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By Electronic Transmission

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SUBMISSION ON THE NOTICE OF PROPOSED CHANGE 139/05 TO SECTION 6.2 (RUNWAYS) OF THE PART 139 MANUAL OF STANDARDS –AERODROMES

The Australian and International Pilots' Association (AIPA) is the largest Association of professional airline pilots in Australia. We represent nearly all Qantas pilots and a significant percentage of pilots flying for the Qantas subsidiaries (including Jetstar Airways Pty Ltd). AIPA represents over 2,300 professional airline transport category flight crew and we are a key member of the International Federation of Airline Pilot Associations (IFALPA) which represents over 100,000 pilots in 100 countries.

AIPA, through its Safety and Technical Sub-Committee, is committed to protecting and advancing aviation safety standards and operations. We are grateful for the opportunity to make a submission to CASA on the Notice of Proposed Change (NPC) 139/05 to Section 6.2 (Runways) of the Part 139 Manual of Standards (MOS 139).

Introduction

Prior to the introduction of CASR Part 139, aerodrome operators were free to make market-based decisions about the level of facilities that they provided. The standards to be met were set out in the Rules and Practices for Aerodromes (RPA), which were an Australian adaptation of ICAO Annex 14. The licensing rules focused mainly on the physical characteristics of the runway, often hiding deficiencies in the standards of the taxiways and apron areas.

The choice to operate to a particular facility was solely that of the aircraft operator.

The introduction of Part 139 sought quite properly, in our view, to remove the Australianised RPAs and revert to straight Annex 14 aerodrome design standards. As the background material to Project AS11/15 notes: "... it was necessary to identify and clarify that MOS 139 applies to the required provision of aerodrome facilities and is not intended to be solely applied to limit, or regulate, the operations of aeroplanes into particular aerodromes...".

AIPA is not convinced that the CASA view of the effect of the rules set out in Advisory Circular 150/5300-13 (*Airport Design*) is correct – our advice is that they were not operative as runway design standards *per se*, but served only to provide a legislative vehicle for operators to use runways narrower than otherwise permitted without having to resort to administrative action by the then CAA. The need for that relief reflected two factors that continue to this day: the overall lack of suitable infrastructure in Australia; and the cost and difficulties associated with getting narrow runway AFM supplements in a rapidly diversifying air transport fleet.

The removal in 2012 of the general relief provided in CAR 235A focused attention on the nexus between operational standards and MOS 139.

The Economics of Infrastructure Enhancement

AIPA has a long standing interest in ensuring that Australian aviation infrastructure is built and maintained to ICAO standards. We are concerned that the approval and adoption of cost-effective infrastructure such as GLS significantly lags the need to support Australia's current and future air transport activities.

Nonetheless, AIPA recognises that safety-based standards and recommended practices such as those contained within ICAO Annex 14 may be argued by infrastructure owners as being too demanding in certain circumstances, particularly for legacy facilities approved with minimal restrictions under more permissive regulatory schemes. We also recognise that commercial imperatives to maximise profits while minimising costs were inevitable outcomes of the shift from public to private ownership of significant aviation infrastructure. However, those commercial imperatives and historical arrangements must not become the driver of Australian infrastructure design standards.

AIPA attended the Narrow Runway Working Group meetings in 2012 where it was clearly stated that it was CASA's intention to align the MOS 139 with Annex 14 in relation to runway width and Aircraft Reference Code. This would require compliance with the Aircraft Reference Code by 2022 (basically within 2 five year master planning cycles), thereby allowing aerodrome operators to reconsider what aircraft were expected to operate, or were in fact already operating, from the aerodrome prior to having to widen the runway or otherwise upgrade the infrastructure.

AIPA does not believe that a compelling case has been made to vary from that intention. We also believe that any decision to accept standards less than those set out in Annex 14 requires two things:

- the involvement of more agencies than just CASA, and
- greater public exposure than this MOS 139 process has thus far provided.

The economics of infrastructure enhancement in Australia must be determined on the basis of complying with safety-based design standards. Those design standards must not be compromised by economic forecasts distorted by private interests. Importantly, infrastructure enhancement cannot be allowed to stagnate by either the aerodrome or aircraft operator constantly being granted relief from meeting the appropriate standards.

CASA needs to identify a “trigger point” for compliance at an appropriate juncture at which the aerodrome operator is required to upgrade the standard of their facilities as required by MOS 139 for the aeroplane types using that facility. This could be based, for example, on movements of the actual aeroplane types (this is analogous to the requirement for ARFF cover, which is triggered by the number of passenger movements) and/or on major upgrading of the facilities, such as resurfacing the runway. The aerodrome, as a minimum, should be required to carry out a study to show the impact of

such aircraft movements and how they can be safely accommodated. The study results should then be reported in the form of a safety case.

MOS 139 and ICAO Annex 14

AIPA does not subscribe to a model of standard setting that effectively turns MOS 139 into a modern day version of the old RPAs that altered the standards rather than appropriately managing the variations and exceptions.

AIPA strongly believes that the MOS 139 needs a total revision to align it with Annex 14 and to remove many of the anomalies and apparent contradictions that it presently contains.

Once the Annex 14 standards have been adopted within the Australian regulatory framework, AIPA believes that the management of variations and exceptions by CASA should be consistent across the whole of the MOS 139 and should be based on the principles of safety management systems by way of one or more safety cases. One of the principles that should be applied by CASA to the analysis of these safety cases is that, where physical changes are possible to redress non-compliances with the standards, any relief granted should be considered as transitional and must be paired with a timeframe for full compliance with the required standards.

Variations and exceptions must not be permitted to become the “norm”.

Narrow Runway Operations

AIPA understands that the policy approach of placing the regulatory burden on the aircraft operator was, and remains, the simplest approach in that it covers the facility requirements for everything from the smallest private aircraft through to the largest air transport aircraft. That policy approach sought to avoid placing on facilities providers unnecessary regulatory burdens that otherwise may have arisen. The downside is that facility upgrades remain commercial decisions made by private owners, with the social and national interest considerations now well and truly relegated to the background.

We accept that the changes to the CAR 235A are intended to ensure that operations into/from aerodromes that do not meet the standards for runway width based on the Aircraft Reference Code are conducted safely. However, it is imperative that “operational creep” is not allowed, particularly in terms of relaxing the certified crosswind limits stated in the aircraft supplements for these type of operations. It must remain crystal clear that the risks that both aerodrome and aircraft operators may choose to accept are commercial risks – the safety risk is borne solely by the passengers and crew of aircraft operating to sub-standard facilities.

In this regard, there have been suggestions that simulators can be used to demonstrate either suitability for narrow runways or higher crosswind limits on narrow runways. While AIPA accepts that Level D simulators are required to accurately replicate Vmcg certification trials, we are less than convinced that the simulator models accurately replicate crosswind behaviour during takeoff and landing, particularly in the presence of gusts. We remain concerned about the validity of using simulators to demonstrate aircraft behaviour to a standard of repeatable accuracy that is necessary to support the development or modification of narrow runway AFM supplements.

Operations on to narrow runways can take place safely, if the necessary margins are established and maintained based on proper aircraft certification. If, however, aircraft operators are allowed to reduce these margins, especially in relation to crosswind limits, it is inevitable that the potential for runway excursions will increase and, if they do occur,

the vast majority of the blame will be inappropriately attributed to the flight crew despite the clear systemic failure.

Transparency of Safety Cases

AIPA has a long standing view that Open Government requires publication of applications for relief from established standards as well as the reasons to either grant or reject the application. Our view is that applications for relief are not private or commercial-in-confidence matters –they are applications to operate to a standard different from that which our executive Government has determined on our behalf to be the benchmark for safe operations. As such, the Australian public has a right to be exposed to the decision-making processes without the need to resort to Freedom of Information requests or such other means as may be necessary to gain transparency.

AIPA strongly supports the American Department of Transport Docket type regulatory process, the closest example of which is reflected by the approach of the Independent Air Services Commission in determining the allocation of Australian international traffic rights. In this context, we strongly believe that CASA needs to substantially alter its approach to serving the public's information needs.

Conclusion

AIPA accepts the historical ICAO approach that separates aerodrome design standards from operating rules.

We do not accept that the provision of aviation infrastructure in Australia can be left to market forces, since the population size and distribution is inadequate to support any serious level of competition. AIPA does accept that infrastructure providers should be free to choose the scale of facilities they construct. However, the consequences of their commercial decisions should not be alleviated by regulatory action other than that which is fully supported by a defensible safety case.

Australian standards in MOS 139 should be equal to and more restrictive than ICAO Annex 14.

Any regulatory relief granted should be considered as transitional and must be paired with a timeframe for full compliance with the required standards.

AIPA strongly believes that any approval to operate to runways of a lower standard than that otherwise consistent with ICAO Annex 14 requirements must be determined by methods at least as rigorous as that required for original type certification.

AIPA also strongly believes that there needs to be greater transparency of regulatory decisions that permit variations and exceptions to required standards.

Recommendations

AIPA recommends that MOS 139 should become the vehicle to import ICAO Annex 14 into Australian aviation law.

AIPA recommends that any alleviation from the required standards, other than cases where physical compliance is not viable, be treated as transitional and must be paired with a timeframe for full compliance with the required standards.

AIPA recommends that the proposed use of simulators to determine narrow runway capabilities be reviewed and that the determination of such capabilities must be achieved by methods at least as rigorous as that required for original type certification.

AIPA recommends that CASA needs to substantially alter its approach to serving the public's information needs and should provide greater transparency of regulatory decisions that permit variations and exceptions to required standards.

If you would like to discuss this further, please do not hesitate to contact our office.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Shane Loney', is positioned above the printed name.

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