

## ProAviation comments on ASRR report – July 30, 2014

### Introduction

*ProAviation* further submits that notwithstanding any of the Panel's recommendations, the new national aviation authority's title should not include the word "safety," which as far as we are aware is not part of the title of any other NAA in the world. This would therefore be in conformity with other NAAs, and would remove yet another aberration that is perceived as "uniquely Australian." It is an embarrassment to an industry whose cornerstone is its safety culture, and the continued over-use of the word in the authority's title and in its public affairs is an ongoing insult to the intelligence of the public, the Parliament and the industry both domestically and globally.

At this time, as amply confirmed by the ASRR's observations, the interaction between the authority and industry renders their differences unacceptable, and even with a new chief executive and an enlarged board, the endemic problems, many identified in the review, cannot be resolved without major cultural change. This is a cultural issue and the leadership has gone to great lengths to inculcate this corruptive "them and us" mindset.

The Civil Aviation Act should be amended to give effect to a USA style of mandate for its Federal Aviation Administration where the FAA is responsible to "promote" aviation in every possible manner within its safety obligations.

### Analysis of ASRR recommendations

1. The Australian Government develops the State Safety Program into a strategic plan for Australia's aviation safety system, under the leadership of the Aviation Policy Group, and uses it as the foundation for rationalising and improving coordination mechanisms.

*ProAviation*; **Supported** on the condition recommended by AMROBA that there is a link with the proposed Ministerial Aviation Advisory Council specified in the LNP Aviation Policy Document.

2. The Department of Infrastructure and Regional Development plays a stronger policy role in the State Safety Program.

*ProAviation*: **Not supported**. We submit that DIRD policy has been a significant part of the problem, as exemplified by the Department's failure to audit and enforce protections of industry interests that were specified in the relevant contracts. Continuous auditing of compliance in conjunction with reference to airport users should be put in place.

3. The Australian Transport Safety Bureau investigates as many fatal accidents in the sport and recreational aviation sector as its resources will allow.

*ProAviation*: **Supported**. It is important that *all* serious incidents and accidents be properly investigated as this is the best source of preventative training information. ATSB should be provided with adequate resources to carry out this function or should train experienced industry participants.

4. The Australian Transport Safety Bureau and the Civil Aviation Safety Authority utilise the provision in their bilateral Memorandum of Understanding to accredit CASA observers to ATSB investigations.

*ProAviation*: **Not supported**, at least until other reforms are in place. In its present form the NAA cannot be trusted with details which can be used indiscriminately to pursue prosecutions.

5. The Australian Government appoints an additional Australian Transport Safety Bureau Commissioner with aviation operational and safety management experience.

*ProAviation*: **Supported**:

6. The Civil Aviation Safety Authority's Board exercises full governance control. The non-executive directors should possess a range of appropriate skills and backgrounds in aviation, safety, management, risk, regulation, governance and government.

*ProAviation: Supported Conditionally.* The NAA should be split into at least three entities with one playing an appropriate part in establishing regulation – another auditing regulatory compliance, and a third being a prosecuting agency as part of the AFP. Safety promotion is more properly the role of ATSB and industry.

7. The next Director of Aviation Safety has leadership and management experience and capabilities in cultural change of large organisations. Aviation or other safety industry experience is highly desirable.

*ProAviation: Supported Conditionally.* However this will not work unless the next level of management are competent sector technical managers controlling sector divisions in a newly structured entity.

8. The Civil Aviation Safety Authority:

- a. reinstates publication of Key Performance Indicators for service delivery functions.
- b. conducts a stakeholder survey every two years to measure the health of its relationship with industry.
- c. accepts regulatory authority applications online unless there is a valid technical reason against it.
- d. adopts the same Code of Conduct and Values that apply to the Australian Public Service under the **Public Service Act 1999**.

*ProAviation: Supported Strongly* but recommends (b) initially an annual survey and (d) subject to appropriate and fully transparent provisions for monitoring the conduct under the P.S. Act.

9. The Civil Aviation Safety Authority develops a staff exchange program with industry.

*ProAviation: Not supported* - in the pilot training sector, NAA employees should be able to act as mentors whilst being members of "aero club" et al. NAA examiners could under extreme circumstances be delegated to industry where CP or CFI privileges have been removed/challenged, in order to prevent an AOC suspension. We also support AMROBA's observations that:

*It will take considerable time post complying with Recommendation 14. Until CASA has proven that it has adopted a change to their regulatory philosophy and, together with industry, built an effective collaborative relationship on a foundation of mutual understanding and respect, this should be put on hold till it is achieved.*

10. Airservices Australia, in conjunction with the Department of Infrastructure and Regional Development and the Civil Aviation Safety Authority, reconsiders the policy on 'Assessment of Priorities' that stipulates that air traffic controllers sequence arriving aircraft based on category of operation, rather than on the accepted international practice of 'first come, first served'.

*ProAviation: Supported.*

11. The Australian Transport Safety Bureau and the Civil Aviation Safety Authority amend the wording of their existing Memorandum of Understanding to make it more definitive about interaction, coordination, and cooperation.

12. The Civil Aviation Safety Authority delegates responsibility for the day-to-day operational management of airspace to Airservices Australia, including the designation of air routes, short term

designations of temporary Restricted Areas, and temporary changes to the classification of airspace for operational reasons.

*ProAviation: **Supported***: however despite a huge improvement in the release of airspace, the Defence Forces and Airservices Australia still act as though they “own” all airspace.

Our experience in Europe (Germany in particular) was that the many UK RAF & USAF bases welcomed any (unannounced) traffic with instant clearances or navigational assistance to avoid their (jet) traffic, and G.A. was not the nuisance it is considered to be in Australia!

13. The Department of Infrastructure and Regional Development and Department of Defence (and appropriate agencies) establish an agreed policy position on safety oversight of civil operations into joint user and military airports.

*ProAviation: **Supported*** but refer #12 above. We also concur with AMROBA: “Another issue that the proposed Minister’s Aviation Advisory Council should be involved.”

14. The Civil Aviation Safety Authority changes its regulatory philosophy and, together with industry, builds an effective collaborative relationship on a foundation of mutual understanding and respect.

*ProAviation: **Strongly supported*** but with the recommendations above.

15. The Civil Aviation Safety Authority continues to provide appropriate indemnity to all industry personnel with delegations of authority.

*ProAviation: **Strongly Supported***. However we disagree with AMROBA’s comment that: *Like the FAA, CASA should nurture and encourage experienced ex-CASA inspectors to take on functions they exercised during their employment with CASA.*

16. The Civil Aviation Safety Authority finalises its Capability Framework and overhauls its training program to ensure identified areas of need are addressed, including:

- a. communication in a regulatory context
- b. decision making and good regulatory practice
- c. auditing.

*ProAviation: Needs further clarification!*

17. The Civil Aviation Safety Authority publishes and demonstrates the philosophy of ‘just culture’ whereby individuals involved in a reportable event are not penalised for actions, omissions or decisions taken by them that are commensurate with their experience and training. However, actions of gross negligence, wilful violations and destructive acts should not be tolerated.

*ProAviation: **Strongly supported***

18. The Civil Aviation Safety Authority reintroduces a ‘use of discretion’ procedure that gives operators or individuals the opportunity to discuss and, if necessary, remedy a perceived breach prior to CASA taking any formal action. This procedure should be followed in all cases, except where CASA transparently identifies and documents a serious and imminent risk to air safety.

*ProAviation: **Strongly supported***

19. The Australian Transport Safety Bureau transfers information from Mandatory Occurrence Reports to the Civil Aviation Safety Authority, without redaction or de-identification.

*ProAviation: **Strongly Opposed*** - Confidentiality must be restored and maintained until the “just culture” concept is understood, documented and embedded in the NAA’s new culture.

**20.** The Australian Transport Safety Bureau transfers its safety education function to the Civil Aviation Safety Authority.

*ProAviation: **Not supported*** – should be the opposite, at least until the NAA is equipped to deliver safety education programs. It is a widespread perception throughout the industry that the present program of regional "Keeping Tibooburra skies safe" workshops comprises no more than a "death by PowerPoint" experience in which participating officials are unwilling or unable to engage in meaningful dialogue on a range of operational issues. The recent inclusion of Cowra and Parkes in the “safety workshop” program prompted considerable cynical comment about their timing so close to the end of the financial (budget) year.

**21.** The Civil Aviation Safety Authority changes its organisational structure to a client oriented output model.

*ProAviation: **Supported*** – needs truly representative bodies funded by fuel excise with independent elected membership (semi autonomous) along the lines of “self administration” but with trustworthy oversight by an NAA.

We also fully support AMROBA’s observations regarding the Civil Aviation Act and engagement with the MRO sector.

**22.** The Civil Aviation Safety Authority establishes small offices at specific industry centres to improve monitoring, service quality, communications and collaborative relationships.

*ProAviation: **Supported***, along with AMROBA’s observations regarding effective computerisation.

**23.** The Civil Aviation Safety Authority shares the risk assessment outputs of Sky Sentinel, its computerised risk assessment system, with the applicable authorisation holder.

*ProAviation: **Supported*** in the interests of openness, transparency and a partnership approach.

**24.** The Civil Aviation Safety Authority provides full disclosure of audit findings at audit exit briefings in accordance with best international practice.

*ProAviation: **Strongly supported***. Also, audits should be conducted in the presence of an “industry body” representative. Also, the 2001 edition of the *Compliance & Enforcement Manual* (more recently re-titled *Enforcement Manual*) warned operatives about the practice of searching for evidence after the charges were laid.

**25.** The Civil Aviation Safety Authority introduces grading of Non-Compliance Notices on a scale of seriousness.

*ProAviation: **Strongly supported*** but with the condition that the reasoning for the grading decision should be transparently documented in respect of the relevant legislation.

**26.** The Civil Aviation Safety Authority assures consistency of audits across all regions, and delivers audit reports within an agreed timeframe.

*ProAviation: **Supported*****27.** The Civil Aviation Safety Authority implements a system of using third-party commercial audits as a supplementary tool to its surveillance system.

*ProAviation: **Strongly supported*** refer # 21

**28.** The Civil Aviation Safety Authority establishes a safety oversight risk management hierarchy based on a categorisation of operations. Rulemaking and surveillance priorities should be proportionate to the safety risk.

*ProAviation:* **Supported**

**29.** Recreational Aviation Administration Organisations, in coordination with the Civil Aviation Safety Authority, develop mechanisms to ensure all aircraft to be regulated under CASR Part 149 are registered.

*ProAviation:* **Supported**

**30.** The Civil Aviation Safety Authority changes the current two-tier regulatory framework (act and regulations) to a three-tier structure (act, regulations and standards), with:

- a. regulations drafted in a high-level, succinct style, containing provisions for enabling standards and necessary legislative provisions, including offences
- b. the third-tier standards drafted in plain, easy to understand language.

*ProAviation:* **Strongly supported** along with AMROBA's observations in regards to aviation safety standards.

**31.** The Civil Aviation Safety Authority structures all regulations not yet made with the three-tier approach, and subsequently reviews all other Civil Aviation Safety Regulation Parts (in consultation with industry) to determine if they should be remade using the three-tier structure.

*ProAviation:* **Supported in principle:** however we observe that there exists disagreement between various well respected individuals and organisations on the number of tiers of regulation, and we believe that the process would benefit from further debate, possibly with input and guidance from the Australian Law Reform Commission.

**32.** The Civil Aviation Safety Authority reassesses the penalties in the Civil Aviation Regulations

*ProAviation:* **Strongly supported.**

**33.** The Civil Aviation Safety Authority Authority applies a project management approach to the completion of all Civil Aviation Safety Regulation Parts not yet in force, with drafting to be completed within one year and consultation completed one year later, with:

- a. a Steering Committee and a Project Team with both CASA and industry representatives
- b. implementation dates established through formal industry consultation.

*ProAviation:* **Supported**

**34.** The Civil Aviation Safety Authority's Director of Aviation Safety meet with industry sector leaders to jointly develop a plan for renewing a collaborative and effective Standards Consultative Committee.

*ProAviation:* **Supported** - but first a proper elected Industry wide representative body(s) should be established to represent *all* stakeholders.

**35.** The Civil Aviation Safety Authority devolve to Designated Aviation Medical Examiners the ability to renew aviation medical certificates (for Classes 1, 2, and 3) where the applicant meets the required standard at the time of the medical examination.

*ProAviation: Strongly supported*

**36.** The Australian Government amends regulations so that background checks and the requirement to hold an Aviation Security Identification Card are only required for unescorted access to Security Restricted Areas, not for general airside access. This approach would align with international practice.

*ProAviation: Strongly supported*

**37.** The Civil Aviation Safety Authority amends the current Terms of Reference of the Industry Complaints Commissioner so that:

- a. the ICC reports directly to the CASA Board
- b. no CASA staff are excluded from the ICC's jurisdiction
- c. the ICC will receive complaints that relate to both the merits and the process of matters
- d. on merits matters, including aviation medical matters, the ICC is empowered to convene an appropriately constituted review panel, chaired by a CASA non-executive director, to review the decision
- e. while all ICC findings are non-binding recommendations, the original decision-maker is required to give reasons to the CASA Board if a recommendation is not followed.

*ProAviation: Strongly supported* along with AMROBA's observations. The ICC should not be a CASA employee and should be selected by an independent external consultant.