

Submission Regarding Current State of Australia's General Aviation Industry

The Inquiry

Australia's general aviation industry

Under Standing Order 25 (2) (a), the Senate Rural and Regional Affairs and Transport Legislation Committee will inquire into and report on the current state of Australia's general aviation industry, with particular reference to aviation in rural, regional and remote Australia.

The committee will consider the operation and effectiveness of the Civil Aviation Safety Authority (CASA) and other relevant aviation agencies, with particular reference to:

- a. the legislative and regulatory framework underpinning CASA's aviation safety management functions, including:
 - i. the application of the *Civil Aviation Act 1988* and the *Civil Aviation Safety Regulations 1998* to Australia's aviation sector, and whether the legislation is fit for purpose;
 - ii. the safety and economic impacts, and relative risks, of CASA's aviation safety frameworks; and
 - iii. the engagement of CASA with other relevant Australian Government agencies;
- b. the immediate and long-term social and economic impacts of CASA decisions on small businesses, agricultural operations and individuals across regional, rural and remote Australia;
- c. CASA's processes and functions, including:
 - i. its maintenance of an efficient and sustainable Australian aviation industry, including viable general aviation and training sectors;
 - ii. the efficacy of its engagement with the aviation sector, including via public consultation; and
 - iii. its ability to broaden accessibility to regional aviation across Australia, considering the associated benefits of an expanded aviation sector; and
- d. any related matters.

The committee will present its interim report on or before the final sitting day of **December 2020**, and will present its final report on or before the final sitting day of **November 2021**.

Preamble

My Committee, The Evans Head Memorial Aerodrome Committee Incorporated appreciates the remit of this inquiry with an appropriate focus on CASA and related agencies and GA and the aviation landscape. We submit that CASA and other agencies including government departments cannot be seen in isolation from other critically-important factors and must be seen from a 'systems' and historic influence perspective. These factors include *inter alia*:

1. operation and leadership (political and senior bureaucrat) of the current federal department responsible for aviation and aviation infrastructure and its predecessor departments and their legacies,
2. planning departments in various states who hold membership of NASAG for *The National Airports Safeguarding Framework* and have, in our view, conflicts of interest with regard to provision of 'independent' advice including issues about safety on and around our airfields. Their relationship with CASA is unclear and requires further investigation with regard to lobbying and delay tactics for putting in place appropriate safety measures around our airfields,
3. political interference from the 'big developer lobby' with regard to responsible development of policy and action to protect the broader 'public interest' with regard to aviation and aviation safety and standards relating to aviation and aviation infrastructure,
4. political interference in the planning process on and around our airports and airfields at all three levels of government with consequences for GA, aviation and public safety,

5. a fundamental shift in the understanding and execution of what constitutes assessment of risk not only in aviation but other sectors of the economy. The move to an “Affordable Risk” model governing the way in which we view aviation and planning around our airfield, and to the outsourcing of functions associated with risk assessment and accident evaluation are particularly problematic as they determine the way in which risk is managed and ultimately costs to society including loss of life and impairment of GA,
6. lack of genuine qualification and experience in the sector from senior decision-makers who may not have the necessary professional skills to lead and make ‘informed’ decisions about a very complex industry with many moving parts. Just because you do well at managing, say, a veterans’ affairs matters, does not automatically mean you will do well at managing aviation safety. In our view, strong technical knowledge is required in addition to administrative skill for those working in aviation safety particularly in a leadership role. By all means refer out to specialists with the appropriate knowledge for assistance but you need to make sure that the person doing the referring has the necessary knowledge and experience to make informed choices and decisions in the initial outsourcing process and in the subsequent assessment of the independent report returned to that person. It is our experience, and the empirical literature supports this view, that you need to have a good grasp of the technical issues as well as an understanding of pitfalls and weaknesses of decision-making in uncertain situations to make good decisions and make appropriate policy settings.
7. The problem of contract, limited-term employment where those employed on large salaries have ‘confidential’ workplace arrangements which are not subject to public scrutiny. Such arrangements fly in the face of free and fair independent advice. If I know my contract has to be renewed every three years, I am more likely to toe some political line for fear of non-renewal. This is a whole issue in its own right beyond the current remit but ultimately important to it in terms of good decision-making, or in fact any decision-making at all! It needs to be examined critically. Are we really getting the best advice and value for public monies with such contractual arrangements? Do the managers at the top really need to be paid at such high levels commensurate with the private sector to make sure we get the best? Where is the evidence which supports this view? Is it the case that the high salary levels are there to make sure that there is no interference in the revolving door between the private sector and the public service and have nothing to do with attracting the best people to the job?

A systems approach to review; limits to public capacity for input

It is our view that these factors outlined above must be seen from a ‘systems’ perspective where all are interconnected and interference or change in one agency or its economic/philosophic approach to an aviation problem has consequences elsewhere¹. But more than that it is important to

¹ Definition of System perspective: http://www.coastalwiki.org/wiki/System_perspective

Taking into account all of the behaviors of a system as a whole in the context of its environment is the systems perspective. While the concept of system itself is a more general notion that indicates separation of part of the universe from the rest, the idea of a systems perspective is to use a non-reductionist approach to the task of describing the properties of the system itself.

In the systems perspective, once one has identified the system as a separate part of the universe, one is not allowed to progressively decompose the system into isolated parts. Instead, one is obligated to describe the system as a whole. If one uses separation into parts, as part of the description of the system properties, this is only part of a complete description of the behavior of the whole, which must include a description of the relationships between these parts and any additional information needed to describe the behavior of the entire system.

understand that some of the consequences of actions taken may be unknown or impossible to predict because they emerging properties of a complex system. For the ordinary person trying to run a small business they may be impossible to track or trace or to hold to account because of their sheer complexity and time needed to begin to understand what they have to deal with. We often hear it said, 'I just don't have the time' to do anything other than run my business, even though the matter is of self-interest. The business owner is criticised for not taking up an issue which affects them. Pursuit of a matter is costly both financially and personally. We think there is already clear evidence of that. The nature of that interface between a business and the aviation bureaucracy can be better described and understood with an appropriate two-phase empirical methodology which defines the full nature and extent of the interface and then quantifies the problem so that priorities can be established to manage the problem.

There is the perennial problem of retribution or punishment for being critical of something that clearly needs fixing, a well-known situation across government and industry. What protections are in place to those who raise criticisms or 'whistle-blow' about a problem from both within the bureaucracy and outside, and if they are in place, are they adequate and do they encourage people to come forward to help the system improve?

Many people hold the view that the sheer complexity of a system offers it robust protection, but empirical evidence for biological and other human-designed systems show the opposite². Even small changes to a complex system can lead to unpredictable and sometimes catastrophic consequences. The notion that some form of equilibrium will eventually develop is a nonsense.

Complex systems are constantly changing and evolving and while that might discourage us to take steps to help the system improve because we feel there is nothing we can do, there are steps which can be taken which do improve outcome. However, we need to move away from the notion that if we get all the settings right, the problem will be fixed and we can put our feet up and let it run. Not so. We need to 'mind the shop' all the time and manage and adapt as required. Part of 'minding the shop' involves 'naming the problem' properly as it occurs, giving a proper diagnosis as free from political ideology as possible for the lens of political ideology and self-interest often cloud the diagnosis or problem-naming and the solution with consequences for the public interest. 'It seemed like a good idea at the time' does drive policy change and begs questions about where is the critical evidence which supports the claim that a particular fix will solve a problem. And we need to come to grips with the fact that complex systems have 'emergent' properties which are characteristic of the complexity itself, a point we raised earlier in this narrative.

Government agencies are complex systems which need to be run by good managers who understand the nature of complex systems, have expert knowledge, and have requisite decision-making skills in conditions of uncertainty. It is not always clear that this is the case.

Evans Head Memorial Aerodrome Committee Inc

The community-based Evans Head Memorial Aerodrome Committee Incorporated (EMAC) has been operating for the last 20 year. EMAC was formed because of the threat to local aviation infrastructure in the newly-amalgamated Richmond Valley Council in 2000. The Council had control of two ALOP aerodromes, one at Evans Head and one at Casino, and had abandoned without notice its own Section 355 Airfield Advisory Committee in April 2000. The aviation community was

² <https://www.rmit.edu.au/news/all-news/2016/october/are-complex-networks-and-systems-more-stable-than-simpler-ones->

completely shut out by council as it moved to try and carve up the aerodrome for residential development³. The last thing it wanted was community input which thwarted its ambition to do so.

Our focus initially was on the Evans Head Memorial Aerodrome because of threat of its loss to real estate development being promoted by the Mayor at the time, the late Colin Sullivan, a builder. That threat had been ever present since the Commonwealth government handed over control of the airfield to Council in July 1992. That handover was part of the greater handover of most ALOP aerodromes in Australia to local government in 1992/3.

Evans Head was the first of the Empire Air Training Scheme Stations to be established in Australia during World War II to provide trained RAAF personnel to the British War Effort. The airfield and related bombing and gunnery ranges covered more than 600 square miles of coastal NSW. The southern Weapons Range continues to operate to this day with the RAAF's new JSF (Lightning II) and FA-18 planes using the Range on a regular basis.

The Evans Head Memorial Aerodrome is the nearest Emergency Landing Ground for the RAAF and has been used in recent years for joint RAAF exercises such as Talisman-Sabre and other training opportunities. The airfield is also used extensively for S.44 Bushfire Emergencies and Flood Relief. It is, in our view, a critical piece of Australia aviation infrastructure which would have been lost if it had not been for community intervention to stop inappropriate development and ultimately complete loss of airfield amenity.

That the community had to intervene to save aviation infrastructure from inappropriate development being pushed by local government aided and abetted by State and Federal agencies raises serious questions about the often-cited statement from various federal governments that 'local government is best placed to determine what happens to aviation infrastructure'. In our view this a view generally without merit although there are exceptions to the rule as might be expected. On the contrary, we argue that local government should not be the arbiters of aviation infrastructure in Australia because they often 1) demonstrate precious little understanding of the importance of aviation to Australia and cannot see beyond their own parochial interests, 2) have little grasp of the myriad issues surrounding aviation infrastructure and public safety, and 3) view airfield land as a cash cow for non-aviation development.

RPT at Evans Head

After World War II Butler Airways ran a regular RPT service to and from Sydney for much of northern NSW but that service shifted to Casino following political interference from Ian Robinson, MP, in the late 1950, even though Evans Head had four airstrips and was seen by the aviation community as an ideal place to fly to, a safe haven, especially in poor weather conditions when every other airfields were unavailable. It rarely had fog and was used as a landing stage during floods to provision the wider community. The Queen used it in her visit to Australia in 1954. It was also centrally located to many of the region's towns and villages. In fact, pre-War it was listed to be one of Australia's major airports for the future.

The Making Ends Meet Report

In November 2003 the House of Representatives Standing Committee on Transport and Regional Services released the report *Regional Aviation and Island Transport Services: Making Ends Meet*. The Report came more than 10 years after the Commonwealth put in place its *Airport Local Ownership*

³ EMAC has 20 Lever Arch Files of documentation regarding the Evans Head Memorial Aerodrome which gives detailed information about the aerodrome. The material is to be used for a book: "*How to Kill an Aerodrome*".

*Plan (ALOP) transition where more than 200 regional airports were handed over to local government*⁴. And it followed an *"Inquiry into commercial regional aviation services in Australia"*.

The Committee found that the key issues affecting regional aviation services were *"rising costs, falling returns, declining service levels, poor interconnectivity between services, difficulty maintaining country airports, the processes for regulating aviation safety, the need for policy coordination and the challenge of providing small aircraft to service country areas and alternative transport links to major populated islands."*

The Committee in its Report claimed that the evidence showed 'clearly that competition was sustainable in larger markets such as domestic trunk air routes' but that 'where there was insufficient depth in the markets for air and sea services to sustain competition, further government intervention was required to meet the needs of regional and island communities'.

Aviation safety regulations and the way they were administered by the Civil Aviation Safety Authority (CASA) also came under scrutiny in the Inquiry because they were found to "impose significant costs on smaller airline operators in particular". The Report concluded that ***"a strong, effective and credible regulator was essential to preserving public confidence and patronage of regional aviation services"*** and ***"recommended ways for CASA to strike an appropriate balance between educating stakeholders and policing regulations"*** [emphasis ours].

The ***Making Ends Meet Report*** recommended a number of policy developments and adjustments to the policy of the day and while mostly RPT focussed also had cross-over to GA. These recommendations were *"aimed at providing greater financial support to improvements to aviation....."* and *"improving the business environment for regional airlines and building on the capacity of operators"*. Their purpose was for *"regional aviation services to be a more attractive transport option for business and private citizens needing to use regional aviation services"*.

Making Ends Meet Report Recommendations

Twenty-eight final recommendations were made in the ***Making Ends Meet Report***, including *inter alia*:

- investigation of pilot shortages for regional airlines,
- development of an appropriate program to expand pilot training in regional Australia along the lines of its program to expand aircraft maintenance training
- that the Department of Transport and Regional Services ensure that small and medium regional aviation enterprises were well represented in the initiatives and benefit directly arising from the Commonwealth's action plan for its Stronger Regions: A Stronger Australia framework,
- a new airport ownership subsidy scheme covering capital works and essential maintenance or failing that, that the Commonwealth resume ownership and funding of all essential airports in communities with a population under 30 000.
- Strengthen the public interest test of the National Competition Policy of the day by specifically requiring regional aviation and island transport policies to be assessed against the interests of rural and regional communities,
- Through the Department of Transport and Regional Services publicly report on the health of the regional aviation industry at least once every two years,

⁴ A complete list of those airfields is contained in the Report

- Through the Department of Transport and Regional Services and Airservices Australia introduce a universal service charge for aviation rescue and fire-fighting services at regional airports to reduce the wide disparity in the charges for those services and to reduce the overall impact of the charges on regional aviation costs and form a working group with key stakeholders (such as the relevant local government associations, town planning and standards bodies) to advise on the strategic and optimal co-location of fire-fighting services;
- Airservices Australia provide the initial aviation rescue and fire-fighting equipment and crew training, at no cost, to communities where fire-fighting services become co-located,
- the Department of the Treasury review the taxation arrangements relating to the replacement of small ageing aircraft by the end of 2004 and report the findings of the review by the end of 2004; and if justified introduce provisions in the taxation legislation that assist the owners of small ageing aircraft to replace these aircraft and incentives to assist in the replacement of aged aircraft,
- the Department of Transport and Regional Services verify the adequacy of regulation impact statements for amending aviation safety regulations prepared by the Civil Aviation Safety Authority; and assess that the cost impacts calculated are reasonable and justified taking into account the importance of regional aviation to regional, rural and remote communities,
- that the Civil Aviation Safety Authority introduce into its service charter mandated response times and fixed and fair prices for its services,
- that the Civil Aviation Safety Authority review its training processes to ensure consistency of the Civil Aviation Safety Authority's interpretation of the law and regulations; and introduce an ongoing program of staff training in regulation interpretation to ensure improved consistency of the Civil Aviation Safety Authority's interpretation of the law and regulations; and, regularly assess and record in its annual report, the levels of knowledge and competency of its staff in interpretation of the law and regulations,
- The Civil Aviation Safety Authority provide customer relations management training to its staff, particularly those in regional offices;
- The Commonwealth establish an Aviation Ombudsman, and ensure that this position is filled by an appropriately skilled person, to consider all aviation industry related complaints; and the duties of the Aviation Ombudsman would include, in addition to examining operational complaints, conducting independent surveys of industry, ensuring that the confidentiality of respondents is maintained. These surveys would assess the effectiveness of the Civil Aviation Safety Authority's measures to improve the consistency of its interpretation of aviation regulations and,
- **that the Civil Aviation Safety Authority, in addition to enforcing aviation safety compliance, place greater focus on activities to assist industry players in complying voluntarily with the regulations; and the Australian National Audit Office periodically audit and report to Parliament on the Civil Aviation Safety Authority's compliance with its service charter; fulfilment of fostering a culture of safety in the industry; policing the regulations to achieve aviation safety outcomes; and provision of information and education services provided jointly with the industry [emphasis ours] and**
- **that the Department of Transport and Regional Services conduct an annual confidential client satisfaction survey to test the industry's satisfaction with the services that the Civil Aviation Safety Authority delivers, and assess compliance with its service charter; and publicly report the results of these surveys, ensuring that confidentiality is maintained [emphasis ours].**

While the ***Making Ends Meet Report*** focussed on commercial effort for provision of regional air services, it is our view that their findings had significant ramifications for GA, its maintenance requirements, development and operation in regional Australia, and the role of CASA.

We believe that the current Inquiry needs to examine the findings and recommendations of the ***Making Ends Meet Report*** in order to discover what happened to these recommendations. Was there follow-up? What was found? What lessons were learned?

It seems to us that there is little point in having yet another Inquiry if there was no follow-up, or if there has been follow-up why certain measures were not put in place or ignored, or what was learned as a result of implementation of recommendations? We are aware of the fundamental philosophical/economic collision of the ***Making Ends Meet Report*** with reform within the Department of Transport and Regional Services at the time which was very much market-place driven and formed the view that therein may lie the seeds for some of the current problems being experienced in aviation. On the one hand the ***Making Ends Meet Report*** was plugging for a more interventionist approach to protection of aviation in Australia particularly for rural and regional Australia while the Department was pushing a non-intervention market approach based on false assumptions that were never subject to proper critically scrutiny.

It was all well and good to have an expensive Inquiry as happened with the Making Ends Meet Report, but if nothing comes of it, what was the point? In a sense we are requesting an autopsy of an old corpse to see if there are lessons to be learned so that we stop repeating the same mistakes in thinking and decision-making. And as indicated in the introduction to this report, such an autopsy needs to look at the matters through a 'systems' lens: Limits to predictability, emergent behaviour of the system affecting today's operations, expected and unexpected outcomes, black swan events, etc. Such a review must also examine the collision with the free-market conflict with the Department for there is potential for unfortunate compromise of aviation safety and diminution in the role which government takes in looking after its aviation infrastructure and safety.

Care must be taken here to make sure that the discussion does not become bogged down in political ideology for, from where we are sitting, part of the current difficulty we see in GA and aviation and safety in general relates to that ideological problem and failure to resolve the role which government will take in looking after aviation and aviation infrastructure, etc.

The ***Making Ends Meet Report*** makes it very clear that there are limits to the operation of the market place, a lesson which we have been ignoring at our own peril and the lives of those involved in aviation. Of course, this is an issue which may be impossible to resolve because of the entrenched position that some self-interested players will hold but there is a need to transcend that and ask are the decisions which are being made in the 'public interest', and where is the evidence to support a particular claim beyond the standard, generic rhetoric which is invariably not tuned to the specific issue(s) at hand?

It is worth noting that at the time the ***Making Ends Meet Report*** was released, the Department of Transport and Regional Services was pushing the Minister for Transport, John Anderson, to loosen policy with regard to the ***Transfer Deeds*** over more than 200 ALOP aerodrome so that what happened to the future of airfields was left ENTIRELY in the hands of local government.

Anderson, in his wisdom, asked in a handwritten note we obtained under FOI, that his department consult with key stakeholders before the loosening of policy was put in place. Not long after that the department came back and asked him to sign the 'loosening of policy' document, which he did, but it would appear that Anderson did not ask to see what stakeholders had had to say. We checked with the stakeholders identified by Anderson and they told us that they had not been contacted by

the department. So as far as we can ascertain the loosening of policy over ALOP occurred without an appropriate consultation process.

In our view the 'loosening of policy' was an attempt to subvert the findings and recommendations of the *Making Ends Meet Report* to free up Australia's aviation infrastructure to allow local government to do as it pleased most frequently against aviation interests. Imagine all that flat, serviced land just waiting to be developed with little impediment or constraint from the *Transfer Deed*. And, of course, with no money to look after the airfields, the temptation was created to sell of airport land.

Lots of our ALOP airfields have disappeared since the Anderson reform, reducing the effective opportunity for the aviation industry to flourish. Councils saw better money in housing and non-aviation commercial development notwithstanding the important role aviation continues to play in our country.

Anderson's loosening of ALOP policy never came to Parliament for public scrutiny notwithstanding assurances from various ministers that announcements would be forthcoming. Billions of dollars worth of aviation infrastructure was sold off, a local government golden goose and developers 'wet dream'. And aviation and aviation-related industry suffers and continues to suffer as a consequence.

The Rot Sets in for Aviation Infrastructure in the 1990's when ALOP airfields were handed over to local government. The myth that local government knew best how to manage aviation infrastructure was launched setting the system up for problems we experience now

From our perspective the rot set in for potential loss of aviation infrastructure in Australia critical to GA when the Commonwealth government decided in the early 1990's to hand over more than 200 of Australia's airfields to local government (The ALOP agreement) under a generic *Transfer Deed*.

Sadly, there appeared to be no strategic thinking or planning for the future of GA in the handover of the airfields to local councils. You could hear the commonwealth government of the day saying 'let's get rid of these imposts on the public purse', a philosophy akin to that seen after the end of WWII when there was wholesale dumping of the remnants of war.

No-one, it seems, was looking strategically at rural and regional aviation and the ramifications for the future of the aviation industry. No-one was asking whether local government was competent to manage aviation and to make judgements about aviation safety. No-one was asking whether the real outcome of the handover might be wholesale non-aviation real estate development, much of it anathema to aviation. No-one was asking what the ramifications were for the future of pilot training and the GA industry until the *Making End Meet Inquiry*.

An anorexic dowry accompanied the handover of airfields to councils under the ALOP arrangement but future maintenance funding was cut off by the federal government and local government was left to make do as best it could once the once-off dowry ran out. The flawed, unsubstantiated view that local government 'knew best' what to do with aviation infrastructure prevailed, aided and abetted by the zeitgeist of the time that the free market along with local government would be best placed to determine the future of our aviation infrastructure notwithstanding, in many cases, a complete lack of understanding of aviation and its' needs by local government.

That zeitgeist was supported and promoted by the economic review of the day, the *Karpin Report*⁵. That seriously-flawed report⁶ drove a reform process in both private business and government from

⁵ <https://catalogue.nla.gov.au/Record/593459>

⁶ See for example:

https://www.researchgate.net/publication/237090712_Learning_to_manage_and_managing_to_learn

which we are still suffering today. The Report was never subject to the close critical scrutiny it deserved and from our perspective much of it was based on faddish economic thinking of the time.

While the business community was widely consulted in the preparation of the *Karpin Report* about how to fix business in Australia, the very people who were part of the problem, there was never, as far as we are aware, any invited critical scrutiny of the Report. In our view 'it seemed like a good idea at the time' drove much of the reform to the detriment of Australia. This is a topic that really needs airing and is beyond the remit of our current paper except to say it seemed to play a major role in how subsequent governments developed policy about how aviation infrastructure should be managed, etc., and many other government policies of the day including the way in which the Public Service should operate.

Sadly, the Public Service and related agencies still seem to be infected with the Karpin virus with nasty consequences for appropriate management of government services including outsourcing, short term contracts, flawed performance appraisals, competition policy without regard to social consequences, benchmarking, and so on. All of these have ramifications for performance of those charged with aviation and aviation safety in Australia.

The ALOP *Transfer Deeds* which were drawn up for the handover of the large number of regional and rural airfields in Australia contained a clause 2(p) which basically gave permission to local government to sell off airport land set aside for aviation which they deemed 'surplus to requirements'. All they had to do was contact the Secretary of the Department of Transport to get permission to do so:

Local Authority Undertakings

2. The Local Authority, on and from 1 July 1992:

(p) shall not, without the consent in writing of the Secretary, which shall not be unreasonably withheld, close the aerodrome or sell, lease or otherwise dispose of or part with the possession of the land or any part of the land required for aerodrome purposes other than a disposal by way of lease or licence under the provisions of clause 2(j), 2(k), 2(l) and 2(m) hereof;

Basically Clause 2(p) suggested protection of airfields because you had to get permission, but this provided no protection whatsoever for our airfields.

What was particularly interesting for us for the two airfields in our local government area is that Council's solicitor at the time, and still council's solicitor, suggested changes to clause 2(p) which were accepted in the *Transfer Deed* document. That change included the words "*which shall not be unreasonably withheld*" for permission to dispose of land. The solicitor did not charge council for the incorporated advice and said so in his correspondence, which council and the federal government adopted. But that same solicitor indicated in correspondence with council that they would be charging council 'full fee' for conveyancing for each block of airport land that was sold. Airport land became a 'cash cow' for both the solicitor and council, and Trojan Horse for future residential development for council. A couple of hundred blocks were sold for residential

development. Part of the original main runway 14/32 was chopped off to accommodate the housing.

**Local government blatantly ignores requirement of the *Transfer Deed* for permission to sell land:
Local government learns there are no consequences for actions taken.**

Notwithstanding the fact that Council was FULLY AWARE of the requirement to get permission for the sale of land 'surplus to requirements' from the federal government as it had brought about the change, Council proceeded to sell off large tracts of the airport's land for real estate development without the required permission.

The community eventually picked up on the fact that there was no permission for land sales and the matter was investigated by the ACCC who confirmed that no permission had been sought.

The Mayor argued that he had a "*gentleman's agreement*" with the federal department for the sale, and the department denied that this was so initially. But eventually the department issued a waiver letting council off the hook:

"..the Department recognised the Council's decision on disposal of Aerodrome land it deemed excess to the safe and ongoing operational needs of the Aerodrome. [after the fact]

The Department, on that occasion only, acknowledged the Council's understanding of a 'gentleman's agreement' " between former Council and former Department officials and waived the Council's obligations under clause 2(p) of the ALOP Withdrawal Deed for Evans Head Aerodrome [sic] in respect of rezoned land and the subsequent redevelopment and sale of that land for residential and industrial purposes.

*The land being referred to is that area of former Aerodrome land clearly identified on the map attached to Council's advice of 2 September 1998 of which there are a further 170 residential and 20 industrial lots to be offered for sale. **THIS WAIVER RECOGNISES THAT THE SALES ARE AN INEVITABLE CONSEQUENCE OF THE REZONING AND REDEVELOPMENT THAT HAS ALREADY OCCURRED ON THAT LAND** [emphasis ours]"⁷.*

This 'get-out-of-gaol-free' intervention left a very bad taste in the mouth of the aviation community who saw its aviation infrastructure being chewed up and the federal government failing to do anything about it. It also left the wider community wondering about rules and regulations and what was the point of having agreements if they were clearly, knowingly, breached by government and those set up to mind the shop for the rules. It set a double standard which reverberates to this day: 'government decisions are above the law'!

And so local government, in effect, learned that it could do as it pleased with airport land and THERE WOULD BE NO CONSEQUENCE. Needless to say, this outcome did the rounds of local government circles and of course raised and continues to raise serious questions about inappropriate behaviour of government and elected officials not being sanctioned. In effect, bad behaviour was being rewarded, a rampant problem in government today, in our view, and not just in the aviation sector.

What was particularly egregious about the local council case was that the council knew that permission was required for land sale demonstrated by the fact that it sought legal opinion and voted to include that legal advice regarding clause 2(p) in the *Transfer Deed* in 1992 yet it failed to obtain permission.

⁷ DOTARS Ref H98/519 11 December 1998.

There are many examples of failure to follow the rules which we believe go part way to explaining the parlous state of faith in government at all levels. IF THERE ARE NO CONSEQUENCES THE BEHAVIOUR CONTINUES, a fundamental rule of behavioural psychology. The notion that somehow there will be a 'learning experience' which will lead to improvement in the future is a complete nonsense but is the kind of thinking that one sees from time to time in various courses run for business and government. This is not just naïve thinking but a deliberate strategy put in place to allow those at the top to do as they please or to avoid responsibility. In our view the 'big stick' needs to be wielded appropriately from time to time to demonstrate that there are consequences for poor behaviour otherwise the problem will continue. And it is important in wielding the big stick that those at the top be held to account and not some minion scapegoated for the deeds of the boss. The failure of government to hold to account those deliberately committing breaches of rules and regulations and contracts, etc., is a very very serious problem for all levels of government which we would be prepared to elaborate. In our view, the problem is getting worse.

Notwithstanding major community support to keep the Evans Head Memorial Aerodrome open for aviation with interventions by major aviation figures such as the late Nancy Bird Walton AO, local council continued on its journey to try to destroy the airfield for aviation.

In 2002 an experienced aviator with a 'round-the-world' solo single-engine trip under his belt and demonstrated capacity to manage large projects under the Paradise Homes Group banner asked Council to consider a proposal for the development of a residential airpark on the aerodrome (see Figure 1).

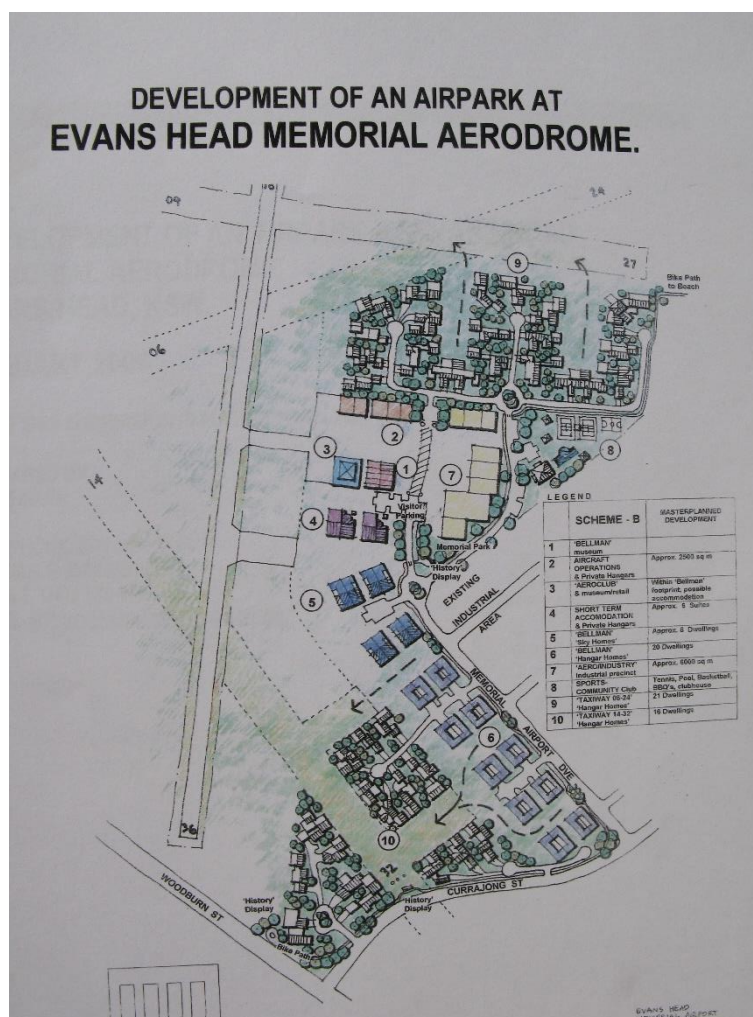


Figure 1: Proposed airpark for Evans Head Memorial Aerodrome put by Bill Finlen of Paradise Homes

Long story short, Council thwarted the developer as it did not want aviation on the aerodrome and ignored his proposal in favour of a retirement village/nursing home for southern part of the same site during the development of a coincident *Plan of Management* for the Aerodrome. The airpark proponent had the following to say to the Chair of the NSW Heritage Council⁸:

"A Draft Plan of Management was made available for public comment in April 2005. The site Council had nominated for my Airpark Proposal was now set aside for a retirement village instead. No mention was made at all of the potential Airpark for the site".

"Consultants GHD nor RVC made NO contact with me during the planning process".

"I was not contacted by GHD or Council with an explanation on why land previously thought suitable for an airpark, was now apparently not suitable."

"Please be aware that my proposal provides an income stream for ongoing maintenance and development of the Aerodrome for aviation purposes forever. Profits from the sale of the land would go back to ongoing development and maintenance of the airfield. The estimated value of my proposal is \$50 million dollars."

Council invited Ex-Services Homes Ballina⁹ to build a retirement village and nursing home on the aerodrome right near the main runway in 2004 (see Figure 1), shrank the ANEF to accommodate the development, and tried to shorten the main runway by 500 ft. The proposal was for the same location as the Airpark. Initially Council offered two other sites on the aerodrome for the development well away from 'airside' but subsequently withdrew them. The CEO of Ex-Services Ballina told us at the time that the other two sites were acceptable to them.



Figure 2: Location of the proposed retirement village and nursing home on the Evans Head Memorial Aerodrome.

⁸ Letter dated 7 September 2007 from Paradise Homes Group to the Chairman of the NSW Heritage Council

⁹ Subsequently RSL LifeCare

There were also other options available for the development of the nursing home/retirement village complex elsewhere at Evans Head¹⁰, and in fact the development had been approved at another off-aerodrome location in 2004, but council saw an opportunity to drive a wedge between the aviation community and the wider community and so pushed for the nursing home on the airfield and ignored deliberately the proposal for development of a more appropriate airpark on the same location.

The airpark developer was also given short shrift by investigative agencies who treated him as some form of pariah. They were not interested in pursuing the fact that he had been shoved out of the way to accommodate an inappropriate nursing home/retirement village on an aerodrome¹¹.

Corrupt Planning Processes

GHD was invited by council to prepare a *Plan of Management* for the airfield in 2004 to meet the requirements of State Heritage Listing of the airfield in November 2002¹². The GHD representative met with us along with representatives of the Heritage Office to discuss the proposal for the nursing home/retirement village complex on the airfield 90 metres from the main runway.

GHD presented a document showing the proposed size and location of the development but admitted, on questioning and following the tabling of authentic documentation from us, that the proposal was three times larger than the material they showed us. GHD knew that the proposed development was much larger. We were misled¹³. This experience did not enhance our trust in government or consultant processes, a repeating theme. Yet notwithstanding this blatant distortion of the truth, the development application for the nursing home complex proceeded. There was no consequence for GHD or council. The Airpark proposal was shut out of the planning process as indicated previously.

Some of the land on the airfield for the nursing home complex required rezoning to accommodate it. Council proceeded to have the land inappropriately rezoned for residential purposes. The rezoning application required that certain questions be answered about the status of the land: Was the land "on or near an airfield" and was the land "contaminated" with the answer being "yes" to both thereby making the land ineligible for classification to residential yet Council approved the rezoning application knowing full well that the land was on an airfield and was contaminated. We made representation about these problems but were ignored.

With regard to the matter of contamination Council's health surveyor had prepared a report in 2002 showing that there was serious contamination of the land. Council's Minutes of the meeting of November 2005 where the land zoning application was approved were not available to the public for a long period of time. In our view they were deliberately withheld so that there could be no public perusal of the inappropriate application for land use rezoning. We wrote to the councillors who put the motion for rezoning on two separate occasions but never received what we would consider to be a satisfactory reply to our enquiries.

The issue of a nursing home being built on contaminated land on an airfield reached Senate Estimates and the newspapers. And the federal department responsible for funding of nursing home beds for Evans Head on the airfield became a running source of questions for Senate Estimates for which the department was less than forthcoming. The allocation of funding went on for many years

¹⁰ See the *Town Planning Assessment* commissioned by EMAC in September 2007 prepared by Don Fox Planning, Project No:6792A. Section 6.5 reviews alternative sites.

¹¹ We hold an extensive file of documents relating to this matter provided by the Paradise Homes Group

¹² <https://www.environment.nsw.gov.au/heritageapp/ViewHeritageItemDetails.aspx?id=2850180>

¹³ We hold a recording of that meeting.

and we understand became the longest running controversy of its kind. The Commonwealth was particularly secretive about bed allocation and ignored representation from us about safety and amenity aspects of the proposed build including aircraft noise. It was as if we were speaking into a vacuum.

The land was eventually rezoned by the Minister for Planning in the State government at the time, MP Kristina Keneally. From information made available to us it would appear that the RSL had become involved in successful lobbying for the rezoning to accommodate their nursing home/retirement village complex. We were told we were 'small fry' and were given short shrift by the Director of the Heritage Office at the time who refused us permission to address the Heritage Council about the matter. They prepared the report on the rezoning for the Minister. It took an 'open letter' to the press to get a response from the Minister.

Council proceeded to clean up the widespread contamination on the airfield, part of it caused by council mismanagement and part of it not really a contamination clean-up issue but destruction of the main runway and related structures. Most of it was at ratepayer expense to accommodate the nursing home development. Part of the main drainage system for the airfield was destroyed in the process creating a new set of problems for flooding of the airfield.

At one of the hearings about development on the airfield, the NSW government's Joint Regional Planning Panel, chaired by former State politician Garry West, we asked about development of the site. We raised the question of flooding of the airfield and questioned the modelling of flooding put forward for residential development but were ignored. West deferred to council's advice that all was ok even though council had a conflict-of-interest in the matter as owners of the property, as well as being providers of advice about development.

West was challenged about the matter at the time because of his failure to act independently with regard to another matter, that is the amalgamation of two Sydney Councils where the Courts found against the independence of his judgement, a matter which cost the taxpayers of NSW nearly half a million dollars. We have a recording of those proceedings. We felt very strongly that he was again not independent in his assessment of the project and that the anti-aviation policy of council continued. We were subsequently vindicated in our view that there would be flooding.

The Ex-Services Home/ RSL LifeCare nursing home proposal didn't go ahead for various reasons even though council bent over backwards to accommodate the proponent through large subsidies at ratepayer expense. It is estimated that approximately six millions dollars was spent preparing the site on the aerodrome for the nursing home complex and all the money set aside from the sale of 'surplus land' for maintenance of the airfield was chewed up.

It is also worth noting that during this time that Council also tried to destroy the airfield by putting forward a plan to irrigate the airfield with effluent from the local sewerage treatment plant (see Figure 3).



Figure 3: Area to be irrigated with effluent located within the area bounded by the four runways of the airfield. There are many drains within the area which council planned to cap with above-ground metal covers, a clear risk for collision in the event of aircraft runoff. The irrigation system would have cut through the whole of the underground drainage system for rainwater leading to flooding of the aerodrome during heavy rain, a not uncommon occurrence for which the drainage system was built in WWII.

The plan would have led to the cutting of the drainage system so that it no longer functioned. But more than that covers were to be built above ground over all the drainage grates across the airfield, a hazard to aviation use of the airfield should an aircraft run off the runway. The consultants did no field measurements, had no aviation knowledge, and admitted that their plan was desktop. Long story short, two investigations and \$600,000 later, the conclusion was reached that the plan to irrigate was inappropriate and was scrapped. If the plan had succeeded the amenity of the airfield would have been destroyed. So much for local government making appropriate decisions with regard to use of local airfields and aviation safety!

It seemed to us that Council went out of its way to destroy aviation on the aerodrome aided and abetted by various government departments at all three levels, and other agencies.

Even processes associated with development of a heritage plan for the aerodrome were corrupted with Council insisting that the contractors provide a copy of the plan in a format which they could change to suit their purposes. The contractor handed over the plan but removed their name and other identifiers from it as they did not want to be associated with the process. Interesting the modifications which were made to the Heritage Plan were made by the same consultants who provided the discredited report on the irrigation of effluent on the airfield and who had been fired by the original heritage consultants. In our view they were 'tame' council consultants. We hold substantial documentation about this matter which we would be prepared to make available to the Inquiry.

Recently the Evans Head Memorial Aerodrome was sold off to a private developer who has agreed to keep the airside of the aerodrome available to aviation, a good outcome. However, it should be noted that the sale of the airfield never came to tender.

Council called for 'Expressions of Interest' for a small portion of the airfield set aside for an airpark and it was on that basis that the whole airfield was sold. It is interesting to note that there was 'shopping around' for a price that suited the original purchaser's¹⁴ wallet (less than \$3 million¹⁵). We raised this issue with the NSW State government Auditor but were told there was no interest in pursuing the matter. In our view the airfield was given away for a song. Where was the independent assessment of value? How was Australia's aviation infrastructure being protected by such a sale particularly when the purchaser at the time had submitted plans for closure of much of the runway infrastructure to accommodate residential development on and around the airfield against the interests of public safety during flood, and Section 44 Bushfire Emergencies.

There is a great deal more to this story including the fact that Council continued to turn away organisations and individuals who wanted to develop aviation business at the aerodrome. The proposed airpark development at the southern end of the aerodrome and future aviation courses at the local high school would have provided both educational and employment opportunities pertinent to the development of a healthy aviation business at Evans Head. We prepared a 30 page plan for the future of the aerodrome for its *Plan of Management* in 2005 including possible financial mechanisms to guarantee a future income for the aerodrome but it was completely ignored. Local government worked continually to block aviation at the aerodrome.

Development at Casino Airport

While Evans Head was under attack for inappropriate residential development, Casino airport also came pressure when RPT to Casino airport came to an abrupt halt. The newly-amalgamated council proceeded to try and sell off the whole airport behind closed doors without bringing the matter to public attention. In fact, we have documentation which shows that council agreed behind closed doors to keep that information from the public. Council eventually sold off a large tranche of the airport to a campervan group for less than its actual valuation, shortened the runway by 400 metres, and permitted the building of a house right at the end of the main runway in a deliberate attempt to stifle aviation (see Figure 4). It built a large retention pond right next to the main runway in breach of policy relating to bird strike and in breach of the Transfer Deed over this airfield, the same as that for Evans Head.

Local Authority Undertakings

2. The Local Authority, on and from 1 July 1992:

(h) shall take such action as is within its power to:

(ii) prevent the introduction of activities likely to create a hazard to aircraft including activities likely to attract birds; and

¹⁴ The late Peter Lynch of Evans Head AirPark who was killed in an aviation accident on Australia Day in WA's Swan River in a high profile aviation accident in January 2017.

¹⁵ Interestingly individual housing blocks at the end of the airfield now sell for more \$300,000! The agreed price for the purchaser came after three other valuations. We can provide the necessary supporting documentation.



Figure 4: Western end of Casino Airport showing housing development at the end of the runway. The red arrow points to an aircraft crash site. The crash occurred after the house was built.



Figure 5: Casino Airport showing location of house in Figure 4 (yellow arrow) and retention pond in middle right of picture (red arrow). This picture was taken in 2010. There has been a great deal more residential development since that time. The picture also shows a drag race meeting on the strip, permitted by Richmond Valley Council, which stopped aviation use of the airport from time to time.

Needless to say residents complain about noise all the time as the Casino airfield continues to operate and planes take off over the village which has now been built at the end of the runway. Probably the only reason aviation persists at Casino is that the Rural Fire Service is headquartered there with an aviation arm. Aerial agriculture services are also active players. One has to wonder what would happen if an air tractor fully laden with water for fire-fighting purposes were to crash into the village?

It is worth noting that the *Transfer Deed* over the Casino Airport states that:

Local Authority Undertakings

2. The Local Authority, on and from 1 July 1992:

(h) shall take such action as is within its power to:

- (i) create land-use zoning around the aerodrome which will prevent residential and other incompatible development in areas which are, or which may be, adversely affected by aircraft noise;

Note again here that aircraft noise is used as the metric for determining whether or not residential development is too close to the airfield when we know that ANEFs have no correlation with safety.

Main Point of Our Submission

The main point of our submission is to demonstrate that local government is not only **not** interested in aviation and its potential for aviation education and training purposes, but has been an **active player** in trying to destroy aviation infrastructure so that it can be carved up for real estate development. Moreover, local government, and not just ours, often has no idea about aviation safety around our airfields and has instead relied on the falsehood that a noise exposure forecast standard is the metric to use for safety, aided and abetted by the federal department which frequently backs local governments in their decisions.

Our local council has used the millions of dollars raised from the sale of aerodrome lands to kill off aviation instead of putting money back into aviation infrastructure which would allow GA and its related industries to thrive. Aviation is not just about pilots but also about the skilled industries which support aviation, industries which would have put our local school¹⁶ in a good position for employment and training opportunities for its students.

We have done our best over twenty years to cultivate aviation at the aerodrome at Evans Head with discussions with prospective businesses, events bringing together the aviation and wider community with economic benefits for all such as *The Great Eastern Fly-In*, and support for young folks wanting to learn to fly, a couple of whom have been successful in commercial aviation. But it has been an enormous uphill battle with all three levels of government in opposition most of the time sometimes as 'enablers' of other parties with financial interests or political clout antithetical to aviation.

We recognised the importance of aviation to Australia, recognised shortages of aviation industry players, prepared many submissions and made presentations to all three levels of government off our own bat and from our own pockets and without government support of any kind, and have worn a great deal of abuse, disinterest, unwillingness to listen and disrespect for the contribution we are trying to make to aviation in Australia. We do not have the enormous resources of government at our disposal and have often had to dig deep into our own resources, even though we do not have skin in an aviation or related business, to be heard about the very things we believe governments should be looking after for the public good for Australia.

Safety Around Our Airfields

Most aviation accidents and fatalities take place during departure (take off / climb) and arrival (approach/ landing) at airfields. For that reason safety around our local airfields has been front-of-

¹⁶ in one of the poorest and most disadvantaged local government areas in NSW

mind for us over the last 20 years particularly with regard to non-aviation development in close proximity to airfields. As mentioned previously, at Evans Head, Richmond Valley Council was prepared to entertain a nursing home and retirement village complex 90 metres from the main runway of the Evans Head Memorial Aerodrome. Council used an Australian Noise Exposure Forecast (ANEF) it had commissioned to suit the development, at the expense of types of aircraft which could use the airfield. The ANEF profile was used to determine how close the facility could be built to the runway. Aviation use was impaired to accommodate residential development. But more importantly the ANEF, a noise-nuisance measure with politically-determined boundaries, was being used as a SURROGATE FOR SAFETY when the empirical evidence shows that it is a completely inappropriate for that purpose.

Safety measures around airfields should be determined by empirical evidence relating to safety and risk of accident and not noise. If planners keep using ANEFs to determine how close you can build to an airfield it will mean that as aircraft become more and more quiet, so building closer and closer to runways should be permitted. This is an absurd argument from a risk and safety perspective.

Over the last 20 or so years there has been a change in the risk model used for planning assessment with governments moving to an 'Affordable Risk Model' to make decisions about planning around airfields. The argument goes something like this: 'How much can we afford to pay out in insurance claims should an aircraft fall out of the sky on take-off or landing, with the decision to be conditioned by the chance of it happening? We will approve a development close by a runway if the chance of an accident happening is only four chances in a million or one in every 250,000. So if you only have 2,500 take-off and landings a year at your airfield then there is very little chance of an accident happening'.

The trouble with this kind of 'low probability' thinking of a tiny risk is that you cannot predict WHEN an accident will occur. Will the four accidents in a million cluster around the next one hundred take-off and landings or will it be clustered at the end of the million events? Or will the accidents be evenly distributed? In passing we note that Casino airfield had a crash landing right next to the house built at the end of the main runway (see Figure 4). So, it will never happen eh?!

Need for Proper Independent Review of the Affordable Risk Model

It is our view that an *Amicus Curiae*¹⁷ needs to be prepared with regard to the Affordable Risk Model currently used by those making decisions about aviation safety by experts who really know about this problem. What are the strengths and weaknesses of the Affordable Risk Model with regard to aviation, and what have the Courts had to say about risk management with regard to this particular model?

We have examined this matter in some detail ourselves and believe the Affordable Risk Model should be abandoned in favour of a more conservative risk assessment. And, it is our view, that we need to return to a model of aviation safety which puts in place appropriate, conservative, data-based rules/principles which maximise safety outcomes around airfields for both those on the airfields and those flying. We are concerned about the building of various pieces of non-aviation infrastructure and other non-aviation developments on our airfields from car storage sites to storage depots to shopping precincts.

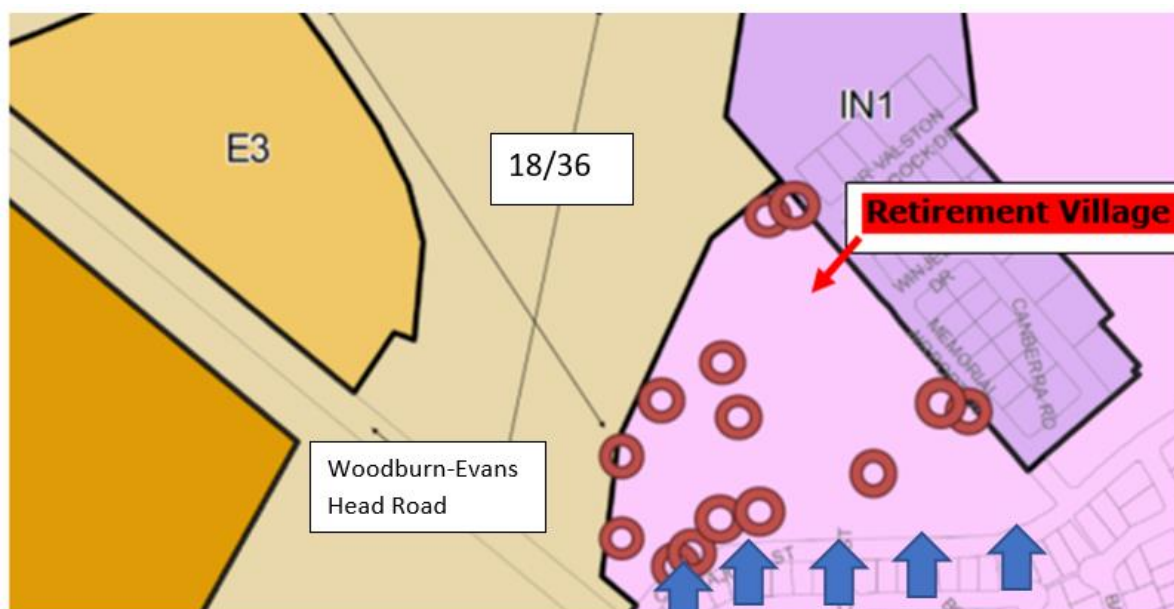
The DFO crash at Essendon is a good example of inappropriate planning around airfields. On what empirical evidence were the buildings allowed to be built so close to the runways leaving precious little allowance for a safety margin should things go wrong as they did when that crash occurred?

¹⁷ Someone who is a 'friend of the Court' who can provide independent expert advice about a matter

And there is the related question, where is the Public Safety Zone at the end of the runway? If you use the parameters used by the Queensland government for PSZs then around 100 residential properties and a primary school are in the way for the runway used by the pilot in the DFO crash. What if the pilot had continued on and crashed into a residential area?

Of course, we will hear the conventional argument about making best use of expensive land but this is usually made by those who have a commercial interest and not necessarily the public interest in mind. And it is not as if Australia is running out of land!

We return for a moment to the proposed retirement village/nursing home to be built on the Evans Head Memorial Aerodrome. We plotted out the appropriate information from the California accident data set for take-offs and landings¹⁸ and showed that the potential for at least 14 aviation accidents within the retirement village precinct (see Figure 1). That information was ignored and when we took the information to the federal department at the time the low probability Affordable Risk Model was fed back to us¹⁹. No-one addressed the issue of when an accident might occur and incapacity to predict when that might be. And that evidence was contrary to what we received from AirServices Australia which said existing development more distant from the airfield was already too close to the airfield. You can't even get consistent advice from those who are supposed to be singing off the same safety hymn sheet.



Red Donuts show Crash Sites from California Accident Data Set (2002) superimposed on Evans Head Memorial Aerodrome. **Blue Arrows**, the location of the 24 blocks. There is a safety issue here which has never been considered properly by Richmond Valley Council or the JRPP. The ANEF or noise exposure forecast is often used wrongly as a 'surrogate' for safety zones around airfields. Noise contours and safety zones are two quite different things but are often used interchangeably by planning authorities

Figure 6: California Accident Data Set plotted against the proposed development on the Evans Head Memorial Aerodrome

ANEF Reform

In 2012 the Australian Government Department of Infrastructure and Transport took some interest in reform of measures used to predict aircraft noise nuisance as the existing ANEF Standard AS2021

¹⁸ Insufficient data available from Australia

¹⁹ Correspondence available on request.

was based on research of the early 1980s, and aircraft noise continued and continues to be a big public issue and source of complaint even with particular ameliorative measures in place and a complaints mechanism. The project was "*identified by the National Airports Safeguarding Advisory Group (NASAG) comprising Commonwealth, State and Territory transport and planning officials, the Australian Local Government Association, Airservices Australia, the Civil Aviation Safety Authority and the Department of Defence. The Australian Technical committee responsible for AS2021 was identified as EV-011*".

Proposed reforms were put out for public comment (although not widely disseminated) and we responded confirming the necessity to uncouple ANEF measures from safety and supporting empirical research into the issue. We then reviewed all the submissions made available on line and wrote a brief summary outlining our findings. We basically showed that it was only the 'big developer' lobby which was against the reform. Our summary paper was published and shortly thereafter an FOI was issued to the department seeking everything we had ever written to them about aviation safety. We were also informed that the big developer group lobbied the department very heavily against the review process but that interference did not make the light of day publicly. We complied with the FOI request but, interestingly, were never told who had made the request. So where is the *quid pro quo*, the transparency. And was that lobbying logged by the department at the time?

Notwithstanding the developer storm against reform, the process of reviewing the ANEF via Standards Australia proceeded. The Department put forward our credentials to Standards Australia to be part of that review process because the author of this report had an extensive research and clinical background in the effects of noise including published papers in referred journals such as *The Journal of the Acoustical Society of America* and *Nature* but were rejected by Standards Australia. We suggested other alternative bodies to be involved but they also were refused. After considerable correspondence and research we were left with the distinct view that the big developer lobby controls Standards Australia.

Standards Australia now charges for all its Standards so that if you or I want to review a particular standard that is being used in development you have to purchase it. It always struck us as 'passing strange' that the standards being used for development of all kinds including infrastructure, safety, planning, are not available to the public without cost. In our view this user-payers cost for something which should be in the public domain is a clear impediment to the processes of feedback and change so that we get things right when we do them. In our view it is a deliberate strategy to avoid close scrutiny, a restraint to the free flow of information critical to Australia's infrastructure.

The problem is made worse by the fact that many regional and rural councils do not keep up-to-date standards for making planning assessments. Recently we found that Richmond Valley Council was using a Standard for an everyday planning matters which was two generations out of date. And we note that others have commented on the watering down of Standards to do with bushfire risk or the use of old standards for making new assessments, a pending insurance risk problem if ever there was one. In our view Standards used for planning assessment should be available free for public use in the public interest and that there should be a public investigation to how Standards are set in Australia and why there is a charge for them. The question must be asked *Cui Bono*?

Attitudes to CASA from other aviation-related parties

Recently a planning matter relating to a helipad for a new hospital in northern NSW was passed to us for comment²⁰, a not uncommon request from various groups for assistance or advice because of work we have done in the past.

Not only had the assessment failed to take account of the fact that the flight path was in flying fox territory, a known hazard to aviation, but that the flight path was at the same height as the path normally used by flying fox. Our concerns were ignored by NSW planning. But more than that those making the aviation plan and assessment make remarks about CASA in their submission which we found alarming. Here is a snip from that assessment:



a division of Resolution Response Pty Ltd
ABN: 94 154 052 883

3.16/55 Miller Street
PYRMONT NSW 2009

28 September 2018

AVIATION SEARS RESPONSE: TWEED VALLEY HOSPITAL

Snip from letter

Civil Aviation Safety Authority (CASA)

Engagement with CASA is not a normal part of an application for a development. CASA is normally only informed by AirServices Australia if there is deemed to be a risk to safety for a development.

HLS Compliance and Standards

Currently within Australia, there are no set rules or regulations applicable to the design, construction or placement of HLS'. The appropriate legislation at present for the use of HLS' is Civil Aviation Regulation (CAR) 92 which places the onus on the helicopter pilot to determine the suitability of a landing site.

CASA, as the regulator of aviation in Australia, divested itself of direct responsibility in the early 1990s and currently provides only basic operating guidelines via Civil Aviation Advisory Publication (CAAP) 92-2 (2) Guidelines for the Establishment and Operation of Onshore Helicopter Landing Sites. CASA does not provide design, structural information or advice beyond that provided in the CAAP.

CASA, as a component of a Regulatory Reform Program, does propose to prepare rules for helicopter landing sites and currently has a panel established for this purpose. The new rules will form Civil Aviation Safety Regulation (CASR) Part 139R, however it is not expected that they will be completed any time soon. If and when they are introduced, there will be an implementation phase and "grandfather" clauses. Standards set by NSW Ambulance were established to meet or exceed those requirements.

Source: Page 2 of the SEARS response.

End snip

²⁰

file:///H:/Tweed%20Valley%20Hospital%20proposal%20critique%20and%20media%20release%20Dec%202018/Appendix%20AA%20Aviation.pdf

It disturbed us that CASA was only involved in an application for development “*if informed by AirServices Australia that there was a risk to safety for development*” and that there was a pejorative view about CASA’s speed with regard to a Regulatory Reform Program. All of this begged questions for us about CASA’s place in the world, whether we were getting value for money, how many agencies and other bodies were involved in aviation safety, and if there were so many agents the increased risk for lack of oversight, buck-passing and space for things to fall through administrative cracks in such circumstances hence our request for matters in the current Inquiry to be examined from a ‘systems’ perspective.

We are aware that Australia is subject to regular external reviews by other international aviation bodies. We wondered what compliance requirements, which necessarily fall out from such oversight, had been met in a timely fashion if at all? What other outstanding matters are there which remain unfinished or have been excluded from consideration? And most importantly, who is overseeing this compliance process?

The other part of the helicopter review process led us to discover that the standards set for NSW were those prepared by the same body which did the review of the helipad for Tweed Valley, in our view, a conflict of interest. We wondered what oversight CASA had over this process and whether or not the matter had ever been drawn to their attention?

Other Matters For Consideration: Aviation Accidents

We have concerns with the processes associated with aviation accident investigation and have previously written to the Committee about the Angel Flight crash in South Australia²¹ putting an alternative view about potential causal factors in the flight which highlighted a particular detailed literature review relating to vascular risk particularly for older pilots. It is still our view that the investigation process for this particular event was not adequate. No autopsy findings were available to the public, nor was mention made of the age of the pilot and when he started to fly. We understand that he was 78 years of age at the time of the trip, an age at which the risk for cardiovascular and cerebrovascular goes up dramatically. Nor did there appear to be any investigation into whether or not he had made visits to a medical practitioner subsequent to his medical clearance earlier that year and if so, for what reason? Was there any interview with his medical practitioner or did the ATSB rely entirely on the autopsy report which was not made public?

We believe, given the age of the pilot, that the matter should have been referred to the South Australian Coroner for thorough investigation of the medical status of the pilot at the time of the accident given the dramatic increase in risk of cardio- and cerebrovascular accident for someone who is, by age alone, considered to be high risk.

Of course, our alternative view from an epidemiological perspective, also begs questions of the competence of those undertaking accident review and the depth of their knowledge relating to critical medical factors. We also have questions about the effectiveness of appropriate oversight by CASA particularly given their decision to make certain recommendations and demands on Angel Flight which seemed to us to bear no resemblance to causality. How was this decision arrived? For us, there was a real disconnect here.

²¹ EMAC to RRAT dated 18 October 2019 regarding Inquiry into the operation of the Australian Transport Safety Bureau, and in particular its report on the June 2017 crash of a flight conducted on behalf of Angel Flight, Australia. Comment on Senate Report October 2019.

One further matter relating to accident investigation and that is the outsourcing of accident investigation to other agencies or bodies as happens at present. While we recognise that local information can be critical in the process of building facts for a case, there also must be critical evaluation skills in those undertaking the investigation including an extensive grasp of human factors and the epidemiology of human health. We have the view that this matter is far from resolved and not satisfactory as things presently stand. We believe there should be a review of the governance of the ATSB particularly of senior management along the lines of our earlier discussion relating to the skill set of those at the top. And there should be a review of the competence of those involved in the outsourced accident investigations. Do they have the necessary skills to undertake a thorough investigation, but more importantly why aren't their reports made available for public scrutiny? While we acknowledge privacy and the sensitivities regarding the human tragedy surrounding aviation accidents, the failure to make accident reports available for public scrutiny does not necessarily guarantee the best outcomes for aviation safety in the long run and must be addressed.

FINAL SUMMARY REMARKS

We have prepared this report in narrative form to make for ease of reading but the reader should not be misled into believing that the report is not based on fact or evidence. We can substantiate what we have to say with documented evidence accumulated over 20 years of engagement with aviation and its regulators.

Overall, we have the following summary comments to make to the Committee:

1. That CASA be headed by an individual with appropriate expertise and experience in aviation and aviation safety including but not limited to human engineering and human factors research. This is a specialist area which requires specialist knowledge so that informed decisions are made. In our view it is not good enough to have someone at the helm with administrative skills alone. There must be a review of the selection processes and of the contract for employment so that we are sure the nation is getting someone to manage the remit of CASA. The contract of that individual must be made public, given that public money is involved, to make sure that the conditions of their employment are such that they reflect the goals of the pertinent legislation and regulations and not some other political agenda unknown to the public.
2. That the Committee examine the 'Affordable Risk Model' used in aviation safety and have an independent agency provide an *Amicus Curiae* paper on the model because it informs current safety thinking from an economic perspective with little regard to human safety. Such a review should also include a review of the decision-making processes which accompany safety assessments which we believe to be faulty.
3. That any review of CASA must include the whole system in which CASA is embedded as what happens in one part influences another. The nature of the functional relationships among CASA and other bodies needs to be spelled out clearly and critically with attention to any unresolved issues which have the potential to compromise aviation safety.
4. That there be a review of why CASA is so expensive when it clearly fails to keep up to date, and what rationalisation needs to occur so that there is an experienced body looking after aviation safety without outsourcing to other agencies over which it seems to have little or no control.
5. That serious attention be given to taking stock of interference by state and local government in planning processes including safety measures around our airfields and that there be well-defined leadership at a federal level for aviation safety. As part of that we believe there should be a clear set of rules regarding safety around our airfields and that the use of ANEFs and related measures be no longer used as a surrogate for safety in planning decisions.

Safety measures must be separate and have a strong basis in empirical evidence. Overseas data sets may be useful here in the absence of appropriate data sets in Australia. Safety cannot be left to NASAG for determination because of clear conflicts-of-interest given the membership of this committee over land use planning requirements. By all means interrogate the stakeholders involved in planning but they should not be the final arbiter of the rules regarding safety on and around our airfields.

6. Stop the outsourcing of accident investigation to other bodies who may not have the necessary expertise to form an opinion but continue to use those bodies to obtain local information pertinent to investigation. Reports produced must be available for public scrutiny.
7. Undertake a concise external review of CASA and whether or not it is complying with requirements set down by appropriate international bodies. Is CASA really up-to-date in meeting compliance requirements and who is responsible for 'oversighting' this matter so that they are held to account?
8. Remove the power of local government to make planning determinations about safety around our airfields. They clearly don't appear to have the expertise to do so and treat aviation infrastructure as real estate development fodder to raise revenue. Some aviation infrastructure may need to be bought back and should be seen in the light of the Crown Land Review process in NSW where Crown Lands are planning to give large parcels of Crown Land to local government to manage, some of it near airfields. Safety review and risk management will be critical to that process.
9. There is a loss of trust in government at all levels which comes from government departments failing to do their job or being let off the hook for serious breaches of rules. There is a cultural problem not helped by Codes of Conduct or commercial-in-confidence limited term contracts where the public has no idea what is being expected of senior public servants. There is no reason why these contracts should be kept private in the public service. The notion that the PS will not be able to attract suitable people to fill jobs has not been demonstrated.
10. Define and resolve ideological disputes regarding safety issue among agencies and how they should be managed. We encourage a conservative approach to management issues which includes redundancy, empirically-determined margins for error and a rules-based approach which is not based on arbitrary probability decisions.
11. Review the mandate of Standards Australia, why it has been given the remit to set standards and charge for them, and critically examine whether or not this constraint to accessing standards has ramifications for safety in Australia
12. Examine critically the role which the big developer lobby plays in aviation policy and planning around our airfields
13. Review critically the current policy about Public Safety Zones including the evidence on which the policy is based
14. Review the recommendations of the *Making Ends Meet* Report particularly with regard to matters relating to CASA to determine if there was implementation and/or information pertinent to the current inquiry and what might be learned from that Report.
15. Review current policy with regard to whistle-blowing so that those who are attempting to bring improvement to government in the public interest are not punished.

Notwithstanding our concerns about CASA and the complex aviation safety environment, we acknowledge that we have dealt with many dedicated, honest, Public Servants who have been helpful and knowledgeable about what they do. We thank them for their service. We need to make

sure that appropriate legislation is in place to protect those individuals so that they are not 'punished' for making suggestions or disclosures for reform which will benefit the aviation safety landscape and its operation.

We would be prepared to address any of the matters set out in this submission should it be helpful to the Inquiry. We commend the Committee for establishing this Inquiry. It is long overdue.

Evans Head Memorial Aerodrome Committee Incorporated

25 November 2020