

21 May 2021

Mr Jim Wolfe
Assistant Secretary (International Aviation)
Department of Infrastructure, Transport, Regional Development and Communications
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Dear Jim,

AUSALPA COMMENTS ON THE DRAFTS OF THE STATE SAFETY PROGRAMME 2021 AND THE NATIONAL AVIATION SAFETY PLAN 2021

The Australian Airline Pilots' Association (AusALPA)

AusALPA represents more than 7,000 professional pilots within Australia on safety and technical matters and we welcome the opportunity to contribute to improvements in airport safeguarding in Australia.

AusALPA is the Member Association for Australia and a key member of the International Federation of Airline Pilot Associations (IFALPA) which represents over 100,000 pilots in 100 countries. Our membership places a very strong expectation of rational, risk and evidence-based safety behaviour on our government agencies and processes. We regard our participation in the work of the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) as essential to ensuring that our aviation and airports policy makers get the best operational safety and technical advice that is completely independent of the vested commercial interests that currently dominate Australia's aviation regulation decision-making.

We welcome the opportunity to contribute to the development of Australia's National Aviation Safety Plan (NASP) and State Safety Programme (SSP) for 2021.

Australia's State Safety Policy Statement

AusALPA embraces the Australian Government's State Safety Policy Statement. We also welcome the prospect that our Government agencies will act to a far greater extent in meeting those aspirational goals.

As with the NASP and SSP, we hope that the State Safety Policy Statement does not become "shelfware" but rather becomes the active standard against which the performance of the Government and related agencies is measured and the managers of those agencies are held to account.

AusALPA continues to be particularly concerned that Principles 4 and 7 have yet to gain any real traction within the agencies.

Our exposure to Australia's aviation system is dominated by risk assessments that are often perfunctory, self-serving and, deliberately or otherwise, lacking the vision or rigour to adequately identify all relevant risks, yet are apparently accepted without question by agencies in ignorance or avoidance of best practice. The choice of "Appropriate" in Principle 4 is not an excuse for inadequacy or indolence.

Fairness and consistency under Principle 7 cannot be achieved by agencies that avoid the critical element of transparency at all costs. It is a hollow aspiration whilst ever agencies lack the courage or commitment to have their decision-making openly reviewed by the Australian public they serve. There is no clearer example of agency opacity than Airservices' dogged refusal to publish the safety cases underpinning the Airspace Modernisation Program.

In our experience, it is rarely clear that safety, rather than political or bureaucratic protection, is indeed the primary consideration.

AusALPA urges agency managers to lead the cultural shift we need to properly embrace aviation safety in Australia.

STATE SAFETY PROGRAMME 2021

To the greatest extent possible, we will address our comments under each of the headings in the parent draft document.

1.1 Australian aviation legislative framework

It is unclear why the *Airports Act 1996* and the Airports (Protection of Airspace) Regulations 1996 are not included in Critical Elements 1 and 2. Part 12 *Protection of airspace around airports* of the *Airports Act 1996* clearly has a safety dimension – there can be no efficiency or regularity of existing or future air transport operations in the absence of safety.

There is any number of poor decisions with adverse safety potential made by DITRDC, unchecked by a legally constrained CASA, where economic development takes precedence over safety concerns. AusALPA has consistently criticised DITRDC's failure to protect the airspace around airports, as well as the framework that allows an economic agency to make safety-related decisions despite a range of alternatives.

It is inappropriate to exclude the *Airports Act 1996* and the Airports (Protection of Airspace) Regulations 1996 from the legislative framework. Similarly, the need for reform of those arrangements should not be swept under the carpet.

1.1.4 Adoption of ICAO SARPs

While it is appropriate to publish the list of Australian registered differences to ICAO SARPs in AIP for the benefit of those directly involved in aviation, greater public transparency would be achieved if a link was provided on DITRDC's Aviation Policy & Regulation page as part of the Legislation, Regulations and Guidelines link collection.

1.2 Australia's state safety system and function

There appears to be something of a logical disconnect in how aviation security fits into the SSP.

There is no mention of the aviation security legislation in section 1.1, yet subsection 1.2.1 *Responsibilities and accountabilities* includes the following statement:

The major agencies responsible for managing civil aviation safety in Australia are detailed in Table 2.

Table 2 includes the Department of Home Affairs, narrowed down in Figure 3 to be the Aviation and Maritime Security Division (AMSD). The more detailed description of AMSD then refers to the *Aviation Transport Security Act 2004* and the *Aviation Transport Security Regulations 2005*. No mention is made of the *Crimes (Aviation) Act 1991*.

AusALPA considers security as the defence of public safety in general, with aviation security as the defence of crew and passenger safety and the prevention of aircraft being used as a weapon. We continue to be concerned about the porous nature of our airside access arrangements in particular and the attendant risk to aircraft and their occupants. We are also concerned about the risks to crew from disruptive passengers. Given these risks, we think that it is appropriate to more fulsomely include the aviation security framework within the overall context of the SSP.

SSP governance arrangements

While respecting that the SSP is a Commonwealth Government program, there is no mention of any arrangements in the SSP regarding the coordination arrangements between the Commonwealth and the states and territories. The most obvious of these arrangements is the management of the National Airports Safeguarding Framework (NASF) by the National Airports Safeguarding Advisory Group (NASAG). Given that, with the exception of noise considerations, all of the NASF Guidelines relate to aviation safety. It is a key part of Australia's safety management governance and therefore should be mentioned in the SSP.

It is probable that there are other such inter-governmental arrangements that impinge on aviation safety but are unknown other than to the participants. Wherever such arrangements exist, the most appropriate place to provide transparency is within the SSP.

1.2.6 Establishment of service providers

It is not clear what the third sentence construction is intended to convey.

Under the *Convention for International Civil Aviation 1947* (the Chicago Convention), the BoM is the designated Meteorological Authority for Australia and is required to ensure that aviation weather services are provided in accordance with these international standards. Under CAR 1988 120, the Director of the BoM may authorise aviation meteorological service providers.

Unlike the UK where the CAA is the Meteorological Authority and the Met Office is the service provider, the BoM is both the aviation meteorology regulator and the service provider. AusALPA believes that the roles should be separated and that CASA should be the Met Authority. To the extent that the first sentence is potentially misleading, the aviation met arrangements should be explicitly clarified.

AusALPA understands that the SSP is generally reflecting on the existing machinery of government arrangements. Nonetheless, we again note that the shifting of aviation security from DITRDC to DHA has been the enemy of transparency and consultation and should be reconsidered.

1.3 Qualified technical personnel

AusALPA contends that Australia's technical personnel tasked with safety oversight responsibilities lack adequate training and experience in best practice risk management, particularly in regard to the development and assessment of aviation safety cases. We consider this situation to be a critical failure in Australia's aviation safety system that must be addressed with urgency, commitment and vigour.

If necessary, CASA must make structural changes to ensure that there is clear technical leadership and accountability to ensure consistent application of standards across all disciplines.

1.4 Technical guidance, tools and provision of safety-critical information

AusALPA strongly believes that CASA needs to establish a robust standard for aviation safety cases that embraces best practice for risk management and that fosters dedicated, focused, objective and transparent risk identification, assessment and mitigation. The product of that standard, regardless of whether it is generated by agencies or industry participants, should with few exceptions be available for scrutiny and critique in the public domain.

2. STATE SAFETY RISK MANAGEMENT

The introduction makes it clear that:

The identification and management of aviation safety risk in Australia is undertaken through a multi-layered process. This allows risk information to be aggregated into higher order categories, culminating in a system-wide assessment. At the State level, the SSP-CAT is responsible for the identification, assessment and management of risks, and incorporation of those risks into the NASP.

As previously expressed, AusALPA is concerned by the quality of the few "safety studies and risk assessments" to which we have been privy, most of which are hidden from public access and only made available when the last FOI exception has been exhausted, and even more concerned about the apparently miniscule threshold for acceptance demonstrated by government agencies.

Our major fear is that many risks are being ignored, and therefore untreated, because they do not suit the commercial imperatives of applicants. When regulators rubber stamp these studies and assessments, the whole "multi-layered process" is compromised at the outset by the failure to consider the full range of risks. The so-called "higher order" aggregation of what are at best partial risk populations then exacerbates the problem by further obscuring the lack of rigour.

AusALPA strongly believes that agencies must embrace the inclusion of other industry participants in hazard identification and risk treatment activities, particularly those participants independent of the commercial outcomes, in order to ensure adequate operational experience is brought to bear.

If the Australian Government is truly committed to this SSP process, then the hazard identification and safety risk assessments conducted by each SSP agency, the aviation hazard register maintained by the SSP-CAT and the minutes of each SSP-CAT meeting should be publicly available and in sufficient detail to allow the public to form a view on how effective the process actually is in protecting them.

2.6 Protection of Safety Information

AusALPA is disappointed that such a section does not currently exist in the SSP. ICAO clearly recognises the potential for the misuse of safety information and data for other than the safety-related purposes which aviation system participants have accepted. If there is a breach of trust in the appropriate protection of safety information, much of the SSP risk management processes may be compromised and the present cooperative arrangements may well morph into counter-productive adversarial relationships.

The omission of any discussion regarding the criticality of having a continued focus on protecting safety related data and information needs to be rectified.

In our strong view, the SSP must provide a brief articulation for the reasons for such protection and how this is aimed to allow the flow of important safety critical information so that proactive safety management can occur.

3. STATE SAFETY ASSURANCE

The opening statement:

Australia takes a performance-based approach to its safety oversight system, underpinned by a philosophy of mutual responsibility and accountability

does not reflect the current approach to aviation safety in Australia. Currently, the approach is overwhelmingly compliance-based and not performance-based at all.

AusALPA believes that it would be much more appropriate for the opening statement to reflect what can only be an aspiration:

Australia intends to establish and develop a performance-based approach... etc.

The Australian aviation industry is widely critical of CASA's continuing failure to achieve Principle 7 in regards to fairness, transparency and consistency of the existing compliance-based strict liability approach to safety oversight. The difficulties associated with achieving those characteristics in a performance based system should not be understated or underestimated.

3.3.2 Regulatory change

Mention is made of the role of the Aviation Safety Advisory Panel (ASAP) and the applicable Technical Working Group (TWG) in terms of public consultation. AusALPA has participated in most of the TWGs and the process is clearly much more than just consultation. In our view, the primary value has been in collaborative policy development and as a useful form of "beta testing" of proposed regulatory changes – that should be recognised in the SSP as a successful regulatory change model.

On the other hand, the ASAP is essentially a panel representing only the vested commercial interests of the larger aviation industry participants. In considerable contrast, AusALPA is solely a safety and technical body dedicated to improving aviation safety without the distorting influence of corporate imperatives or politics and we have a long track record of providing appropriate, objective and balanced advice to all levels of government. In terms of the provision of objective advice to the DAS as envisaged in the role description in Annex 1 - *SSP Working Groups*, we strongly believe that the panel as currently constituted is inherently unbalanced

Given the formal inclusion of the ASAP in the SSP as a feature of our safety oversight framework, it seems appropriate that the objective balance can be restored and

greater utility provided to the incoming DAS by reinstating AusALPA to ASAP membership.

Annex 1 - SSP Working Groups

It appears from the Annex tables that there is an inherent misunderstanding within DITRDC about how to characterise our association. There is a danger that the participant lists may be inadvertently viewed as a recommendation rather than a rather loose historical record. Proper characterisation is important to us, simply because we have previously been excluded from stakeholder engagements based on misapprehensions about what we do.

AusALPA is not a union – we are not a registered industrial body, we have no direct workplace role and we function solely in the aviation safety and technical space.

In the table descriptions, there is a range of terms used for group participants that are difficult to decide whether they are just catch-all descriptions or are actually intended to indicate the desirable range of stakeholder participants. We strongly believe that the SSP should identify the latter option to ensure appropriate participation.

In some cases, the listings ignore or obscure AusALPA involvement and certainly have sequences that potentially mislead readers as to the level of involvement of other entities. For instance, the AAWHG was basically kept alive by the airports and AusALPA for a long time before other entities realised the importance of the group. AusALPA participates in the BoM working groups (including volcanic ash) with somewhat more specificity than just “industry”. Similarly, the NRSG was primarily an Airservices, airports and AusALPA exercise until subsumed and redirected by CASA. AusALPA is a full member of ASTRA and has been for some time, but not one of the mentioned member groups. AusALPA is an AvSEF attendee, but not one of the mentioned attendee groups. Finally, AusALPA participates in almost all CASA TWGs with a broad range of other SMEs who may not be best described as “industry associations”.

NATIONAL AVIATION SAFETY PLAN 2021

Much of the first half of the document is uncontroversial proforma compliance with the ICAO Doc 10031.

Table 1 Australia’s safety goals, indicators and targets

Goal 1

The reduction targets are, according to the notes, “based on 2018 established levels”. AusALPA believes that such a simple statement offers no real substance to the targets, since there is no clear link to who established the level, where it is published, why 3 year old data is the most relevant and, most importantly, what is the actual value of the relevant parameter to be reduced.

As is invariably the case, a “cookie cutter” across the board 10% reduction target provides no insight as to the practicality or amenability of that target to reduction. Appendix A provides a number of actions or strategies to achieve these targets, but it remains entirely unclear whether they relate to established causal relationships for each target or merely hopeful guesses.

Table 2 Australian aviation safety roadmap summary

Goal 1

If we continue the Goal 1 example, we see the ICAO GASP High Risk Categories (HRC) of occurrences replicated, noting Australia's unexplained choice to combine runway excursions with runway incursions. The related Safety Enhancement Initiative (SEI) for each HRC refers to mitigating contributing factors, yet it is not apparent what those particular factors are or may be (either by direct detail or further reference). Presumably, the Appendix A road map was based on identified factors, although that is far from clear.

AusALPA believes that far greater specificity is required to connect the various parts of the plan.

APPENDIX A - AUSTRALIAN OPS ROADMAP

Appendix A provides the relevant detail for operational risk management. It is noteworthy that there are some significant departures from the advice provided by ICAO in the GASP. AusALPA is concerned the relevance of some of the proposed actions is not clear and also that many of the stated mitigations do not appropriately address the identified risks.

SEI 1.1 Mitigate contributing factors to Controlled Flight into Terrain

Compared to the equivalent actions set out in Appendix B to the GASP, AusALPA welcomes the addition of SBAS for vertically guided approaches. However, we are uncertain why continuous descent approaches (CDA) have an implied nexus with SBAS. CDA is affected more by airspace design and ATC intervention than by the presence or absence of SBAS and we expect Airservices' focus to be on the former.

It is far from clear how NASAG cooperation is a mitigator for CFIT contributing factors. Similarly, notwithstanding our commitment to FDAP as a safety tool, it is not clear what CFIT precursors are thought to be or what level of FDAP deficiencies have been identified. The ICAO GASP action item of "promote greater awareness of approach risks" seems worthy of more considered treatment, particularly in regard to approach design, airspace architecture and airspace protection.

SEI 1.3 Mitigate contributing factors to Mid-Air Collision accidents and incidents

Again it is not clear how transitioning RAPAC into AvSEF mitigates collision risks or what MAC precursors are thought to be.

It is incomprehensible that airspace design and management, as identified in the GASP, is not front and centre in this SEI – AusALPA considers that the current airspace design, implementation and change management practices of Airservices are the most obvious potential precursor to a MAC event.

SEI 1.4 Mitigate contributing factors to Runway Safety accidents and incidents

AusALPA is concerned about the political pressure on CASA to agree to changes in the Runway in Use selection criteria for noise abatement (Brisbane) or commercial outcomes (Sydney), despite the increase in operational risk. Wind is an unpredictable process, particularly in relation to gusts, and appropriate buffers from certification limits must be maintained.

In the Brisbane case, the proposed increase above the existing 5kt tailwind limit means that 10kt tailwind limited aircraft would be constantly at risk of landing in adverse tailwinds greater than their certification limit due to gusts which the met

infrastructure is not capable of detecting accurately or in a timely manner and, even if detected, can exceed the available buffer without being reported. Excessive tailwinds risk destabilising approaches and overlay significant negative human factors issues on go around decisions.

Reaffirming the current Runway in Use criteria is an important State risk control to mitigate contributing factors to runway excursions and landing accidents. It should never be a noise abatement or commercial decision made by vested interests. Ironically, FDAP will record excessive tailwinds that pilots will be unaware of, leading to potential compliance issues.

SEI 3.1 Ensure the continuous improvement of Australia's SSP and the associated governance

AusALPA believes that it is critical that action 3.1.4 is expanded to specifically deal with the issue of protection of safety information. Without trust-engendering protections in legislation, Australia's safety reporting culture is placed under unnecessary risk.

SEI 3.4 Standardise and streamline Australian industry's SMS obligation to ensure effective implementation and ongoing improvement

We thoroughly support this SEI and particularly action 3.4.1. Thus far, we have been pragmatically patching up older legislation to meet our Annex 19 obligations, but convenience has somewhat overcome precision and quality. Full consultation and collaborative policy development of this common SMS regulation is essential.

SEI 3.5 Develop a data driven proactive risk management modelling capability

AusALPA supports this SEI in principle. However, protection of the safety information is paramount, as is the involvement of the industry associations representing the sources of the data, i.e. the people rather than the companies.

SEI 6.1 Ensure Australia has the appropriate Air Traffic Services and airspace infrastructure to support safety operations

Action 6.1.4 raises some serious issues for us. Transparency is a key issue, particularly in regard to the safety basis of proposed airspace changes. Thus far, Airservices has refused to publish or provide safety cases for both design and implementation and, when forced to release under FOI, tries to obscure as much detail as possible with falling foul of the Privacy Commissioner. There is no doubt that Principle 7 is systemically ignored, thus prolonging the belief in industry that such "Open Government" commitments are simply smoke and mirrors.

From AusALPA's perspective, this raises the issue of formal NASP and SSP feedback loops for stakeholders to advise APG, AIG or SSP-CAT of where agency behaviour is undermining or frustrating the plan or program. At the moment, finding an accountable person with sufficient authority to deal with unintended consequences or perverse outcomes is virtually impossible.

Closing Comments

As a key aviation industry stakeholder, AusALPA welcomes the development of the SSP and NASP and recognise the considerable effort made in producing these drafts.

We look forward to our continued participation in both the continuing development and implementation of the SSP and NASP during their lives.

We have raised a number of issues, although not all, to illustrate where we think both documents could be strengthened and made more cohesive. In many cases, both the relevance and appropriateness of the proposed activity is not at all clear and AusALPA believes that far greater specificity is required to connect the various parts of the plan.

Transparency will remain the Achilles Heel for success.

Yours sincerely,



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