

# Minutes of the 33<sup>rd</sup> Joint Meeting of the Civil Aviation Authority and the Aviation Community Advisory Group

<b>Date:</b>	Tuesday 28 <sup>th</sup> March 2017
<b>Venue:</b>	Level 15, Asteron Centre, 55 Featherston Street, Wellington
<b>Invited:</b>	<u>ACAG:</u> Mike Groome, Ian Andrews, Dave Reynolds, Paul Drake, Lachlan Thurston, Mike Haines, Errol Burtenshaw, Gerald Grocott <u>CAA:</u> Graeme Harris, John Kay, Bryce Wigodsky, Mark von Motschelnitz, Sophia Smith <u>Ministry of Transport:</u> Helen Robertson, Tom Forster

## 1. Welcome

The meeting opened at 1.00pm.

## 2. Apologies

Jonathan Shorer, John Cook, Qwilton Biel, and Brigid Borlase,

## 3. Minutes of Previous Meetings

32<sup>nd</sup> Joint Meeting of CAA and ACAG held Tuesday 19<sup>th</sup> July 2016.

Jonathan Shorer wished to have on record that he had some concerns with the Minutes of the 32<sup>nd</sup> Meeting and the subsequent action summary as he did not accept that they were accurate.

Some of Jonathan's concerns regarding the actions will be dealt with directly with him as they are matters that he has raised as a participant in the system.

The other concern Jonathan raised was regarding *Action 1 – CAA to organise a meeting in Sept/Oct to discuss lessons learned out of 101 & 102 and suggestions for improvement*. Jonathan noted that there should have been two actions, the first was to set up a meeting within two months of the July ACAG meeting to discuss lessons learned, and the second to conduct a 12 month review of Part 101. Leading on from this discussion, John Kay explained that significant advancements have been made on the post-implementation reviews of Part 101 and Part 102. A slightly different approach has been taken, industry and sector stakeholder engagement will be undertaken to ensure the issues raised by participants are captured and addressed. Currently, the wider review is still in the planning and scoping stage but this review will be prioritised.

John Kay asked if there were any other concerns regarding the Minutes and subsequent actions. There were none.

It is noted Jonathan's issues have been addressed and ACAG and Jonathan will receive further information on this within the next 10 days.

**Action** – *CAA to determine what would be involved in publishing the 102 privileges.*

**Action** – *Release the 3 x issue assessments raised by Jonathan to the rest of ACAG as well as the detailed timeframe of the Part 101 and Part 102 post-implementation review.*

**Jonathan Shorer would like it noted that these minutes were incorrect when it said his issues had been addressed. The action item from the July 2016 meeting**

that a meeting would be held within two months to discuss lessons learned was never held. The need for this meeting has now been overtaken by current activity.

Jonathan would also like it noted that he was supposed to be contacted within 10 days of the ACAG meeting for follow-up discussion, and again he was never contacted.

#### 4. Funding Review quick status update – Graeme Harris

Graeme was hoping to have the all the messaging out by the end of March but this will now go out in early April. The Comms messaging is being finalised and the external parties need to approve before the messaging goes out. ACAG will receive as much advanced warning as possible before the outcome of the Triennial Funding Review is made public.

##### Further regulatory updates:

RPAS Future Development: While the CAA is doing the post-implementation review on Part 101 and Part 102, it's important to note that the Ministry of Transport will be taking the lead on future RPAS development. The Ministry is best placed as part of the centre of government to take the lead due to the coordinated approach required. CAA will continue be involved in terms of enforcing the law as well as offering advice.

RPAS International Engagement: CAA are still engaging with the Asia-Pacific RPAS forum and CAA are still members of the ICAO Panel.

The Helicopter Sector: The Commercial helicopter sector is the only sector showing an adverse safety trend and the CAA will be focusing on addressing this issue. In comparison, the safety trend in the Agricultural helicopter sector is getting better.

Wellington Airport RESA: Graeme gave an update to ACAG on the CAAs next steps post-Court of Appeal ruling that overturned the High Court decision supporting his decision regarding the 90m RESA at Wellington Airport in the event the lengthen the runway. The Court of Appeals judgement will be useful in the future when it comes to determining what is 'practicable'. When determining what is 'practicable' in future, the Court's judgement instructs that cost will only be a factor in extreme situations. The CAA will appeal this decision to the Supreme Court as a way to seek clarity around these issues. The Court also needs to understand how the implications of the judgement will affect other airports when they come around to recertification, as well as how the CAA conducts it's day-to-day business operations.

#### 5. Areas of cooperation and collaboration between Australia and NZ (CASA and CAA) – Graeme Harris

Graeme and the CAA Board visited CASA in February 2017 to meet with Shane Carmody, Acting CEO and Director of Aviation Safety, and the CASA Board. One of the outcomes of the meeting was that CASA are interested in sharing CAAs view of the world, and trying to leverage off each other where possible. CAA and CASA have been working on a Trans-Tasman mutual recognition of licensing issues for the past year but it hasn't progressed as CASA have been focusing internally for the past few years, so opportunities for cooperation have been limited. The mutual recognition discussion will continue when Shane and his team visit CAA in April.

CAA and CASA are close to signing an agreement of mutual recognition of maintenance in terms of Part 145 maintenance organisations. Graeme and Shane will continue to look for other opportunities for mutual recognition. ACAG were asked to provide to Graeme any ideas for areas of mutual recognition particularly in the

commercial sector, as this sector has the biggest flow on effect in terms of New Zealand's economic development

## 6. CAA Notices – Bryce Wigodsky

The discussion on CAA Notices followed on from the briefing Bryce provided to ACAG during their morning session. Bryce highlighted three key themes that he took away from that briefing:

1. The need to ensure and be very explicit about appropriate consultation.
2. Make sure that the empowering Rule that enables the Notice is very clear in terms of the parameters that are set giving the mandate to the Director to issue Notices.
3. Clarity around the relationships between the Rule and the Notice and the purpose of each and how the regulatory design is intended to be.

The main issue raised by ACAG was the lack of consultation before the CAA Notices were introduced and the short time frame they had to make submissions. Graeme acknowledged this issue and explained that the CAA Notices are a result of the work around more flexible and responsive regulatory framework so CAA is not tied in to the prescriptive rule set.

Graeme is committed to the role of ACAG in the consultation process and in future ACAG will be consulted and their industry expertise will be called upon. Earlier involvement by ACAG is preferred by ACAG, instead of just at the formal NPRM consultation stage.

How the CAA engages with ACAG between the issue assessment and the finalisation of the policy position needs to be looked at. In order to stay apprised of what is coming in terms of policy and rules projects, ACAG wants CAA to engage with them earlier in the workflow where the policy position is still being formulated. Whether this happens during the issue assessment process or immediately after the Issue Review Panel, it needs to be before the formal NPRM consultation phase.

One way CAA has engaged with ACAG in the past has been using ACAG as a source of subject matter experts to be included in Project Working Groups and this can be reinstated.

**Action** – CAA to look at how understandable the communications are around the Open and Assigned Issues report and at the Issue Assessment summaries distributed to ACAG. Distribution of Open and Assigned Issues report and Issue Assessment summaries to be done monthly.

**Action** – CAA to look at the process in which ACAG can provide input into the issue assessment process.

**Action** – distribute the 2017/18 Rules programme and seek ACAGs engagement on the 2018/19 Rules programme.

**Action** – send Issue Assessment paper for Major Modification (part of 2016/17 Small Issues Rules Project) to Ian Andrews. (Note: the 'major modification' and 'major repair' amendments have since been removed from the 2016/17 Small Issues rules project as a result of industry submissions to the NPRM).

## 7. CAA policy in operational areas – Graeme Harris

This item was raised by Mike Groome who was seeking clarification on what CAA Audit staff mean when they quote CAA policy as an explanation when requesting the operator do something not included in the Rule. Mike wanted clarity on what the policy is and where it is located. Graeme explained that the CAA is moving on from requiring compliance with a highly prescriptive rule set to more performance based-SMS requirements and compliance. Individual CAA staff members will be required to decide whether operators are taking all reasonable steps to address the highlighted risks, and act accordingly. Mike requested that Graeme speak to the operational staff about the need to explain clearly to operators the reason why they are requesting things, instead of citing CAA policy as the explanation.

**Action** – Mike Groome to email Graeme Harris to follow up on this issue.

## **8. State Safety Programme update – Bryce Wigodsky**

Bryce gave a brief update on the draft of a newer version of the State Safety Programme (SSP). The changes made to the SSP document over the past few years include providing more clarity and more comprehensiveness around the system and the state-wide approach to the SSP as well as trying to provide more specificity around things like acceptable levels of safety performance.

One of the key focuses of the SSP at the moment is the role of the SSP Coordination Committee, its purpose, and its function within the programme as a monitoring body. The SSP Coordination Committee is made up of the CAA, MOT, NZDF, and TAIC. The original SSP document when it was issued in 2014 didn't include any policy or strategic discussion, simply summarised what was currently existing. The SSP document is a living document so feedback is always welcome, feedback/comments can be sent to Bryce, Seamus Brady, or Kate McNabb.

## **9. The next Small issues rule – Bryce Wigodsky**

An overview was given of the issues included in the 2017/18 Small Issues Rule project (new name to be confirmed). The six issues included in this rule project have all come through the issue assessment process where they were identified as too large to be included in an Omnibus rule project but as individual rule projects they would be unlikely to make it on to the Rules programme in the near future so were bundled together.

It is unlikely that any more issues will be included to this rule project as it is currently in the policy investigation phase to ensure that the justifications for any changes are robust before being collated into a comprehensive Regulatory Impact Statement.

## **10. Update from the Ministry of Transport – Tom Forster**

The Ministry of Transport ('the Ministry') have been involved in a number of different issues recently, some involving the CAA, and others not.

Two weeks ago, the Air Services negotiations with China concluded. Increased the capacity entitlement for passenger services from 49 to 59 effective immediately with the potential to increase to 70 within the next year or so. The Ministry also agreed to co-terminal arrangements which would allow Chinese airlines to fly Auckland-Wellington-Auckland which is currently not possible due to Wellington airport requiring fully laden aircraft. The Ministry also included in the Air Services agreement a safety article and updated the aviation security article. The plan is to engage with the Chinese again before the northern winter 18/19 to discuss a more comprehensive Aviation Services agreement.

The Ministry has also worked with the industry (mainly airlines and airports) to develop New Zealand's Emission Action Reduction Plan. This was presented by Graeme to the Secretary General of ICAO in September 2016. The plan outlines what New Zealand will be doing to reduce emissions from aviation.

In terms of Aviation Security, the Ministry is monitoring closely the actions taken by the USA and UK in terms of implementing restrictions on passengers carrying tablets/laptops from certain airports. At this stage, New Zealand has no plans to follow suit.

Finally, the Ministry has been working closely with the CAA on the development of the 2017/18 rules programme.

## **11. Policy Project Update – Bryce Wigodsky**

### Clear Heads project

TAIC and Coroners recommendations to implement drug and alcohol testing for commercial aviation. The Select Committee hearings for these amendments in the Maritime Transport Act have just finished so CAA is still unsure as to what Act and Rule changes will look like.

Gail Kettle has been brought in to assist with implementation both with operators and Director testing. Initial planning is currently being done. Maritime is further through their rule changes than CAA.

Ultimate goal is to provide operators a template to help them through this at minimal cost to operators. (DAMP = Drug and Alcohol Management Programme). Also to provide guidance to help operators to complete the template. Need to assess how to implement this for smaller operators without incurring too much cost.

### NSS – GNSS IFR

Ian raised concerns with the revocation and replacement of Part 19 Subpart D. The NSS Sole Means report excluded primary means navigation from that report, the conditions that were related to safety were related to the conditions for limited Sole Means. There is no need for conditions to be placed on primary means navigation as pilots are already flying on a VOR with no special means. Ian disagrees with the NSS proposal to place conditions on flying under a GPS. This issue was noted and will be taken into consideration as the project proceeds.

## **12. Future thinking for Policy and Rules Programme**

### Rule programme update

The Ministry of Transport plan to send the draft 2017/2018 Rules Programme to the Associate Minister next week (week of 3 April) for his initial comment. If the Associate Minister is happy, it can go to Cabinet. The bulk of the Rule Programme is carried over from the current year.

ACAG were provided with the 2017/18 Draft Rules Programme for their review.

Mike Haines noted that Airways has already confirmed its Operational Strategy for 2021 – 2028 and within that, they've identified a number of rules that may need reviewing or amending. They are developing regulatory pathways for these so they can sit down with the Policy & Rules team and with the Operational groups to determine whether the rules have to be changed or if they can be addressed in other ways. These pathways will need to be finalised by mid-May and meet with CAA before the end of June in order to progress these onto the Rules Programme (either 2018/19 or 2019/20).

An update was given by John Kay on the proposed rules funding. The Ministry is currently rebalancing its undertaking, in terms of its level of resourcing between the modes.

One of the primary drivers for the rules programme is NSS given the range of rules changes required to give effect to NSS. Over time, this will start to dominate the rules programme in order to meet the NSS timeframes.

*Action – Mike Haines to organise a meeting with CAA (before the end of June) to discuss Airways regulatory pathways.*

### **13. ACAG Terms of Reference – Mark von Motschelnitz**

Within the Terms of Reference (ToR), there is a commitment to review ToR every 3 years. The goal is to have a substantive draft Terms of Reference document with input from both CAA and ACAG by the July ACAG meeting so it can be discussed.

*Action - ACAG to review the current Terms of Reference to determine relevance and provide comments, then send to CAA to do the same.*

*Action – restructure and refine the meeting agenda to ensure more up-front discussion on issue assessments and rules. To be circulated to ACAG via Mike Groome.*

### **14. General Business**

Ian Andrews asked if Major Modifications can be removed from the Small Issues NPRM to allow further discussion to take place. John said that at this stage this is not possible until all the submissions are reviewed. Once the submissions are reviewed, the Major Modifications issue may be removed provided the submissions support its removal.

### **15. Next Meeting – Tuesday 18<sup>th</sup> July 2017**

Tuesday July 18<sup>th</sup> to remain as the meeting as ACAG election is the next week and the meeting and the election need to happen in conference. August is not ideal as senior members of CAA will be overseas.