



**CASR PART 119 - Australian air transport operators - certification and management.
Business transport.
Aviation Safety Advisory Panel Technical Working Group
Tasking Instructions**

The Business Transport Technical Working Group is established and operates in accordance with the Terms of Reference of the Aviation Safety Advisory Panel (ASAP) dated June 2023 (or as amended).

Background

Business Transport

For the purposes of the TWG, the scope of Business Transport will include the following 2 often related, but sometimes separate, matters:

1. an aircraft operator carrying their own business related personnel and/or property on flights in the interest of their business; or
2. a flight operated by an aircraft owner, or by an operator on behalf of an aircraft owner, for the business or recreational purposes of the aircraft owner.

The Flight Operations Regulations (FORs)

Part 91 of the *Civil Aviation Safety Regulations 1998* (CASR) prescribes the baseline FORs for all aircraft (excluding drones). Australian air transport operations are also required to comply with Parts 119, 121, 133 and 135 of CASR, as applicable to the aircraft being used.

Defining Air Transport

Relevant to this topic, before 2 December 2021 the *Civil Aviation Regulations 1988* (CAR) definitions of private operation and charter operation conflicted with each other, leading to, at times, inconsistent advice to operators from CASA.

This inconsistent advice stemmed from the definition of private operation including a flight where a charge was not imposed for the carriage of goods or persons or if the transportation involved the owner of the aircraft; whereas the definition of charter operation encompassed the flights mentioned in CAR 206(1)(b) (mostly non-scheduled flights, but it also included scheduled flights not available to the general public) where the flight involved the operator gaining hire or reward from the conduct of the flight.

As CASA did not provide standardised guidance material regarding what kinds of activities would be considered as being conducted for reward, many business transport operations were conducted as a private operation even when the operator conducting the operation was obtaining some form of reward.

The development of the new regulations offered an opportunity to eliminate this ambiguity, thereby enabling certainty for the aviation industry and CASA about whether a flight was a private operation or an air transport operation.

Feedback from operators immediately after the new regulations began

Closely following the commencement of the new regulations on 2 December 2021, CASA received feedback from the aviation industry that a substantial number of air operators operating before 2 December 2021 without an AOC were now, due to the new definitions intended to remove ambiguity, required to be operated as an Australian air transport operation and obtain an AOC. The number of operators impacted by these changes was unexpected by CASA.

CASA responding by issuing a general exemption which aimed to ameliorate the scale of the impact (then instrument CASA EX82/21 section 7AA, now instrument CASA EX68/24 section 7AA). This exemption allowed, and continues to allow, many operators to continue to operate privately while an enduring policy is developed and consulted.

Aim of project and TWG

1. Develop policy, rules and supporting guidance materials enabling Business Transport flights to be conducted as a private operation at an acceptable level of aviation safety instead of being conducted as an Australian air transport operation, taking into consideration the kinds of aircraft being used and the kinds of passengers and/or cargo being carried.

TWG Meeting formats

The initial TWG meeting is proposed to be a full day face-to-face meeting and involve an initial discussion of CASA's proposed Business Transport policy document.

Subsequent TWG meetings would be online video conferences of shorter duration, with appropriate documentation distributed by the ASAP Secretariat to the TWG at least 2 weeks before each meeting.

The documentation for each meeting will be provided by CASA, taking into account previous TWG feedback.

The number of meetings would be determined by the progress of discussions and feedback from the TWG regarding the number of public consultation activities. There would be, as a minimum, at least 1 public consultation activity of 4 weeks duration, but if consultation on the proposed policy is split from consultation on the proposed rules arising from a consulted policy, there could be more than 1 public consultation.

It is proposed to hold the first meeting in late July 2025, subject to panelling appropriate TWG members and their availability.

TWG outcomes

We request each TWG member return their comments and feedback on the materials discussed at each individual meeting within 2 weeks of the meeting to asap@casa.gov.au.

An appropriate summary of each meeting will be distributed by the ASAP secretariat once all feedback from the TWG has been collated and processed.

CASA will maintain a TWG issues list and ensure it is updated following each meeting, with the issues list to be distributed with the meeting summary by the ASAP secretariat.

Roles and responsibilities

CASA	Technical Working Group Members
<ul style="list-style-type: none">• Organise meetings and workshops, and produce agendas, papers and supporting materials.• Facilitate meetings and workshops.• Record insights and findings.• Communicate openly and consistently with working group members about project status and issues.• Respect the time of all working group members by minimising work required to achieve outcomes.	<ul style="list-style-type: none">• Commit to supporting the project objectives and timeline.• Engage and collaborate constructively at all times.• Prepare for working group activities by reviewing agendas, papers and supporting materials.• Provide timely and considered advice in meetings, and between meetings as required.• Respond to requests for feedback on draft materials within agreed timeframes.

Behaviour

TWG meetings are a place for constructive collaboration. Behaviour likely to disrupt the collaborative nature of the group will not be tolerated. The ASAP secretariat may eject members from the meeting in the event of such behaviour.

Confidentiality

All discussions and materials from TWG meetings should be treated as confidential. Premature dissemination of information may dilute TWG processes, particularly if discussion points remain unsettled or documents are not ready for public consultation.

Reporting arrangements

At the conclusion of the meeting, or soon thereafter, recommendations and reports of the TWG will be provided to the Chair of the ASAP, through the Secretariat.

Membership

Members of the TWG will be appointed by the ASAP Chair, following ASAP processes.

Business Transport may involve aircraft ranging from small single-engine aircraft up to multi-engine long range turbojets.

Therefore, it is recommended that the membership of the Business Transport TWG consists of:

- 2 business transport operators of 1 or 2 smaller aircraft in regional and remote locations that do not hold an AOC
- 2 business transport operators of larger aircraft up to 19 seats that do not hold an AOC
- 2 business transport operators with a fleet size greater than 2 aircraft consisting of larger aircraft up to 19 seats that does hold an AOC and conducts international operations
- 1-2 representative from the ABAA

Requests for changes to the membership will be made to the Chair of the ASAP, through the Secretariat.

Attendance and travel

Travel for the first meeting would be provided by CASA. This will be coordinated by the ASAP Secretariat or

CASA working group lead as required.

TWG decision making

A key aim of the ASAP is that a consensus be reached, wherever possible, in the provision of advice to the CEO/DAS. TWGs will follow the same consensual principles as the ASAP.

Consensus is understood to mean agreement by all parties that a specific course of action is acceptable. Achieving consensus may require debate and deliberation.

Consensus can be unanimous or near unanimous, the Chair will determine how best to proceed and discuss with the CEO on outcomes where divergent views appear. Consensual outcomes include:

1. full consensus, where all members agree fully in context and principle and fully support the specific course of action
2. general consensus, where there may be disagreement, but the group has heard, recognised and acknowledged and reconciled the concerns or objections to the general acceptance of the majority of the group. Although not every member may fully agree in context and principle, a majority of members support the overall position and agree not to object to the proposed recommendation – any relevant information supporting the differing perspectives will also be presented in the meeting records.
3. dissent, where differing views about the preferred course of action are maintained. This occurs when members do not agree with the recommendation or cannot reach agreement on a recommendation.

If necessary, the ASAP and TWGs will determine if consensus is reached by way of voting. Members will also have the opportunity to confirm their views are accurately represented in meeting reports before they are published.

Where there is full consensus, the report, recommendation or advice should expressly state that every ASAP or TWG member was in full agreement with the advice.

Where there is general consensus, the nature and reasons for any concern by members that do not fully agree with the majority recommendation should be included with the advice.

Where there is dissent, the advice should explain the issues and concerns and why an agreement was not reached. If a member does not concur with one or more of the recommendations, that person's dissenting position should be reflected.

When possible, the ASAP or TWGs should be given the opportunity to reconsider the report or advice, including any dissenting views, to see if there might be scope for further reconciliation of any disagreements.