

I have perused the Green Paper and wish to comment specifically on Aviation Safety and the role CASA plays in its maintenance in matters of airworthiness and flying operations.

CASA promotes itself under the banner of **SAFE SKIES FOR ALL**. To the extent that it can honour such promises, it fails to add that this is **provided you are holding a ticket for a main line carrier**.

Stripped of its many motherhood statements and clichés, I find this document surprisingly devoid of substantive aviation safety initiative.

In my view, it concentrates on the fabric of the organisation as distinct from its functional role.

Bureaucratic empire building and protection, institutional self interest, administrative confusion, endless and too often unnecessary rule rewriting, and procedural navel gazing do not equate to safe aviation.

The document also provides a platform for a further round of interminable and, too often unproductive, rule generation.

A concise, practical, workable, and if necessary enforceable, regulatory framework, within which a responsible industry and a competent and visible surveillance system worked in the past and would undoubtedly work again.

If it could ever be revived we would then truly have regulatory reform.

Twenty years ago, Australian aviation regulation was less than perfect. It was nonetheless the best in the World and internationally recognised as such. Sadly few would seriously assert that this is still the case.

Safe, accessible and effective regulation had evolved over many decades through a synergy between a responsible industry and a regulator staffed by a significant core of technically competent people, most of whom had been drawn from upper levels of the civil aviation industry.

These standards were well established and effective, needing only regular review to keep pace with developing technology.

Properly staffed and resourced regional offices were an immediate and visible presence, allowing a direct interface between regulator and industry, with mutual administrative and safety benefits.

Of course, as with any human institution, there were misfits in the system, as there were in industry, so there were periodic healthy disagreements over rule interpretation and application, or simple personality clashes, but overall the system engendered mutual respect and efficiency.

Under these arrangements, compliance with safety related regulations was a largely moral imperative. Enforcement was not a word in popular use until regulations took a life of their own, and observance to the letter, rather than the spirit of the law became at issue.

Indeed, I would suggest that the emphasis on enforcement in the green paper, and in CASA culture, is an indication that the system has failed.

Reasons for the demise of these factors can be readily detected in the history of CASA over the past two decades but, regrettably, few of its staff have survived that period so the necessary corporate memory has been lost and current staff may be unable to perceive a regulator which was active where it mattered and not sequestered in head office reinventing the regulatory wheel.

This reinvention was originally proposed as a regulatory review which, when read literally, was initially applauded by industry who suffered under the delusion that such a review would be conducted in honest consultation.

Unfortunately the word review did not resonate in the media when politicians and bureaucrats were attempting to justify regulatory inadequacy after an aviation incident or accident.

So regulatory reform became the fashion and the same commentators could imply, with alarming naiveté, that present shortcomings would soon be resolved when the reform programme was complete.

What was not mentioned was the fact that the, so called, reform has been in train for over twenty years and is still nowhere near complete.

The results, to date, of these actions are that the regulator, having wasted its efforts in unproductive rule rewriting, has inadequate resources with which to carry out its community responsibilities to foster aviation safety, and the industry, which traditionally operated in a framework of clear, concise, regulations, is now faced with a vast array of inaccessible, obfuscated and often ineffective rules which have seriously reduced regulated standards of aviation safety, particularly in general aviation.

Of particular concern is that this lack of resources has seen a growth in the

practice of devolution of safety functions to industry bodies, some of whom, while genuinely committed to their roles, have clear conflicts of interest and limited technical and commercial resources for discharge of their obligations.

To suggest that these arrangements have safety benefits is fanciful in the extreme.

This system had been historically successful in the Gliding Federation of Australia who had managed their activity with commendable diligence and safety for many years.

Not so successful however has been the, ill defined, recreational aviation sector which was originally seen as users of minimal, single seat aircraft which were allowed to operate on the principle of voluntary assumption of risk, such risk being only to the pilot of primitive and hazardous flying machines.

Useful and reasonably adequate rules were laid down for operation and maintenance of these aircraft and industry largely ignored their activities unless they conflicted with conventional aviation traffic.

Inevitably, the sector became ambitious, passenger carrying aircraft entered the scene and more complex, high performance, aircraft appeared, fitted with more powerful engines, variable pitch propellers and retractable landing gear.

Factory manufactured aircraft, which could not meet the design and safety standards of conventional general aviation aircraft, also entered the market.

The outcome of these developments is that a regulatory system designed to care for a small number of basic, single seat, short range aircraft, has, by simple default, assumed responsibility for modern, high performance, passenger carrying, aircraft, but aircraft which too often exhibit unacceptable safety standards.

One enthusiast organisation now attempts to administer 3,000 aircraft and a membership approaching 10,000 people with a paltry subsidy from CASA.

Of further concern is the fact that these arrangements provide a path where aircraft of inadequate design and construction standards can be accepted on the VH register.

While flying training procedures for these aircraft appear to be reasonably appropriate, maintenance arrangements are deplorable and totally inadequate.

Added to this, despite their genuine efforts, the responsible organisations have neither the resources, nor the authority to monitor and enforce the rules and CASA, who has direct responsibility for these activities, appear to take little effective interest.

The failure of these arrangements is apparent in the perceived accident and fatality rates of these aircraft, which perception cannot be substantiated because, despite the loss of human life, neither CASA nor ATSB see themselves as obligated to take any interest in such accidents and, perhaps for obvious reasons, neither record nor publish accident statistics.

What is clear, from any consideration of media reports and anecdotal information, is that the accident rate is unacceptably high and the fatality rate arising from such accidents is appalling by conventional industry standards.

The simple fact is that people are being maimed and killed in these aircraft. These people are not thrill seekers indulging in extreme sports, they are honest, everyday, people who love to fly but are deluded into thinking that their activity enjoys the protection of a regulatory system which, because of its past history, has a residual reputation of excellence.

Obscure warning notices, disclaimers, and an invidious doctrine of voluntary assumption of risk are too often meaningless, or actively misleading, to such people as they are readily offset by illusions of protective regulatory and surveillance structures.

Against this background, CASA is currently considering extending the area of influence of these organisations to include mainstream general aviation aircraft, with no change to the, already inadequate and dangerous, airworthiness standards.

This is simply reprehensible.

Proponents of this extension suggest that there is no difference between maintaining their current fleet and smaller mainstream GA aircraft. This is probably true because their maintenance systems are clearly deficient for the upper levels of their sector which should have always been maintained to full GA standards by qualified engineers.

Dragging GA aircraft down to their level is irresponsible and would only commend itself to three entities: a regulator intent on evading responsibility for even more aircraft, an interest group with expansionist aspirations, and owners of small GA aircraft degraded to the point where they cannot meet GA

maintenance standards, allowing these aircraft to continue to operate in the anarchic environment of recreational aviation.

This writer is not opposed to genuine recreational aviation or hazardous operation undertaken by fully informed participants but this is not what is happening in the current environment.

If CASA plans to extend these arrangements, which are clearly only devised to allow the authority to further avoid its real responsibility, it must clearly categorise the aircraft types to be addressed, and devise and enforce operational and maintenance rules which are commensurate with the classes of aircraft.

Otherwise, perhaps they should vacate the sectors completely, set blanket flight area and altitude requirements and clear limits on the size, class and complexity of eligible aircraft, then fully deregulate the activities in favour of the various peak interest bodies.

May I draw your attention to recent findings by the Queensland and NSW State Coroners on this subject.

The NSW State Coroner, Mary Jerram, handed down her findings on 4 February 2009, in the case of Messrs Guthrie and Smith, who were killed in a Sting 2000 aircraft on 6 January 2007. Her criticism of the regulatory regime for this aircraft was scathing.

At this date, the findings have not been published on the Coroners website but they should be available through appropriate channels.

Thomas Braes, Queensland Coroner, has placed findings on the website at: <http://www.courts.qld.gov.au/SchollPH20090127.pdf> which concern a micro light accident with recommendations that align with, and extend, those of the NSW Coroner in Guthrie and Smith.

This document contains 58 specific recommendations, each implying unsatisfactory practices by Recreational Aviation Administration Organisations (RAAOs)

Perhaps his criticisms can be encapsulated in his recommendation 17 which says:

“CASA and the RAAO’s should review the evidence of these proceedings with a view of identifying short comings within the recreation aviation industry in the areas of pilot training, aircraft maintenance, transfer procedures, airport and aircraft landing

area regulation, search and rescue procedure, inspection of aircraft, breach investigations, enforcement procedures and protocols and inter-organisational communication between the various arms of regulation within the recreation aviation industry”.

Michael Barnes, Queensland Coroner, has also placed his findings on the website: <http://www.courts.qld.gov.au/Willowbank20081124.pdf>

While this refers to parachuting operations and canvasses some of the dangerous absurdities in administration of parachuting aircraft, it is also relevant to recreational aviation in that it offers serious criticism of the doctrine of voluntary assumption of risk.

In the century since powered flight began, the industry has developed from a profoundly dangerous activity to a prosaic form of transport, enjoyed and utilised at a high level of safety by billions of people.

This has come at immeasurable human and material cost as many safety advances have arisen from disasters.

It is therefore incomprehensible that an organisation which takes unto itself a title of safety authority should seek to wind back the clock and expose large numbers of people to avoidable hazards by condoning and actively facilitating drastic reductions in regulated safety standards for no other apparent reason than to reduce its own workload and evade its community responsibility to foster and maintain aviation safety.

This organisation is publicly funded with the clear expectation by that public that it is doing everything possible to ensure that all who fly, or rely on aviation, do so at the least possible risk to their lives and resources.

The absurd notion that destruction of standards can be justified by a doctrine of voluntary assumption of risk fails dismally when participants are not informed of the nature and degree of such risk and, in far too many cases, are incapable of assessing the risk for themselves.

In a society where legislation is constantly developing to protect people from risk in every area of life, it is simply bizarre that an aviation safety authority, so called, is embarked on a programme of retreat from responsibility by permitting and encouraging unregulated hazardous aviation activity.

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