

APPENDIX 6 previous Inquiry submission for reference.

**A SUBMISSION
TO THE SENATE RURAL AND
REGIONAL AFFAIRS AND
TRANSPORT COMMITTEE
RE**

**An Inquiry into the Administration of
the Civil Aviation Safety Authority
(CASA) and related matters.**

by

SHANE ALAN URQUHART

Senate Committee (Rural and Regional Affairs and Transport) Inquiry into the Administration of CASA and related matters.

PREAMBLE:

My name is Shane Urquhart and my interest in this Inquiry relates to events and issues which have transpired since the Lockhart River (LHR) air crash of 05 May 2005. My daughter and 14 others lost their lives in that horrific and preventable incident, the worst air disaster in Australia for 40 years. During the past three years, those events and incidents mentioned above have led to the realisation that the Civil Aviation Safety Authority is a sorry example of how an organisation can deteriorate over a period of time due to endemic incompetence, self-interest, favouritism, corruption, dereliction of duty and bastardisation of the regional airline industry. Unfortunately, it has done so without any notable intervention from the governments of the day.

I hasten to add that I am far from the only person in Australia who holds this view. The most appalling fact is that this situation has developed since 1988 and has not improved. Hopefully this inquiry will answer why this is the case and hold those responsible, accountable for their complicity.

Since May 2005, with the accumulation of a great deal of information and statements from affected people, advice from industry experts and the outcomes of a Coronial Inquest in Queensland, there is overwhelming evidence that CASA and its predecessors, have not only significant culpability for LHR, but several other fatal air accidents in the past 20 years; incident which have claimed 70+ lives since 1998. Most other family members of the victims of these incidents hold my view. It is only until now, that my questions, requests and comments have fallen on deaf ears.

This is in no small part due to CASA personnel's development of a very skilful avoidance and shift- the- information- into- undiscoverable- places culture; placing uninformed people in key positions (the "I don't know anything about that" defence;) very clever but cunning filtering or manipulation of information being given to the minister; a very tight and loyal "old boys" network which includes Transport Department Public Servants.

I would like to respectfully request that the scope of this Inquiry go back beyond 2003 as much of the current, chronic problems of CASA were born in these times. They have grown significantly since then. To deal only with the time from 2003 to now will not serve to get to the root of the problems and who is still involved.

Also, I would request that this Inquiry be of more than one day's duration. I respectfully advise the committee that this inquiry needs several days just to get through the mountain of information that is relevant to a fair and transparent process. The Inquiry has left itself open to criticism that it is only an exercise to placate people like me and the other families.

It must also be said, that the actions of CASA, in the last few days leading up to the Inquiry and to divert attention from the real issue of the Administration of the organisation, is cynical and blatant to say the least. eg.

- The media release concerning unannounced visits by CASA to operations across Northern Australia.

- The sudden turn-around regarding the construction of Brisbane's tallest building as a hazard to airspace. Earlier, CASA had given its approval.
- The so-called survey of public perceptions of CASA. Given that Australia has 20 million people, the sample of approx is miniscule. Canvassing people who travel in large aircraft, in nice conditions, also challenges the veracity of the whole exercise. How many people really know what CASA is, let alone what they do.
- The cancelling of Aerotropic's AOC, by Fax after the close of business on Friday 27 June, a well known CASA tactic. CASA purportedly has had serious concerns about Aerotropics for 10 months. Why the sudden reaction, 5 days out from the Inquiry?

Finally, I ask that two key people in this issue be called to give evidence in identifying the serious and endemic deficiencies of CASA and its administration. These are Mr Dick Smith, former CEO of CAA and Mr Kym Bills, Executive Director of the Australian Transport Safety Bureau. Their evidence under oath would be crucial.

THE ISSUES

Notes.

I have numbered each issue for ease of reference. For the issues, I have outlined the substance of each as briefly as possible, in the interest of space and to make perusal easier for the readers. The text includes statements, quotes and reference points to verify documents or documents too large to reproduce in this submission. The issues are treated as samples of the long history of CASA's flawed and unchanged operations. Some correlated information and references may be used more than once as they are cross referenced.

1. CASA's history pre and post the Lockhart River Crash, with special attention to Transair.

- CASA's track record as uncovered in investigations into previous major crashes: eg Whyalla, Seaview, Monarch. See transcripts of these Inquests.
- The Skehill report.
- CASA's tactics of denial, pleading ignorance and ensuring that there is no direct link to those in senior. Changing position descriptions, roles and shifting people in and out of the organisation, serves to have any questions properly answered almost impossible. positions. people around. People with no in-depth knowledge of the aviation industry are often the first contact with CASA.
- CASA's litany of failures in the oversight of Transair from 1999 to 07 May 2005. (ref. Section 2.8.1, pps 226 and 228 of the ATSB Report into the Lockhart River crash, LHR. Statements supported in Appendix H5.)
See also the Chart showing Audit dates, Audit Scope, Requests for corrective action observations 20/12/99 to 02/11/06. Prepared by David Yeomans, Internal Audit and Standardisation Officer, January 2007.
- CEO of Transair, Les Wright's "get out of jail free" ticket, when he assured Mr Richard Purdie of the Brisbane Field Office that he would comply with certain directions to ensure he kept his AOC. He did not comply and CASA did not follow up. (ref: pps 123/124 ATSB Report LHR.) Further mention of Mr Purdie is made later in another issue.
- CASA's response regarding the assessment of operator risk is inadequate and misleading. (pps 141/142 ATSB Report LHR.) The actual serious financial situation and murky affairs of Transair over its operating period has been publicly revealed. (ref: Courier Mail 16 June 2008, pps 25/26.) Why was CASA unable to discover this situation?

2. The Lockhart River Inquest conducted by Queensland Coroner Michael Barnes.

- "In addition to the serious pilot and company contributory factors, if CASA's guidance to inspectors on managements systems and its risk assessment processes had been more thorough, the accident may not have occurred." (Appendix M1, Media Release in the ATSB Report LHR. **This is the most important statement in all of the LHR texts. A senior public servant from the then DOTARS, demanded that this statement be withdrawn from the release. This was refused. Make your own conclusions.**)
- The appointment of long term CASA defender Ian Harvey as Counsel Assisting the Coroner. Despite Mr Harvey's knowledge of the industry, his association with CASA constituted a gross conflict of interest. (ref: Letter from Gilshenan and Luton, Solicitors and on our behalf, to Coroner Barnes.) It was rejected out-of-hand. I would be very keen to know exactly, the circumstances surrounding Harvey's appointment and what role CASA may have had.

- A Mr Lindsay Ingram, former CASA FOI, provided a not- so -glowing statement about CASA to in Inquest and was subsequently phoned by Mr Harvey and advised that his statement would not be of much use to the Inquest.
- The failure to call Richard Purdie was a travesty, as he would have been the key to destroying CASA's evidence and assertions. CASA was very keen not to have him as a witness.
- Mr Sean Singleton, who had valuable information, was also not called.
- The unreasonable aggression of both Counsel assisting and Counsel for CASA when Questioning Pilots A and B at the Inquest. This was accompanied by a failure on the part of Counsel assisting to develop the answers of these witnesses. (Ref; My observations in the court, LHR Inquest transcripts and a letter from Pilot A, Mr Ken Grant.
- The continual denial by CASA that they were taken to task seriously by the Coroner for their part in this issue and continual denial that they were at fault in a number of key areas. (Ref:Office of the State Coroner, Finding of Inquest into the Aircraft Crash at Lockhart River. 17 august 2007, pps45/46.) The Coroner disagrees!
- The findings of the ATSB in the contributing factors relating to CASA's processes. (Ref: ATSB Report Mpps237,238,239.) Again, it is presented in plain English for all to see and agreed to by the Coroner.

The key issue here is that CASA, as usual thinking that they are untouchable, did nothing about any of this, except to announce that they had made some minor regulatory changes. (And of course, moved personnel away from the heat.)

3.The behaviour of senior CASA officers in the RRAT Senate Estimates hearings.

- The evidence around this issue is all contained the Hansard transcripts of the RRAT Estimates Committee hearing, including those of this year. As member of the committee, I feel you would already have access and knowledge here.
- The transcripts clearly demonstrate the belligerence and evasiveness of the CASA officers who appear. It is a disgrace that senior public servants cannot give straight and simple answers to questions about the field in which they are supposed to be experts. I believe it is a glaring example of the quality of these people.
- Specifically, Mr Shane Carmody has been questioned about CASA's role in the LHR Inquest, and from my research, has demonstrated a misleading of the Estimates Committee. In the hearing of 19 February 2008, Mr Carmody is asked about a number of aspects about CASA :
 1. That there was an explicit instruction from CASA for a sustained attack on the ATSB report. Denied by Mr Carmody but referred to by Coroner Barnes in his findings
 2. Mr Carmody says that at the end of the day, CASA's view was the same as the Coroner. There is no evidence of that!
 3. Mr Carmody avers that CASA put forward a view that scenario b was the likely cause of the accident and that was also what the Coroner said. NO HE DID NOT! (Ref: Coroners findings ps53/54.

I have several more examples and references related to Mr Carmody's statements.

4. CASA and its relationship with the ATSB.

- My comments here relate to the recommendation that the Minister for Transport at the time, conduct a review into the relationship between CASA and the ATSB. My view and that of the other Lockhart families and many aviation operators, is that Mr Barnes' good intention were simply a sideshow generated by CASA to take the heat away from his very unpopular, final recommendations from the Inquest. Thus was born the Miller Review, conducted by a person with strong ties to CASA through their preferred Law firm, with terms of reference that basically isolated the ATSB. The recommendation that CASA and the ATSB get closer in their roles is absolutely ludicrous. As a point of interest, I would like to know why CASA utilises the most prestigious and expensive law firms to represent them, at taxpayers' expense.

5. The Eastland Air Crash, Toowoomba 2001.

- With regard to this issue, I would defer to any submissions by families from that crash.
- I do have a good knowledge of the crash and subsequent Inquest, having read the Transcripts. It is noteworthy that Mr Ian Harvey represented CASA in this instance. Also of note is that Mr Richard Purdie gave evidence (ref: Eastland Air Inquest transcripts pps 1028-1118). The appalling aspect of this Inquest is that it took 5 years to complete.

6. CASA's North Queensland operations.

- My issues here surround the mountain of anecdotal evidence that I have collected and researched over the past 3 years. The information and examples almost all are of "dodgy" operators who are allowed to operate with the tacit approval of CASA. Having felt or witnessed the wrath of CASA officers who feel they been wronged, most of these people still fear retribution and thus are hesitant to identify themselves.

7. Favouritism vs Harassment.

- Transair, Big Sky Express, Aerotropics, Eastland, Yanda (complaint to CASA by same pilot of VHTFU, LHR. Yanda was a direct rival to a company being run by Les Wright at the time.) Tamair, Cape York Air etc etc. There is a story waiting to be written about each. The relationship between these companies and CASA ought to be investigated further.
- Why didn't CASA prosecute Les Wright and others?

8. Rob Collins issues.

- Mr Rob Collins is an ex-CASA senior officer who has a shadowy pall cast over him..My issues here are presented as questions.. What is the historical relationship between Mr Ian Harvey and Mr Collins, and between Mr Collins and Mr Les Wright. Under oath Mr Wright denied knowing Mr Collins very well. What were the circumstances surrounding Mr Collin's appointment as a CASA consultant for the Inquest. What were the circumstances surrounding Mr Collins very quiet return to CASA as Industry Complaints commissioner only to leave after two or three days in the position.

9. Leadership, or lack thereof, of CASA.

- One of the key contributing flaws to CASA's poor record is the failure of successive Directors or CEO's to rigorously implement reform and maintain a culture of integrity and professionalism. The rot set in with the appointment of Mr. Mick Toller, where knee-jerk reaction to incident or issues became endemic. The opposite was almost a malaise of doing very little in moving on the mooted reforms.
- The current CEO, Mr Byron has now turned doing nothing into a fine art. Under his regime, CASA still operates in the reactive mode, waiting until after something happens and then trying to take the kudos for regulatory reform which would not have happened if there wasn't an incident. (ref: transcript of Doorstop interview, 04 April 2007.)
- Where was Mr Byron on the days following LHR, Australia's worst aviation accident in 36 years?
- What is the history of Mr Byron's relationship with Mr Les Wright.
- CASA also runs on a finance-driven model and would rather pinch pennies than ensure public safety. (ref: CEO Directive-001/2007, dot-points three and four.)

10. The relationships between CASA and the government of the day.

- The issue of the relationship between CASA and the Government of the day is directly related to the long term of the Howard Government. CASA was able to do what it wanted with little or no interference from the Government and especially from the Minister of the day..always the Nationals Deputy Prime Minister, except in the case of Mr Truss short tenure.

- This is highlighted by the widely-known political complicity during the 2004 election campaign, between the Transport Minister (Dep PM) a small party candidate for the seat of Leichhardt (and operator of a local airline) and the Federal Member.
- Is it a co-incidence that soon after LHR, the Transport Minister resigned?
- There is a document document called ‘AOPA Meets the Minister’ of 03 February 1999 which records conversations between Mr Anderson (Transport Minister,) Mr McKinley (Aviation Advisor,) Mr Tony Mitchell (AOPA V-P) and Mr Mark Bennett (AOPA Gen Manager.) This document gives an interesting insight into the cursory nature with which key decisions about CASA were made.
- The current Minister, Mr Albanese, has been also dragged into the clutches of CASA and one or two of his Departmental Senior Public Servants who have retained their influence from the previous government. Their interference was made clear to me when Mr Albanese promised me face-to-face, that he would have answers to any questions I cared to ask about CASA and its operations. I forwarded three separate tranches of questions, including those not answered by CASA from the Senate Estimates. I received NO answers and finally received a letter from Mr Albanese extolling the excellence of CASA and the virtues of Mr Byron. Unfortunately, the wording and content of the letter was very similar to one I received from Mr John Howard and another from Mr Mark Vaile. I wonder who wrote those?

11. The political implications of the 2007 election.

- The implications refer to the change of government and its commitment to reform. See media releases prior to and after the election, from Senators O’Brien, McLucas and the Hon Martin Ferguson. Up until then, we were being thwarted not only by the machinations of CASA but by the Howard Government as well.

12. CASA’s legal and courtroom activities.

- CASA has established, according to its own publicity, a culture as a “model litigant” when involved in legal actions. **Nothing could be further from the truth.** CASA has what is known as the legal team from hell. Granted, legal teams need to be robust in their prosecution or defence. The CASA legal team is known to be an overly aggressive group of people who bully others into submission and then gloat about their efforts afterwards. Getting to the truth or ensuring natural justice is achieved, is not in their law books. This is the team which prepared CASA’s defence in the LHR inquest.
- During a recent case concerning issues in North Queensland, and in which CASA was heavily involved, there have been reports of a CASA legal officer tampering with evidence, attempting to pervert the course of justice, exerting undue pressure on witnesses and misrepresenting the truth.
- I am aware that these people will be at the Inquiry in numbers, just as they were at the LHR Inquest. One particular CASA officer was observed trying to eavesdrop on private conversations between the families.

13. CASA’s inaction and failure to investigate.

- During the LHR Inquest, the culture of CASA was made very obvious through not only their courtroom antics, but in the quality and veracity of some of their witnesses. CASA extols the virtues of their FOI’s as being ex-Pilots of large airliners, or long-term members of the industry or as coming from the services. This however, doesn’t equate when dealing with suspect operators in remote parts of Australia, where these FOI’s have no experience. Eg. FOI Max McCrae when asked by Mr Harvey about what he understood had happened in the case of LHR. He replied: “A guy flew a plane into a hill didn’t he?”
- The egos of some of these men also give an insight in how they go about their business. CASA Witness Peter McMillan’s gave astounding evidence: Mr McMillan was the FOI who did the final audit on Transair in Cairns and found nothing wrong and he stuck to his story. He was asked if he had read the ATSB report in which he was adversely mentioned. His response was, “No and why should I?” When challenged about the skimpy audit he did at Transair, he blamed lack of resources and that he just doing what he was told. Asked how he was able to do the job properly he said that he would just reduce the scope of the audit!

- CASA also called on the services of their new senior officer in Brisbane, Mr Patrick Murray. During his lengthy and time-wasting time in the stand, Mr Murray gave a long winded expose of what he was doing for CASA and things that were happening etc....but only well after the crash, from when he was appointed!

14. Aero Tropics

- Aerotropics is now grounded in a cynical exercise just before the Inquiry. A well-known CASA tactic.
- CEO of Aerotropics, Mr Ric Lippman boasted after LHR that his company had nothing to do with Transair and that his company was responsible for ticketing only. He denied evidence given by other witnesses about his operations. At the LHR Inquest, Mr Lippman received soft treatment by the CASA team and was not questioned about any problems or issues surrounding Aerotropics.
- Aerotropics was given AOC's by CASA to take over the Cairns/Bamaga run, then Cairns Lockhart River/Bamaga runs. The problem was that Aerotropics had flown both the routes for some time while licensed to do so. He was running RPTs while only licensed for charter. He denied this at the Inquest even though he was presented with the evidence of articles in The Cairns Post advertising the runs as RPT. What did CASA do?...nothing! Gave him the AOCs for both runs.

I would also like to make a comparative statement about justice in the public service sector and white-collar crime.

It is a fact that in Australia, there are many who have committed serious fraud and other white-collar crimes against citizens of the country. Several have been convicted and received custodial sentences. This is also the case with government departments or organisations where serious offences have occurred. The Australian Wheat Board debacle is a case in point. People went to jail, or lost their jobs or were heavily fined, or all three.

There is no difference but one, when it comes to CASA and Department of Transport employees with regard to what they have been doing....compromising the safety of Australian and in several cases, with disastrous results. (70+ fatalities since 1989.)

The one difference is that in those other examples, no-one has died. Surely the seriousness of such actions is greater than those where no-one has lost their lives? Surely there is no argument here?

My final request is that I be granted leave to appear in person at the Inquiry and be given adequate time to speak to my submission and respond to any questions.

Want we (my family) want from the inquiry:

-That all air operations in Australia, whether large commercial airlines, regional airlines, small commercial companies or individual operators, are regulated and supported by a **worlds best-practice safety regime.**

-That there is a major "root and branch" overhaul of CASA, that does not allow for any band-aid or lip-service solutions to the major problems endemic in its operations. The Minister responsible has to have a clear knowledge of the actions of senior public servants within the Transport

Department, now and in the past and **take positive action on receipt of complaints from the industry. It would not be beyond the best interests of the Australian public, to disband CASA altogether, as it is almost past fixing.**

-That this inquiry is extended and establishes the parameters for further investigation and questions into the operations and behaviours of those CASA officers adversely mentioned in this Senate Committee Inquiry. These parameters must be prior to 2003 and include the time from when Mr Toller was CEO of the CAA and/or since the abolition of the Department of Civil Aviation. **Most of CASA's problems and systemic failures date from post-1988.**

-That the Inquiry recommends that any Public Servants within CASA and the Transport Department who are found to be derelict or negligent in their duties and complicit in illegal and unethical conduct, **are dismissed from office and face either criminal or civil prosecution, or both..**

- That there must also be a rigorous, monitoring of internal systems in place within CASA, **to ensure that the practices of the past do not re-occur.** Experienced and widely respected industry persons who are not and never have been, CASA employees, should have a major role in this. A CASA 'internal' aviation ombudsman responsible to the CEO/Director is not the solution. There is no place for an Industry Complaints Commissioner within the organisation. **Any aviation ombudsman must be totally independent and responsible to Parliament via the Commonwealth Ombudsman; and operate under a clear and concise framework of accountability.**

-That, as a result of the Inquiry, appropriate changes in the relevant legislation are facilitated in a transparent but timely manner, including **the prompt and efficient completion of regulatory reforms begun in 1988.**

-That the independence of the ATSB **never** be compromised. The USA NTSB model of independence should be adopted where the ATSB is removed from the Transport Department and made **directly responsible to parliament.**

If this inquiry fails to address these issues, it will be a matter of when, not if, the next air disaster occurs. I will be the first to publish my submission and then ask the obvious questions. There will be no satisfactory answers for the victims and their families.

**Shane Alan Urquhart
84 Pioneer Drive
Narangba 4504
Phone: H 07 38866257
M 0412653044**

29 June 2008