this is simply a case of unnecessary bureaucracy.

Another example of a lack of international harmonisation is when CASA has sound overseas models of legislation that are compatible with the Australian legal system – at least in approach if not every detail. Even then, its clear preference is to develop uniquely Australian regulations.

Part 137 – Aerial Application for Fixed Wing Operations - is a good example. Rather than simply adopt either the FAA or the NZ Part 137, CASA elected – over a prolonged period of years – to develop a unique part that is both longer, more complex and more restrictive than either of the Parts operating in the US or NZ.

The CASA development of this 43 pages of legislation (the US Part 137 is about 15 pages, the NZ version slightly longer than the US) took from 2000 to 2007. The draft had something in the order of six project officers over that time, each of whom had their own personal preferences of how to frame regulations which they insisted on. Only two had any aerial application experience.

After making of the regulation, the first exemption was required within weeks due to CASA staff having ignored industry advice on a significant operational issue (agricultural weights and the particular wording in the regulation). Several other exemptions have since been required.

The post-implementation review of new regulations, according to CASA's own policy, is meant to be held approximately 12 months after the making of the regulation. Seven years after the making of the regulation, AAAA is still waiting for the post-implementation review to commence.

It must be noted that the Australian part 137 only applies to fixed wing aircraft. Rotary wing aerial application is still regulated by all the existing and widely spread regulations Part 137 replaced, many of which are found in the Civil Aviation Orders such as CAO 40.6, CAO 48 etc.

This means that CASA has engineered a system where there are two operational suites for the same operation. It means that CASA has created different competitive environments for similar operators in areas such as flight and duty times. It also means there is a constant need for policy clarifications and exemptions as the 'old' regulations – which still govern rotary aerial application – could not be repealed. CASA has indicated it now proposes to bring rotary operations under Part 137 sometime in the next 18 months.

Industry often comments that it is not possible to make this stuff up – only CASA has the prerequisite levels of incompetence to create and sustain such regulatory nonsense.

Standardised Manuals, Modules and Approaches

CASA has the capacity to develop standard approaches to manuals required for AOCs but has continually failed to deliver, despite assurances that this was where they were heading.

Operators are still forced to play a 'cat and mouse' game with CASA case managers who continually move the goalposts on manual development, often indicating that the company's proposed manual was not acceptable, but not offering advice or standardised phrases to assist with easy approvals.

This was one of the reasons for the establishment of the AAAA Standard Operations Manual process.

It is worthwhile noting that the AAAA SOM is almost universally disliked by CASA FOIs and AWIs – not because they disagree with the content (they recently had the opportunity to make criticisms and input and very little was received) but because the SOM enforces a standardised approach on all

CASA staff as the manual cannot be amended by individual FOIs or AWIs. It can only be amended at a higher level in consultations between CASA and AAAA.

By removing the power of CASA field staff to intimidate and obfuscate in accordance with personal preferences, the manual has delivered a significant cost saving to CASA, quicker turn-around and approval times for industry, and far greater certainty in the process.

The model of the AAAA SOM could be repeated across CASA operations.

Unfortunately, the lack of internal CASA systems to support the manual mean that there is little understanding of either the manual or how it works within CASA. This continues to maintain high prices for AOC approvals despite there being little work for CASA to do in ‘approving’ the manual each time.

Policeman versus educator

While AAAA recommends in this submission the wholesale shifting of safety promotion from CASA to ATSB, it is still critical for CASA to realise that a great deal can be achieved through education and safety promotion rather than simply playing the regulatory policeman. Even, or especially, the State and Commonwealth police forces recognise this.

CASA has produced a considerable amount of educational material that is very useful. However, the missing piece of the puzzle is that CASA does not understand is that launching this material into a vacuum is a waste of resources.

CASA – and possibly in the future ATSB - should spend a lot more time working with industry associations so that its safety promotion material meets a ready-made market.

For example, AAAA runs an annual conference and training program that sees approximately 12 events around Australia with a focus on aviation safety. AAAA also runs a Professional Pilot Program that requires participants (most application pilots) to undertake ongoing education to gain credits for the renewal of the Spraysafe accreditation which underpins all chemical distribution licences issued by the State agricultural chemical control of use regulators. AAAA also runs a national Convention, as well as States Conferences and sector specific training days. AAAA also researches, develops and delivers safety courses covering human factors, CRM and wire risk management.

This provides ample opportunity for CASA and AAAA to work together to deliver credible safety messages. Similar activity is available through other associations.

When CASA and AAAA have previously worked together, for example on the Aerial Application Pilots Manual which is now in its third edition, the results have been world-leading. There is no reason why this success could not be repeated across a range of safety promotion products.

However, CASA safety promotion cannot be discussed without mention of the incredible waste of money that CASA regularly engages in. Industry operators and pilots were disgusted at being inundated with multiple copies of posters promoting the CASA DAMP program – not because of the products per se – but because of the significant numbers being sent to small operators. What possible use can a small operation have for 20 copies of large posters?

More recently, CASA have published a calendar (ignoring the one from a few years ago that missed an entire month) that to industry is useless as it has no key dates or writing space available.

Also recently, CASA published a very glossy booklet claiming to be the inaugural safety yearbook. AAAA would like to know what market research identified the need for this booklet, or which part of the industry found it to be useful, or why there was no industry participation invited into an aviation safety yearbook. Perhaps it was just coincidence that this glossy publication that added nothing to the safety debate and essentially sank without trace came out during the Aviation Safety Review scheduled hearings with industry.

If CASA is able to return a \$12 million 'profit' at the same time as turning out glossy but irrelevant publications, it clearly doesn't need the additional aviation excise fuel tax that was levied only a few years ago when CASA was crying poor about resources.

A Selection of Current CASA issues

The following examples provide an evidence trail of why industry is so disappointed in the current performance of CASA. Many more are available.

Agricultural Weights – CASA unilaterally decided in 2012 that the previous long standing arrangements for the recognition of sensible working weights for agricultural aircraft – as used in the US, Canada, New Zealand and other countries – would be abolished. The ability of agricultural and firebombing aircraft to jettison their loads, thereby giving them a safety feature unavailable to other aircraft has been ignored. CASA is now strictly interpreting the certification basis of agricultural aircraft – ignoring the additional rules available in other countries. This means for example, that Thrush aircraft are now limited to about 300 litres of load compared to the 2000 litres of load they safely carry in every other country in the world. The only way forward is for industry to pursue a Supplemental Type Certificate for each aircraft type at a cost of approximately \$50,000 – for no safety benefit whatsoever.

CAO 48 – New CAO 48 recently introduced despite CASA being unable to establish any safety case for changing the rules other than it deemed the old approach – based on decades of experience and safe use – “unscientific”. The new rules are confusing and include mathematical errors that make at least one regulation redundant. CAO 48 was not 'trialled' in any way by industry and some of the requirements will cause considerable upset and inability to comply during normal operations – such as night spraying during a highly seasonal industry. The various industry working groups were not given the opportunity to see the final rule set before it was made and therefore it is likely to impose significant costs on industry for no safety increase. Another impact is to remove the development of FRMS beyond the reach of most aerial work operators and smaller companies, so while other regulators are encouraging the adoption of FRMS, Australia is doing the opposite. AAAA has already developed an industry standard FRMS for aerial application but has been told by CASA staff it has no chance of being accepted. The current order should be withdrawn and consultation with industry started again.

Part 61 Licencing – Issued without a MOS that contains all of the competencies which AAAA wrote as CASA does not have the expertise. The language is so complex as to be almost impenetrable by a lay person or pilot. The Part was not trialled with industry and even CASA remains unsure of the operations of the Part and its impact on current operations. Various important suggestions from AAAA regarding the application of competencies and recognition of prior learning between competency sets for aerial application and firebombing have been ignored – despite the actual competencies being

written by AAAA for CASA. As predicted by industry, the Part was delayed recently, but the blame put on industry, despite the lack of a MOS and hundreds of proposed amendments.

Part 141 Training Organisations – A part that will require all ATOs (Authorised Testing Officers) to have a full AOC or certificate for training, including an exposition on how they will conduct the training. Unfortunately, the competencies that organisations will need access to to develop their expositions are in the Part 61 MOS which is yet to be released.

ATO approval process - AAAA has recently written to CASA to suggest that, in the absence of the proposed Part 61, CASA should clarify and standardise the process for approval of Authorised Testing Officers (ATOs) for aerial application training. The ‘process’ over recent years has been such that it has actively discouraged industry participants gaining the required approvals and consequently there is now a shortage of aerial application trainers.

ATO indemnity – Authorised Testing Officers are essentially conducting work on behalf of CASA and therefore should retain the current indemnity by CASA which has been under threat and remains so through Part 61. Proposals to move the liability to ATOs (“Examiners” under Part 61) under the guise of normal business insurance is likely to have significant consequences for specialist areas such as aerial application, where ATOs will be even less likely to continue providing the service they do, and no senior application pilots will take up the challenge of providing an ATO service, without the backing of a government indemnity. The removal of the indemnity, as proposed by CASA, will have a significant impact on aviation safety whereby it is likely the number of available ATOs for training and checking will be significantly reduced. All ATOs in aerial application see this service as ‘putting something back into the industry’. It is certainly not a commercial venture in its own right.

Night Agricultural Rating Recency – CASA had decided not to include night aerial application recency provisions in Part 137 in 2007 in anticipation of them being included in what was expected to be the then imminent release of Part 61. As it became clear Part 61 would not be promulgated in a suitable timeframe, it became obvious to industry that the old provisions of CAO 40.2.2 Appendix II still applied – provisions that had already been agreed between CASA and AAAA should be simplified and improved. Consequently, at the urging of AAAA, CASA issued an exemption in 2009 (CASA EX22/09) that provided significant relief within a risk management approach that allowed agricultural pilots to maintain their night ag recency through practice under controlled conditions. This exemption was renewed without change in 2011 (CASA EX28/11). In 2013, CASA made significant changes to the exemption – with no consultation with AAAA or any application pilot - before reissuing it as CASA EX 18/13 – the effect of the changes being to render the exemption useless as it provided no relief against existing regulations and in fact exacerbated the existing bottleneck caused by a lack of ag trainers (see ATO approval process above). Since January 2013, AAAA has been attempting to get the exemption reissued in its original successful and safe format and to have the same words included in Part 61. AAAA and its members continue to wait while the night application season generally (January/March each year in cotton growing areas) is likely to be threatened by the lack of a suitable and appropriate rule set.

Maintenance personnel licencing – CASA has made maintenance licences unintelligible to employers and confusing to holders. Rather than adding to safety, the new licence structure simply does not serve the interests of aviation, perhaps other than the largest of airlines.

Maintenance organisations – while still working on maintenance issues relating to non-RPT aircraft, CASA is set to repeat its mistakes from maintenance personnel licencing by significantly increasing compliance costs for businesses while exporting Australian jobs to other jurisdictions (such as NZ) not

fettered by the same rules. This represents a major turning point for industry in terms of viability and ongoing access to maintenance facilities for all operations.

Sponsorship – after years of trying to work together on issues such as providing safety speakers to Conventions and developing world class publications such as the Aerial Application Pilots Manual (written/edited by AAAA, not CASA), CASA unilaterally withdrew the existing modest funding. While that may not be in their longer term interests it is certainly their right. However, the real reason surfaced when they made the clear link that sponsorship cuts were linked to criticism of CASA in the media – see John McCormick email to AAAA already provided to the review panel.

DAMP Review – Despite finally agreeing to provide relief to small organisations of 10 or less staff by way of an exemption, at a recent review meeting no performance indicators were available and CASA staff were unable to say what was a satisfactory level of detection. CASA were unable to provide a breakdown of detections by sector of the industry or by drug/alcohol type. This is an enormously expensive program to industry that is simply not delivering any increase in safety, especially at the GA end of the industry. A simple remedy is for CASA to maintain its random testing but to only require DAMPS for passenger carrying ops. The rest of the industry could be reached with education, which is what the DAMP principally requires.

Standards Consultative Committee – SCC – now so dysfunctional that industry does not even bother to raise issues after receiving ‘briefings’ from a range of CASA officers. The minutes over the years reflect the utter frustration of industry at not being able to make headway with sensible reforms and the ‘stop/go’ nature of CASA management of reform.

HAMC - Head of Aircraft Airworthiness and Maintenance Control - requirement for interview – position not required by the Act, but included in Part 137. Now strictly being enforced that HAMC must have an interview and be questioned on a range of issues that are simply not relevant in aerial application operations.

HOFO – Head of Flight operations (formerly Chief Pilot) - interview may now require up to two days and a flight – in an aircraft other than an application aircraft.

ATO – no clear pathway to becoming an ag trainer. Consequently, current numbers of ag trainers at their lowest level in 20 years – possibly longer.

Mosquito spraying policy – despite it being a low level operation identical to those covered by Part 137, CASA has ruled that unless rotary mosquito spraying is conducted in an ‘agricultural area’ it is not agricultural work and therefore does not require an AOC for agriculture or a pilot with an ag rating. This only applies to helicopter operations. Fixed wing are governed by Part 137 where no such ridiculous hair splitting is involved. You have to ask what could possibly lead to such an interpretation that came from WA where one non-ag operator has been known for years to be operating illegally in this area – with the tacit support of the local CASA office – up until CASA’s redefinition of the policy?

Part 137 – introduced in 2007 – post implementation review is normally due after 12-18 months of operation. Still not conducted but scheduled for the coming 18 months. Helicopter aerial application still not amalgamated as previously promised, leading to two different rule standards for fixed and rotary wing conducting the same operation.

Standard Operations Manual rewrite – AAAA has been ‘required’ to rewrite its standard ops manual for a range of minor changes that take no account of the timeline of significant change coming (eg CAO 48, Part 61 etc) and which make no contribution to safety.

Unmanned Aerial Systems – after a promising start that put safety of existing users of airspace first, CASA has completely reversed its approach to the cop-out position of not regulating many UAS uses that impose a direct threat to existing aircraft, especially those operating in the low level environment. The new CASA approach to not regulating below a certain weight is not based on safety of the existing airspace users.

Wind Turbines – CASA has continually ignored its obvious responsibilities in helping to keep aviation safety in a low level environment by washing its hands of the wind turbine issue and especially that of wind monitoring towers. Three pilots in the US have lost their lives as a result of collisions with wind tower infrastructure, but still CASA insists this issue is not within their purview.

4. Supporting documents and submissions

AAAA has maintained a consistent policy stance over many years in dealing with aviation safety regulation.

A significant number of submissions to government on a range of issues dating back to 2007 are available from <http://www.aerialag.com.au/ResourceCenter/Submissions.aspx>.

The Australian Aviation Associations Forum published a comprehensive range of aviation policies in 2012. A copy of these policies is available from:
<http://www.aerialag.com.au/ResourceCenter/Policies.aspx>

In addition, AAAA has been a contributor to Australian Aviation magazine since 2007. A summary of relevant topics is included below to provide context of how consistent industry concerns have been over an extended period of time. A copy of these articles accompanies the hard-copy of the submission to the review panel.

The selected Australian Aviation articles are:

- 2007 April – Break out the champagne! Part 137 Made
- 2007 Sept – Elections may come and go...

- 2008 April – Green and White papers
- 2008 June – Highest AAAA Award to CASA Employee
- 2008 October – Feeling a little DAMP?

- 2009 October – White paper or white flag?
- 2009 November – Classifying Operations

- 2010 August – Rebuilding Trust – A Plan for GA

- 2011 June – Wind Monitoring Towers / CASA on mosquitoes

- 2012 September – Mandatory reporting moves may compromise safety
- 2012 October – Fatigue management for grown-ups
- 2012 December – The danger of being half-right...

- 2013 January – Reform can be easy – Learning from the *Damage from Aircraft Act*
- 2013 June – Safety through clarity – what happened?
- 2013 August – Thanks goodness for real people – leading by hard work – not for the sake of power
- 2013 October – More low-level hazards – wind farms...

- 2014 Jan/Feb – Resetting the relationship – A review into CASA is welcomed, but...

5. Further information

For further information or to discuss any aspect of this submission, please do not hesitate to contact Phil Hurst, CEO of AAAA on 02 6241 2100.