

**AVIATION RESCUE AND FIRE FIGHTING SERVICES
REGULATORY POLICY REVIEW**

**RESPONSE TO THE DEPARTMENT OF INFRASTRUCTURE AND
REGIONAL DEVELOPMENT'S PUBLIC CONSULTATION PAPER**



australia

SUBMISSION BY VIRGIN AUSTRALIA

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The Virgin Australia Group of Airlines (Virgin Australia) welcomes the Department of Infrastructure and Regional Development's (the Department) Aviation Rescue and Fire Fighting Services Regulatory Policy Review (ARFFS Policy Review) and the opportunity to lodge a submission in response to the associated public consultation paper.

The Coalition's Policy for Aviation is premised on a platform of ensuring that Australia's aviation sector is safe, reliable, efficient and competitive. While safety considerations, including aviation rescue and fire fighting services (ARFFS), will always be paramount, this policy implicitly recognises that the long-term success of the industry also depends on the existence of contemporary and flexible regulatory frameworks capable of fostering the industry's competitiveness and development. Competitiveness necessarily entails the efficient allocation of limited funds and resources.

Virgin Australia notes that the ARFFS Policy Review is being undertaken in response to the Government's Aviation Safety Regulation Review. It is, however, important to highlight that reform in this area is long overdue given that the current regulatory framework was established in 2002, and the aviation industry in Australia has undergone fundamental transformation since that time. To place the delay in proper context, in 2006 the Coalition Government issued a comprehensive discussion paper regarding options to improve the framework, to which industry made extensive submissions. However, a revised regulatory framework was not announced by the Government before the Coalition lost office in 2007. Although the Labor Government's 2009 *National Aviation Policy White Paper* contained a statement that "coincid[ent] with the release of this White Paper, the Department of Infrastructure is releasing for consideration by stakeholders a policy framework paper on the intended future arrangements for ARFFS...", this did not occur.

The safety of our guests and employees will always be Virgin Australia's highest priority. While the provision of ARFFS is a vital element of Australia's aviation safety system and required under international treaty obligations, the charges paid to Airservices Australia (AsA) for these services are a large and growing expense for both Australian and foreign airlines alike, and are jeopardising the viability of operations to some regional airports. The outcomes of this review are of significant interest to Virgin Australia, as one of the largest contributors of funding for the provision of ARFFS at 27 airports across Australia. Over the past four years alone, Virgin Australia's ARFFS costs have increased by 38 per cent. In 2015-16, charges levied by AsA for ARFFS will increase by between 1.0 and 10.1 per cent.

Provided there is no reduction in safety outcomes, decreasing, or at least containing, some of the costs associated with ARFFS will assist in both maintaining and growing air services, particularly to the regions. Accordingly, this review has the potential to not only improve the allocation of finite resources available to support optimal safety outcomes, but also boost tourism and economic development in regional areas. In this regard, Virgin Australia recommends that options for revising the ARFFS regulatory framework (particularly arrangements for establishment/disestablishment) are properly considered as part of developing a plan for improving aviation and surface transport connections in northern Australia, as a key initiative under the Government's *Our North, Our Future: White Paper on Developing Northern Australia*.

As acknowledged in the consultation paper, many facets of the Australian aviation industry have undergone considerable change since 2002. On the commercial side, these changes include the expansion of the low-cost carrier segment of the market, dramatic increases in fly-in, fly-out (FIFO) operations (although this has moderated in recent times), the collapse of a number of regional operators and the emergence of Virgin Australia as a new competitive force in Australian aviation. From an operational perspective, significant technological advancements have been made in the areas of communication, navigation and surveillance,

with initiatives such as the increased carriage of radios, the use of GPS and the implementation of Automatic Dependent Surveillance Broadcast (ADS-B). These changes, combined with improved aircraft systems such as Airborne Collision Avoidance Systems (ACAS) and fire suppression, have reduced the likelihood and the consequence of aircraft accidents. It is critical that revisions to the ARFFS regulatory framework take account of these developments.

Preferred approach to ARFFS establishment

In principle, Virgin Australia supports the Department's preferred future approach for regulating the establishment of an ARFFS at an airport, namely, that upon the occurrence of a trigger event based on a specified measure of aviation activity, a risk assessment will be conducted for the location to determine whether an ARFFS is required and the appropriate categorisation for the service. The hard triggers under the current regulatory framework are inconsistent with a risk-based, outcomes-focussed approach to safety management and do not allow for the consideration of an airport's specific operational environment. Virgin Australia welcomes the introduction of a risk assessment, to allow a decision regarding the establishment of a new ARFFS to be reached on the basis of a broad range of factors relevant to the mitigation of risk of an aircraft accident at the particular airport.

Virgin Australia endorses the Department's proposal to use two measures of aviation activity as triggers for the requirement for a risk assessment, namely, the receipt of scheduled international passenger air services and the number of passengers passing through an airport during a 12-month period. However, we regard the proposed adoption of a revised passenger threshold fixed at 500,000, which equates to ARFFS coverage for 94 per cent of passengers, as inappropriate.

The current threshold of 350,000 was established in 2002 based on a criterion adopted in 1996 that ARFFS coverage should be provided for 90 per cent of passengers travelling on aircraft to/from Australia's airports. This threshold has remained unchanged since its adoption in 2002, notwithstanding that passenger numbers have almost doubled between 2001-02 and 2014-15. As a result, ARFFS coverage is now provided for 96 per cent of passengers and the number of airports at which ARFFS is available has expanded from 14 to 28.

The consultation paper seeks to justify a threshold of 500,000 on the basis that it would minimise the number of locations in respect of which a risk assessment would be required to determine whether an ARFFS should be removed, and in light of recent significant investment in the ARFFS network. It would seem that this justification is not based on safety grounds.

In Virgin Australia's view, the relevant threshold should be revised in accordance with the principal objective of an ARFFS, namely, to save lives in the event of an aircraft accident or incident occurring at, or in the immediate vicinity of, an aerodrome¹¹. In pursuit of this objective, it must be recognised that the funding that industry is capable of allocating to safety initiatives is not unlimited. We therefore agree with the consultation paper's assertion that "there is greater value in investing ARFFS resources in locations where there is the greatest number of people likely to be affected by a fire at an airport". For Virgin Australia, our strong preference is that ARFFS resources are concentrated at those airports which meet or exceed a passenger threshold of 1.2 million, which would provide coverage for 90 per cent of passengers based on traffic levels in 2014-15. This level of coverage strikes an appropriate balance between ensuring acceptable and realistic safety margins are

¹¹ International Civil Aviation Organization, *Aerodromes*, Annex 14 to the Convention on International Civil Aviation, paragraph 9.2.

maintained, while also providing scope to maximise the efficiency of resource allocation to support safety enhancement initiatives.

Virgin Australia is not aware of any increase in aviation safety risk levels that would justify an increase in ARFFS coverage from 90 per cent to 94 per cent. In recent decades, the Australian aviation industry has continued to maintain its excellent safety record, underpinned by technological advancements in airspace communication, navigation and surveillance, coupled with improvements in the fire suppression capabilities of aircraft. This would suggest that there would be no decrease in safety outcomes if a revised threshold, providing the same level of ARFFS coverage as that in effect since 1996, was adopted.

Virgin Australia agrees that the revised passenger threshold should be measured over a rolling 12-month period, rather than confined to a financial year as per the current regulations. It is critical, however, that an updated ARFFS regulatory framework includes a mechanism for the threshold to be automatically rebalanced to provide 90 per cent coverage of all passengers at least every three years. This rebalancing exercise should not be contingent on change to any regulation, otherwise there is an appreciable risk that the threshold will remain at an unacceptably low level pending government review, as has now been the case for more than a decade. This will ensure that funds available for positive safety enhancement programs are not unnecessarily directed to ARFFS.

In relation to the receipt of scheduled international air services as the other trigger for a risk assessment to be undertaken, it is important that the revised regulatory framework clearly stipulates that this trigger only applies to scheduled international *passenger* operations at the particular airport in question. It should have no application to dedicated cargo operations or airports that have been designated as alternates for flight planning purposes. Services of this nature will therefore not constitute a trigger for the preparation of a risk assessment, and establishment of a level of non-regulated ARFFS coverage at the particular airport will depend on securing the agreement of relevant stakeholders, including the airport operator and all airlines, regarding the commercial arrangements that will underpin the provision of the service. This aligns with our comments below regarding proposed changes to the regulatory arrangements for non-ARFFS airports.

We would highlight that in reaching our views outlined above, we did not consider the potential for adopting arrangements that are in place in Canada, New Zealand, the United Kingdom and the United States. Presumably, each of these jurisdictions has established a framework which is specifically suited to the unique characteristics of the aviation market and airport operational environment in their country, limiting the value of any comparisons with Australia. Furthermore, Australia stands alone as the only country in the world where regulations do not place an obligation on airport operators to provide ARFFS. As noted in the consultation paper, there is no common global approach for the provision of ARFFS.

Trigger level to examine disestablishment of ARFFS

Based on Virgin Australia's preferred passenger threshold of 1.2 million, we recommend that an airport's ARFFS should be considered for disestablishment once its passenger levels fall below one million. This approximately corresponds with the ratio for establishment and disestablishment under the current arrangements. This would see the ARFFS at 13 airports with annual passenger traffic levels currently below one million considered for disestablishment as part of a risk assessment process, including Ayers Rock, Broome, Coffs Harbour and Newman. While Virgin Australia supports disestablishment on the basis of a risk assessment, we reject the consultation paper's recommendation that evaluating the potential to disestablish ARFFS at these four airports should be delayed by at least a further three years while monitoring passenger levels. Industry should not be expected to continue to fund ARFFS services that have only been established or maintained due to government

delay in revising the regulated threshold, rather than on safety grounds. Regulatory frameworks must be sufficiently flexible to allow funding available for aviation safety to be allocated to those initiatives which have the greatest potential to optimise safety outcomes for the industry and the travelling public.

To illustrate the magnitude of the costs associated with ARFFS, the current ARFFS charge for aircraft serving Ayers Rock, Broome, Coffs Harbour and Newman is \$100 for a Fokker F-100, \$120 for an Embraer E-190 and \$181 for a Boeing 737-800 (levied on the basis of maximum take-off weight). This equates to an approximate average cost of between \$1.28 and \$1.58 per passenger per flight at these ports (depending on aircraft type and assuming an average load factor of 77.8² per cent). The impact of such costs should not be underestimated. As has been well documented, airlines were unable to recover the cost of the carbon tax, which represented an additional per passenger charge not dissimilar to the charges that airlines pay for ARFFS.

During the last five years alone, industry has funded the establishment of new ARFFS at Ballina, Broome, Coffs Harbour, Port Hedland, Newman and Gladstone airports. At Ballina, Gladstone and Newman, the threshold of 350,000 passengers has produced the absurd situation where an ARFFS is in place at these airports, yet an air traffic control (ATC) tower or aerodrome flight information service (AFIS) is not. Establishing ARFFS as a recovery mechanism at an airport, when the risk profile of the operational environment at such an airport does not yet even require the implementation of preventative mechanisms such as ATC or AFIS, can only be considered as a highly inefficient allocation of limited funding. It would also seem to be inconsistent with Australia's emergency management framework which requires a greater emphasis to be placed on prevention. This suggests that ARFFS was only introduced at these airports due to the manifest inappropriateness of the regulated benchmark, at a heavy cost to industry. This is implicitly acknowledged in the consultation paper, which recommends that considerations regarding "classification of airspace and establishment of controlled airspace and enhanced air traffic control services...should receive more emphasis before the establishment of ARFFS, which is often a post-incident response measure...".

Virgin Australia supports the consultation paper's proposal that an annual risk assessment should be conducted for those airports which continue to meet a disestablishment threshold but still retain an ARFFS.

Assuming that the ARFFS at those airports with traffic levels below one million passengers per annum are disestablished following a risk assessment, potential industry-wide cost savings are likely to run into the tens of millions of dollars. The savings realised will, however, ultimately depend on what costs industry will face in relation to the measures adopted for managing stranded ARFFS assets and displaced ARFFS personnel. These challenges should not, of themselves, preclude disestablishment. Assuming removal of ARFFS at an airport is authorised by a risk assessment, industry and AsA should have the opportunity to determine whether any short-term incremental costs associated with disestablishment will be outweighed over the longer term by cumulative cost savings. It is also relevant to note that ARFFS were successfully removed in the past from a number of smaller domestic airports and general aviation airports based on a safety case.

Risk assessment process

As noted above, Virgin Australia welcomes the adoption of a risk assessment process as a basis for determining the establishment of an ARFFS, following the occurrence of either of the two specified triggers. We also support a risk assessment for determining whether an

² Virgin Australia Group FY2015 average revenue load factor, Virgin Australia Group Annual Report 2015.

ARFFS should be disestablished, once passenger levels fall and remain below the stipulated threshold for a period of 12 months. Introduction of a trigger-based risk assessment process will represent a significant improvement to the ARFFS regulatory framework, by replacing the current inflexible triggers with a holistic evaluation of an airport's operational environment, and is also consistent with arrangements under the Australian Airspace Policy Statement 2015.

The consultation paper proposes that the Civil Aviation Safety Authority (CASA) should conduct the risk assessment. In Virgin Australia's view, it would be preferable if responsibility for conducting these assessments was assigned to AsA, given its understanding of the ARFFS regulatory framework and working knowledge of ARFFS operations. CASA, as the safety regulator, would then either endorse or reject the recommendations reached in the risk assessment. This is consistent with AsA's current role in preparing a safety case to justify a change in the ARFFS categorisation at an airport, which is subsequently accepted or rejected by CASA. Similarly, AsA is required to provide CASA with a safety case to justify closure of an ARFFS³. Accordingly, it is established practice for CASA, as the aviation safety regulator, to review safety cases prepared by AsA. Furthermore, Virgin Australia expects that adding the ARFFS risk assessment to CASA's existing responsibilities may limit the scope for such assessments to be completed in a timely manner.

The risk assessment should not be conducted as a public process and the parties involved should be limited to AsA, CASA, the Department and any other relevant government agencies, airlines and airport operators. Virgin Australia would recommend that the timeframe for completion of a risk assessment should be 12 months after the occurrence of a specified trigger, rather than six months as recommended in the consultation paper. Given the extent of the capital and operational expenditure associated with the establishment of an ARFFS, allowing 12 months for the completion of the risk assessment will ensure there is sufficient time for all relevant factors to be properly considered.

Conducting the risk assessment in accordance with the International Organization for Standardization (ISO) 31000:2009, *Risk management – Principles and guidelines*, will provide stakeholders with confidence in the process and is welcomed by Virgin Australia. We note that the assessment could include the consideration of a broad range of factors, including those suggested in the consultation paper. In addition to the presence of ATC, we recommend that such factors also include whether there is a certified air-ground radio service (CA-GRS) or an AFIS in place at the airport in question. It will also be important to assess the nature of the services driving the increase or decrease in passenger numbers at the airport, ie. scheduled traffic, which tends to be more consistent, or FIFO operations, which depend on the existence of projects.

Regulatory role at non-ARFFS airports

Virgin Australia supports the proposal to amend the *Civil Aviation Safety Regulations 1998* (CASR) to provide that where a "fire related service" is provided at an airport that is not required to have an ARFFS, that service will not be considered an "ARFFS" under the CASR and therefore not subject to the ARFFS regulatory framework or regulation by CASA.

The flexibility provided by this proposal will give airlines the option of funding a fire fighting capability which is suited to the nature of the operations at the airport (eg, where the airport is an alternate), at a much lower cost compared to a regulated ARFFS. This will have particular relevance for an airport that has its ARFFS disestablished as a result of the adoption of a higher trigger for considering disestablishment under a revised ARFFS

³ Manual of Standards Part 139H – Standards Applicable to the Provision of Aerodrome Rescue and Fire Fighting Services, Version 1.2, section 2.1.1.1.

regulatory framework. At these airports, airlines may consider that the potential benefits of maintaining some level of fire fighting capability are outweighed by the associated costs. Under this proposal, the optimum level of such capability would be determined by airlines, in consultation with the relevant airport operator and AsA as the service provider, outside the constraints of the ARFFS regulatory framework. This also gives clarity to CASA's regulatory role without adding to its workload.

ARFFS roles and responsibilities

As pointed out in the consultation paper, with the increase in non-aviation development on airport land, determining the role of an ARFFS in accordance with the term "aerodrome" has become increasingly difficult. Virgin Australia supports the proposal to adopt an aviation activity-based concept for defining the function of an ARFFS under the regulatory framework, to ensure that the delivery of an ARFFS is consistent with its primary purpose and the expectations of airlines given their role in funding ARFFS. If airports or leaseholders of space inside a terminal or business park wish to have the benefit of an ARFFS, it is reasonable to expect that they contribute to the funding of the service.

Virgin Australia endorses the proposal to amend the CASR to provide that state and territory fire brigades do not need approval from CASA to assist in the provision of ARFFS. This will ensure that any agreements whereby state and territory fire brigades will assist AsA in carrying out ARFFS functions can be given practical effect.

In relation to clarifying the role of airport operators, Virgin Australia supports proposed amendments to the CASR that will impose obligations on an airport operator to provide the necessary facilities and infrastructure to support the delivery of an ARFFS. Without such obligations, there is a risk that the airport land required for such facilities and infrastructure will be dedicated to other uses and will not be readily available.

Removing red tape under CASR Subpart 139.H and associated Manual of Standards

Virgin Australia supports the proposal to streamline aspects of the CASR and associated Manual of Standards, by removing prescriptive detail regarding ARFFS matters. These details will still remain available for reference in the International Civil Aviation Organization's Rescue and Fire Fighting Airport Services Manual (Doc 9137 – AN/898). With the increasing ARFFS cost burden that airlines face, this proposal is welcome given the potential it provides to realise efficiency and productivity improvements in the delivery of ARFFS, without compromising safety.

Contestability

Virgin Australia is disappointed that the potential to permit the contestability of the provision of ARFFS was not canvassed in the consultation paper, as this matter was included in the Government's 2006 ARFFS discussion paper. In Virgin Australia's view, it would be desirable to amend the ARFFS regulatory framework to allow other organisations to offer an ARFFS in competition with AsA. At the very least, the threat of competition could be expected to encourage AsA to explore opportunities to increase efficiencies in its delivery of ARFFS. Contestability in ARFFS would have the potential to support a more competitive aviation sector, consistent with a core pillar of the Coalition's Policy for Aviation.