

Submission to inquiry into the current state of Australia's general aviation industry, with particular reference to aviation in rural, regional and remote Australia.

To whom it may concern,

I am writing this submission to the inquiry due to my continued frustration with CASA and their detrimental effect on the GA industry in Australia.

I am the CEO for the Fleet Helicopters corporate group which includes two AOC's covering charter and aerial work services for both rotary and fixed wing aircraft, an aircraft maintenance organisation and aviation leasing company and an aviation refuelling company. We provide our services Australia wide utilising our fleet of 18 aircraft across aerial work operations including firefighting, emergency response, utilities support, mineral exploration, aerial application, charter and flight training. Our operations cover most every sector except for high capacity RPT.

CASA is one of our most significant safety risks.

We consistently identify CASA as one of our highest risks with regard to safety. We are continually forced to invest resources, (human, physical and financial), in order to analyse, argue against and eventually implement bad regulation that provides no benefit to either the industry or our clients with regard to safety. The extensive time our organisation has been required to spend analysing and unpicking the confusing regulations and developing ways to mitigate the detrimental effects of their implementation could be far better spent internally within our business to further improve our systems and procedures increasing the safety of our operations. It could also be time spent growing our business, in turn increasing our capacity to focus on safety. The whole regulatory reform process has been significantly detrimental to safety for the industry.

I would like to say up front that we are blessed with the front-line CASA staff (AWIs and FOIs) we are lucky enough to work with on a daily basis. I know this is not the case in all areas, but we have CASA staff that provide us with great service, and who have a positive and **realistic** attitude to aviation regulation and consistently achieve beneficial results for us in short timeframes due to our operational pressure. This, I would say, is despite the organisational culture of CASA, not because of it. In general, the staff we work with have an incredibly high workload and they are burdened with trying to find a way to achieve a positive outcome for us despite being given a poor legislative framework to operate within. Our issue with CASA is those that develop the overreaching, overly burdensome, financially crippling regulations. It is plainly apparent by the legislation, regulations and manuals of standards that are being produced that those responsible for developing the new documents actually have no concept of what we as an industry do. Worse than this they consistently fail to engage in meaningful consultation to find out.

What is CASA's role?

The Civil Aviation Act 1988 requires CASA to:

1. *develop and promulgate appropriate, clear and concise aviation standards*
2. *develop effective enforcement strategies to secure compliance with the standards*

In developing and promulgating aviation safety standards CASA must:

3. *consider economic and cost impact on individuals, business and community standards*
4. *take into account differing risks associated with different industry sectors*

Overly prescriptive and complex regulations:

The CASA regulations are far from appropriate, clear or concise. In comparison to other countries the CASA regulations are incredibly difficult to interpret and are built on very confusing legal speak. As an example, when compared to the Canadian regulations the Australian CASR Part 61 Flight Crew Licencing Rules and associated Manual of Standards are 940 pages. The New Zealand rules are 99 pages and our Canadian counterparts' rules are merely 52 pages long. CASA has now realised they actually have to issue industry plain English documents alongside the reformed regulations to explain what they actually mean. Surely this is proof they are not appropriate, clear or concise.

During my time as CEO of multiple aviation companies I have had to review and comment on many thousands of pages of difficult to interpret legislation to determine the serious unintended consequences that given past experience will cause serious problems in our ability to do our daily job. CASA was consistently warned by industry leading up to the release of the Part 61 Flight Crew Licencing regulations that they were wholly unsuitable, were going to impose completely unreasonable cost upon industry and that major changes were needed in order to let industry keep operating. They failed to listen, the new regulations were a disaster and have largely decimated the training industry and now we are over 4 years down the track and they have not fixed any of the problems other than to issue temporary instruments to provide relief from unworkable rules.

We are faced with the same issue all over again with the impending release of the new Part 138 Aerial Work regulations. CASA was advised by their own working group of highly experienced and knowledgeable industry figures that the regulation set was completely unready for release to industry, yet they went ahead and did so anyway. I haven't had time to read the final revised version yet that came out last week – it is sitting on my desk and I look at it every day with dread, but put off picking it up as I know it will still be a disaster for us all.

Reform Fatigue

It is only my anecdotal observation, but I have noticed a significant reduction over time in the number of industry members that provide feedback when the new regulations are released for comment. Quite frankly we are all tired of being ignored and we all have 'reform fatigue'. Why comment when it will bring no significant change.

Risk based regulation and cost of compliance

With regard to considering the differing risk associated with different industry sectors and the economic cost to operators of the new regulations, we believe both of these requirements have been largely ignored. I believe this is due to, as I have stated previously, that those responsible at CASA actually have no concept of what we do. The new regulations apply across widely differing sectors with no scalability for the different risk profiles of the operations.

CASA's message has consistently been that they are developing regulations that are 'risk based' and relative to the risk profile of the organisation. The regulations being developed do not reflect this at all. A risk-based approach should provide overarching guidelines to assist an operator to develop safe policies and procedures and provide prescriptive rules only where necessary due to data driven identification of consistent areas of failure or heightened risk. The CASA regulations are overly prescriptive where there is no need to be to the point of making it impossible for GA, (especially rotary) to comply.

As examples:

1. The new Part 133 Passenger Transport regulations require the pilot (or the person responsible for flight planning) to have detailed information regarding the suitability of the departure and planned destination landing sites prior to departing for the flight (CASR Part 133.140). We specialise in remote area work and by far the majority of our operations in these areas have no set destination landing site determined prior to departure. We have an area of operations and know that we will have to land somewhere in order to complete our task. A helicopter pilot's basic skill set includes the ability to conduct a detailed risk assessment of potential landing sites and procedures to follow in order to accept or reject a site as being suitable for a safe landing. This regulation is completely impossible for us to comply with. Were we to comply, we could not legally conduct any of our remote area passenger transport operations.
2. The introduction of performance classes (ranking aircraft by their level of capability to determine certain operating restrictions) and overly prescriptive limitations on landing sites to the new Part 138 Aerial Work regulations is detrimental to achieving a holistic risk-based approach to operational safety. The performance class requirements are overly prescriptive and far too complex to be feasibly utilised out in the field when conducting many Part 138 operations. Much of the work we conduct is in an area we have never been to before, utilising landing sites we have never landed at and will probably never again visit. The detail and amount of pre-

flight planning required simply is not possible to comply with as we do not have access to any of the information required by the regulations until we arrive on-site. Conducting Part 138 operations under these circumstances relies on good training and checking and by providing flight crew and 'task specialists' solid policies and procedures to operate by and a sound understanding of risk management to allow the correct limitations and risk mitigating factors to be employed for the required task to be conducted in a safe manner. Stipulating complex, overly prescriptive limits on performance does not add to safety whatsoever as the detailed calculations required simply are not possible on the go, in the field. Rules such as this encourage non-compliance through either misunderstanding due to the overly complex nature of the requirements or simple inability to comply due to real world operational limitations. Once again I state, the development of these overly prescriptive regulations that are impossible to comply with show a complete lack of understanding of what our industry does.

The overly prescriptive regulations produced by CASA creates a 'tick the box' mentality. As long as you are compliant with the overly prescriptive limits held in the regulations it is felt by many that you can carry on and conduct a task without having a holistic approach to risk assessment and mitigation that is required to ensure continual improvement in aviation operational safety.

[CASA cost recovery policy](#)

We as aircraft operators are required to have regular interaction with CASA in order to renew instruments and exemptions and apply for approval to conduct new operations or operate new aircraft types. CASA has set their charge rates for industry without any commercial market pressure. Their charge rates are completely unreasonable considering many of the basic services provided. CASA's schedule of fees are:

The hourly rates are \$100, \$130, \$160 and \$190.

The lowest rates apply to services that are mostly administrative or require a small degree of technical skills.

Where technical expertise is needed, the top two hourly rates will apply.

The highest rate will apply for services that, in the interests of aviation safety, must be provided by:

- *a Senior CASA officer*
- *a CASA officer with particular experience or qualification.*

Certain kinds of complex, high capacity operators, and types of aircraft, work or facilities will automatically require this.

This rate is charged as per Sub-regulation 4 (2) (b).

All other technical services will be charged at the \$160 hourly rate.

The hourly rate will also include any administration time.

We seem to be always charged \$160.00 per hour regardless of the complexity of the job. Many of the simpler tasks we ask CASA to complete such as the renewal of a simple approval would be able to be 90% completed by administration staff with instruction given by specialised staff.

To charge \$160.00 per hour as a default rate for all tasks is exorbitant considering the relative lack of specialised knowledge required.

To understand why the charge out rate is exorbitantly high it may be worth considering the size and cost of the CASA workforce.

In 2010 there were 820 Air Operators Certificates utilising 12,564 aircraft. In 2019, 785 AOC's were utilising 13,812 aircraft. Over the ten years the number of AOC's fell approximately 5% with the number of aircraft being operated increasing by 9%. In that same time CASA's cost of labour has increase from \$79 million to over \$125 million – a rise of over 58%. I doubt you will find an operator that believesa they are getting better service now than a decade ago.

(NB: figures from CASA's financial reports and Bitre statistics).

[A culture of second-guessing specialist opinion](#)

There has been a long-standing pattern of CASA not accepting the specialist advice that they themselves ask for or allowing those delegated with responsibility to actually carry out their functions. I have lost count of the number of pilots I know that have had an aviation medical approved by their Designated Aviation Medical Examiner, (DAME), only to have the CASA medical section overrule the assessment and delay the approval unnecessarily. Countless times I have personally seen pilots have a medical denied and be required to seek specialist medical advice for the resultant medical advice only to be refuted by the medical section causing the pilot (and his company) further extremely costly delays. Why does the CASA medical section not listen to the specialist medical advice and assume to know better than the doctor actually assessing the pilot? I do not believe CASA understand the severe stress and financial burden this places on a pilot. Their entire career is placed under threat and their employer is faced with significant increased cost to source a replacement pilot while the matter is under review. This is serious overreach by the regulator.

When it comes to the drafting of new regulations consultation is sought but often ignored. We are the subject matter experts. Those drafting the legislation have little to no experience in conducting the tasks we complete every day and yet they fail to listen to our concerns or the issues we have with the regulations being presented for comment.

We understand that the regulations that are drafted and presented to the CASA legal team often do not even closely resemble that which is handed back after being made infinitely more complex, confusing and far less relevant to operations. This however does not excuse CASA for allowing the overly complex and confusing regulations from being forced upon an increasingly frustrated industry.

I feel I could continue ad nauseum but hopefully I have successfully got my message across.

To summarise:

- CASA does not understand the industry sectors they are charged with regulating
- CASA does not listen to advice from subject matter experts and portrays an attitude of they know better
- CASA regulations are not fit for purpose, are overly prescriptive and complex and create hugely financially and physical detrimental unintended consequences for industry
- CASA do not understand these consequences or seem capable of solving the issues they create for industry
- CASA does not provide value for money in the services they provide
- All of these combined:
 - Constantly over time reduce confidence in and respect for our regulator
 - Cause untold stress and anxiety to operators and aircrew
 - Decrease the economic viability of industry operators reducing our ability to focus on our own organisations in order to increase safety at an industry operator level.

Despite this, CASA has some wonderful frontline staff that achieve fantastic results despite the framework they are forced to operate in

Sincerely

Mike Watson
Chief Executive Officer
Fleet Helicopters &
Commercial Helicopters.