



**REVIEW BY THE INDUSTRY COMPLAINTS  
COMMISSIONER**

**How CASA's Board engages with  
industry participants**

Including related policies and  
arrangements



### Acknowledgement of Country

The Civil Aviation Safety Authority (CASA) respectfully acknowledges the Traditional Custodians of the lands on which our offices are located and their continuing connection to land, water and community, and pays respect to Elders past, present and emerging.

Inside front cover artwork: James Baban.

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# Executive summary

## Report origin

This review, conducted by the Industry Complaints Commissioner, was requested by CASA Board Chair Air Chief Marshal (Retd) Mark Binskin following claims made in the media about industry engagement undertaken by the Board in Darwin in 2021.

The review considered how the Board exercises its Statement of Expectations obligation to facilitate effective interaction between CASA and the aviation industry and broader aviation community, including all related policies and arrangements.

Industry engagement is an important part of the role of the CASA Board and it is important that they can interact with industry to remain abreast of current and emerging issues, as well as potential areas of risk to aviation safety.

Three specific items were part of the enquiry:

1. Actions in the lead up to, and activities during, the CASA Board meeting in Darwin in June 2021 mapped against the requirements and expectations that the Board be able to interact in a transparent manner with the aviation industry and broader aviation community to discuss and remain abreast of current and emerging issues, and potential areas of risk to aviation safety.
2. The adequacy of CASA policies and guidance relevant to Board members when transferring issues raised with them from members of the aviation industry or community to the CASA Executive, through the CEO, for appropriate consideration or action.
3. CASA's Conflict of Interest Policy and the CASA Board Governance Arrangements when assessed against current best practice.

## Actions since the report

The report, which follows in full with necessary redactions for personal and privacy reasons, highlighted some areas which we could improve. All of these have been taken on and implemented, with this detailed in the response letter from the Board Chair.

The changes will help all current and future Board members understand their responsibilities and obligations while ensuring they can continue to engage with industry within clear and acceptable boundaries.

The review acknowledged that CASA's gifts and hospitality policy largely accorded with best practice and its conflict-of-interest policies largely mirrored the best practice guidelines of the Australian Public Service Commission.

However, it recommended tightening of the policy's language to make it clearer that gifts should never be accepted from lobbyists.

Other recommendations included a review of how CASA defines lobbyists and the development of guidance on the tension between the Board members' obligation to avoid perceived conflict of interest with their responsibility to foster industry engagement.

The changes reflect industry and government best practice for managing conflicts of interest and accepting gifts and hospitality, as well as arrangements for industry engagement.

# Response letter

Letter from CASA Board Chair to Industry Complaints Commissioner – 1 November 2023



**Australian Government**  
**Civil Aviation Safety Authority**

CHAIR – CASA BOARD

1 November 2023

Mr Jonathan Hanton  
Industry Complaints Commissioner  
GPO Box 2005  
Canberra ACT 2601

Dear Jonathan

Thank you for your review (the Review) of the Board's conflict of interest arrangements dated 9 August 2023. It was formally considered at our most recent Board meeting on 12 October 2023.

On 2 June 2023, I commissioned this Review, pursuant to paragraph 2.1 of the Industry Complaints Commissioner's Governance Arrangements, for you to examine how the CASA Board engages with industry participants, including all related policies and arrangements. The Review's Terms of Reference noted that it was essential for the CASA Board to be able to interact in a transparent manner with the aviation industry and broader aviation community to discuss and remain abreast of current and emerging issues, and potential areas of risk to aviation safety. In light of media events at the time, the scope of the review was to include:

- Actions in the lead up to, and activities during, the CASA Board meeting in Darwin in June 2021 mapped against Board process and procedure.
- The adequacy of CASA policies and guidance relevant to Board members when transferring issues raised with them from members of the aviation industry or community to the CASA Executive, through the CEO, for appropriate consideration or action.
- CASA's Conflict of Interest Policy and the CASA Board Governance Arrangements when assessed against current best practice.

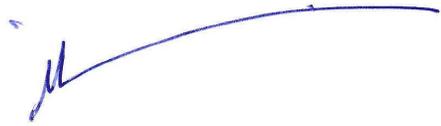
Each of the recommendations in your Review has been examined by the Board. I thank you for your comprehensive consideration of the Board's processes in relation to the Terms of Reference discussed above. Our own consideration of your recommendations has satisfied the Board that we have well-established and mature practices that accord with better practice governance arrangements for Boards, and that there are no significant weaknesses in the framework and processes we have established to manage conflict of interest arrangements. Your findings have been accepted as an opportunity to review the Board's processes and tighten any areas where arrangements may be managed more effectively.

I also note your assessment that the June 2021 CASA Board meeting in Darwin did not constitute a conflict of interest for any Board member at that time, but that you have indicated the manner in which some administrative arrangements for engaging with the aviation community and industry members could be improved.

The full response from the CASA Board against each of your recommendations is provided at Attachment A.

If there are any matters in this response that you would like to discuss further, please contact the CASA Board Secretary, Colin McLachlan, via email [colin.mclachlan@casa.gov.au](mailto:colin.mclachlan@casa.gov.au) and the necessary arrangements will be made.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a long, sweeping horizontal line that curves slightly upwards at the end.

Air Chief Marshal (Ret'd) Mark Binskin AC  
Chair, CASA Board

## **CASA Board Conflict of Interest Review**

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The CASA Board Chair, Air Chief Marshal (Ret'd) Mark Binskin AC, commissioned a review on 2 June 2023 for the Industry Complaints Commissioner (ICC), pursuant to paragraph 2.1 of the ICC Governance Arrangements, to examine *how CASA's Board engages with industry participants, including all related policies and arrangements.*

The Terms of Reference stated it was essential for the CASA Board to be able to interact in a transparent manner with the aviation industry and broader aviation community to discuss and remain abreast of current and emerging issues, and potential areas of risk to aviation safety.

The scope included:

- Actions in the lead up to, and activities during, the CASA Board meeting in Darwin in June 2021 mapped against the Board's processes and procedures.
- The adequacy of CASA policies and guidance relevant to Board members when transferring issues raised with them from members of the aviation industry or community to the CASA Executive, through the CEO, for appropriate consideration or action.
- CASA's Conflict of Interest Policy and the CASA Board Governance Arrangements when assessed against current best practice.

### **Response**

The Board operates under a mature corporate governance framework. The Board has well-established and mature practices that accord with better practice governance arrangements for Boards, and tested these arrangements earlier this year with *Director's Australia*.

The Board noted the following findings:

- CASA's Gifts and Hospitality process largely accords with best practice.
- CASA's conflict of interest policies and guidelines largely mirror the best practice guidelines of the Australian Public Service Commission (APSC).
- There was no evidence of any actual or potential conflicts of interest on the part of Board members in the lead up to, during or after the June 2021 Board meeting in Darwin.
- The guidance for Board members could be improved to manage the tension between their obligations to facilitate effective interaction and co-operation between CASA and industry, and avoiding the potential for perceived conflicts of interest to arise, should be managed.
- While the relationship between Mr Bridge and members of the crocodile egg collection industry could be perceived as a conflict of interest (rather than actual or potential conflict), there was no evidence of any improper influence in the performance of his duties.
- There was no evidence to conclude that the issuing of approvals to operators involved in crocodile egg collection was influenced by Board members, or members of CASA's Executive Management team.
- Controls governing the use of personal email addresses by Board members when conducting CASA business could be further strengthened.

The Board is satisfied that it has robust and rigorous policies, procedures and controls to manage all aspects of the Board's governance and administrative requirements to ensure it delivers its obligations under the *Civil Aviation Act 1988* and to meet the Minister's *Statement of Expectations*. In

accordance with good corporate governance practices, the Board will continue to review and, where needed, further enhance the *Board Governance Arrangements* to ensure all of the Board's governance and administrative arrangements, including management of perceived, potential and actual conflicts of interest, align with recognised better practice.

The Board's assessment of the findings reflects that there are no significant weaknesses in the framework and processes it has established to management conflict of interest arrangements. The findings have been accepted as an opportunity to review the Board's processes and tighten any areas where arrangements may be managed more effectively. Board papers for each meeting are comprehensive and support the Board's strategic deliberations. Every issue on the agenda is addressed diligently and each Board member is asked for their views on each of the matters presented. Board members are provided with an opportunity to voice a dissenting opinion; Board decisions are only taken forward if there is a consensus view. There is no need for a formal vote on each matter, as the Board has a mature process allowing input from each member that is considered before a decision is confirmed. Any dissenting opinions are recorded formally in the Minutes.

The report contained some unsubstantiated allegations (that had not been raised previously) that were noted by the ICC in the course of undertaking the review. The Board is disappointed that these issues had not been raised formally so that they could be addressed. There was no evidence to support the allegations, that were outside the scope of the Terms of Reference. In particular, the Board noted that there were suggestions of Regional Express Ltd ("Rex") share price movements aligning with Board meetings. The Board agreed with the ICC's findings that there was no correlation and refuted, in the strongest terms, the unfounded inference of insider trading in shares in Rex.

## Recommendations

The Board accepted all the recommendations with some clarifying commentary. Recommendation 7 was 'Agreed in Principle', the Board agreeing its intent, while noting its lack of practicality. However, there are compensating controls that can be put in place to meet the intent of the recommendation.

### Recommendation 1

Given the contradiction this presents (mandatory non-acceptance contrasted with avoidance), it is **recommended** CASA's Hospitality and Gifts Policy be amended to remove reference to *avoiding* lobbyist gifts to ensure the intent of never accepting gifts from lobbyists is captured.

**Response 1:** Agreed.

### Recommendation 2

It is **recommended** that CASA consider whether the Hospitality and Gifts Policy should specify whether the reference to lobbyists is as defined by the Lobbying Code, or any lobbyists (including in-house lobbyists).

**Response 2:** Agreed. The Hospitality and Gifts Policy will explain the definition of an in-house lobbyist.

### Recommendation 3

It is **recommended** that all current Board members' Material Personal Interest declarations be reviewed to confirm they meaningfully set out the nature and extent of interest relevant to CASA's affairs.

**Response 3:** Agreed.

### Recommendation 4

It is **recommended** that guidance be developed and incorporated into the Board Governance Arrangements addressing the tension for Board members between their obligation to facilitate effective interaction and co-operation between CASA and industry while also avoiding perceived conflicts of interest arising.

**Response 4:** Agreed. The Board Governance Arrangements will provide more prescriptive direction to manage the effective interaction and co-operation between CASA and industry, and clarify arrangements to handover responsibility to the CEO/DAS.

### Recommendation 5

It is **recommended** that section 4 of the Board Governance Arrangements be amended to set out the existing process by which industry events and visits are arranged, and to note that *meetings should periodically be held in Regional Offices to provide CASA staff and local industry participants with exposure to the Board* given this appears to be an ancillary purpose of holding meetings in regional locations.

**Response 5:** Agreed.

### Recommendation 6

There is no express requirement in paragraph 4.8.2 of the Board Governance Arrangements that site visits be recorded in Board minutes. However, it would enhance protections against Conflict of Interest if that was the case, and it is therefore **recommended** that the Minutes or the Board's meeting communiques note any site or industry visits taken during regional Board meetings.

**Response 6:** Agreed. Site visits occur either before or after Board meetings and will not appear in the Minutes. The communique from the Board following each meeting already contains this information; however, the Board Governance Arrangements will be amended to reflect this as a mandatory requirement.

### **Recommendation 7**

That being the case, to enhance both the perceptions that the conflict-of-interest policies and procedures applying to the Board are robust and to ensure compliance with the Archives Act, it is **recommended** that CASA Board members only use CASA email accounts when conducting official CASA business, including when conducting interactions with industry representatives as a CASA Board member.

**Response 7:** Agreed in Principle. The Board agreed the intent of the recommendation and discussed the practical restrictions of using a CASA email account, and the associated accessibility limitations and introduced security risks when using CASA equipment whilst balancing multiple IT devices. The Board agreed there are two elements that this recommendation is seeking to address that can be managed through alternative means:

(1) Generating a Commonwealth record that is searchable and locatable. The Board Governance Arrangements will be enhanced to ensure all CASA business conducted by Board members on their private email accounts is copied to the Board Secretary and/or the CEO/DAS. This will ensure all records of CASA business are maintained in the CASA IT environment in accordance with the records management requirements of the *Archives Act 1983*.

(2) Security. The Board noted that CASA's IT system is unclassified as it does not hold any information that meets the criteria requiring a higher classification. Any potentially sensitive material (such as matters that may be contained in Board papers) is distributed through the Diligent Boards software (Diligent). This platform has strict security protocols preventing unwarranted access to this information. Information provided to Board members via email will continue to be assessed on a case-by-case basis, with any matters requiring secure transfer to be considered through Diligent.

### **Recommendation 8**

Recognising, however, that this may prove to be impractical with how Board members conduct their business among their various other commitments, in the alternative it is **recommended** that paragraph 2.4.5 of the CASA Board Governance Arrangements be amended to stipulate *Members conducting interactions with industry representatives must advise the Chair that they will use personal email accounts and ensure that they include the Director of Aviation Safety and the Board Secretary in all correspondence related to CASA business.*

**Response 8:** Agreed, noting the response to Recommendation 7 above.

### **Recommendation 9**

It is **recommended** the Board consider whether further review or amendments to the Board Governance Arrangements are required.

**Response 9:** Agreed. In accordance with good corporate governance practice, the Board Governance Arrangements are subject to annual review each October, and the recommendations in the ICC report will be included in the October review process for consideration by the Board.

### **Recommendation 10**

It is also **recommended** that CASA obtain external legal advice that definitively sets out when emails from Board members' non-CASA email addresses are captured by the Freedom of Information Act.

**Response 10:** Agreed. The Board will seek advice from LIRA on the most efficient and effective way to obtain external legal advice that clarifies the extent to which personal non-CASA email addresses are captured by the *Freedom of Information Act*, and the means by which this information can be obtained.

### **Other matters**

The ICC identified some related matters in the course of undertaking the Review. The Board agreed some of these observations provided opportunities to improve the governance and administrative arrangements:

- The current narrative relating to the management of shares held by Board members will be more prescriptive to require members to divest themselves of any shares in companies that are subject to regulation by CASA, that can be bought and sold within their control (i.e. excluding shares held in managed funds) (noting that no current directors own any such shares).
- All industry engagements, regardless of any offer made by an operator, will be paid for in full by CASA at current market rates, without favour or discount.
- The process for declaring lounge memberships will be strengthened. The Chair noted that all current board members have complied with their obligations to declare airline lounge membership; however, there will be continuing oversight of this obligation.
- While recognising the requirements of the Minister's Statement of Expectations to enhance engagement with the aviation industry, the process for capturing matters discussed and handing over to the CEO/DAS, will be strengthened.
- All CASA Board events organised in relation to, or around, a CASA Board meeting, are not optional and non-attendance in exceptional circumstances must be approved by the Chair.
- A new section is being added to the Board Governance Arrangements to explain the process for identifying potential new Board candidates, including the engagement of an external executive search firm, the role and composition of the selection panel, conducting interviews, and providing a recommendation to the Minister.
- The requirement for outside paid employment requiring Ministerial approval will be examined from a practical perspective and clarification sought from the Department to ensure compliance with the intent of the legislation.
- The process to 'off-board' members at the end of their tenure will be formalised.
- Each of the above requirements will be incorporated into the formal induction process for new CASA Board members.

The amended Board Governance Arrangements were tabled at the 12 October 2023 meeting in track change for consideration by the Board and will be finalised shortly thereafter, and published on the CASA intranet.

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# Industry Complaints Commissioner review

Full version of the review dated 9 August 2023. Note that elements of the review are redacted due to personal and privacy reasons.



**Australian Government**  
**Civil Aviation Safety Authority**

INDUSTRY COMPLAINTS COMMISSIONER

9 August 2023

Air Chief Marshal (Retd) Mark Binskin AC  
Chair of the CASA Board

Dear Mark

**Review**

**Background**

1. Pursuant to paragraph 2.1 of the Industry Complaints Commissioner's Governance Arrangements, on 2 June 2023 you commissioned a review of *how CASA's Board engages with industry participants, including all related policies and arrangements.*
2. The Review's Terms of Reference noted that it was essential for the CASA Board to be able to interact in a transparent manner with the aviation industry and broader aviation community to discuss and remain abreast of current and emerging issues, and potential areas of risk to aviation safety. However, in light of recent media, the scope of the review was to include:
  - a. Actions in the lead up to, and activities during, the CASA Board meeting in Darwin in June 2021 mapped against Board process and procedure.
  - b. The adequacy of CASA policies and guidance relevant to Board members when transferring issues raised with them from members of the aviation industry or community to the CASA Executive, through the CEO, for appropriate consideration or action.
  - c. CASA's Conflict of Interest Policy and the CASA Board Governance Arrangements when assessed against current best practice.

**Review methodology**

3. In undertaking this review, the following sources of information were relied on:

- a. Conversations with current and former Board members<sup>1</sup>;
- b. Board members' Material Personal Interest disclosures and the Board Conflict of Interest register;
- c. Conversations with current and former CASA staff<sup>2</sup>;
- d. Email vault search<sup>3</sup> results;
- e. CASA media summaries;
- f. CASA's Records Management System (RMS);
- g. CASA intranet; and
- h. External web searches.

## Summary

4. CASA's Gifts and Hospitality process largely accords with best practice, but changes could be made with respect to whether gifts can be accepted from lobbyists; and the definition of what constitutes a lobbyist.
5. CASA's conflict of interest policies and guidelines largely mirror the best practice guidelines of the Australian Public Service Commission (**APSC**).
6. The Civil Aviation Act and Board Governance Arrangements set out the respective functions of CASA and the Board: the Board's role broadly relates to CASA's strategic direction and it is not involved in the issuing of permissions.
7. There was no evidence of any actual or potential conflicts of interest on the part of Board members in the lead up to, during or after the June 2021 Board meeting in Darwin.
8. There is no guidance for Board members on *how* the tension between their obligations to facilitate effective interaction and co-operation between CASA and industry, and avoiding the potential for perceived conflicts of interest to arise should be managed.
9. It would be open to a third party on the available evidence to reasonably form the view that there was a perceived conflict of interest between Mr Bridge and members of the crocodile egg collection industry. Because any conflict was perceived (rather than actual or potential), there was no evidence of improper influence in the performance of his duties.

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<sup>1</sup> Marilyn Andre, Michael Bridge, Liz Hallett, Donna Hardman (email only) and Tony Mathews.

<sup>2</sup> Mal Campbell, Saskia Coleman, David Edwards, Colin McLachlan, Klaus Schwerdtfeger and Richard Stocker.

<sup>3</sup> Any emails to CASA in the period 1 October 2018 to 30 September 2021 from s 47F and s 47F with any of the following terms: 44; 66; hook; HEC; 138; egg.

10. There is no evidence to conclude that the issuing of approvals to operators involved in crocodile egg collection was influenced by Board members, or members of CASA's Executive Management.
11. The use of personal email addresses by Board members when conducting CASA business may not comply with internal policy and guidance.

#### **Gifts and benefits: background**

12. On 23 June 2021, following an industry presentation § 47F arranged a helicopter demonstration flight for Mr Bridge, Ms Hallett, Mr Mathews, and the Director of Aviation Safety Pip Spence.
13. Also on 23 June 2021, Ms Spence emailed CASA's Chief Financial Officer Simon Frawley after the tour:

As discussed briefly, earlier today Michael Bridge organised for Tony, Liz, Rob and I to be briefed by § 47F of Crocodile Farms NT on their operations and the implications of the new flight operations regulations (as they relate to Human External Cargo operations for the collection of crocodile eggs). As part of the briefing § 47F had organised a helicopter tour (which Rob did not participate in) for us to see the conditions for the collection of eggs, as well as the scale of the CFNT's operations. The pilot was § 47F (who has a media profile as the crocodile wrangler).

Please let me know if you think I should follow up any costs.

14. On 24 June 2021, Ms Hallett emailed the CASA Board Secretary Colin McLachlan asking for the following entry be made on the CASA gift register:

23/6/21 Following a presentation in Darwin by § 47F and team at PRI Farming, with other board colleagues Tony Mathews, Pip Spence and Michael Bridge, I was taken on a one hour tour by helicopter of PRI's various crocodile farms around Darwin. Only non alcoholic beverages were offered (chilled water). Companies associated with § 47F currently have applications before CASA for consideration.

15. Mr Frawley provided Ms Spence advice on declaring the helicopter flights on the gift register on 25 June 2021:

From our perspective, we don't think it would be inappropriate to accept without payment. The Industry member willingly offered the Board the opportunity to spend time with him to provide context on his operations. If they were wanting recompense it would have been part of the deal offered:

- Eg: I'll show you around my facilities and demonstrate what we do for \$x per person.

Refreshments offered were modest in nature, chilled water, and do not imply that a special event/function occurred.

Also, there was a question around Conflict of Interest.

It would be improper for a Board member or the CEO/DAS to impose any judgement on an outcome for any applications that CASA may be processing. To the best of our knowledge, no such interference with internal practices has occurred to date.

Our advice would be to consider the following appropriate:

- The excursion was an instance where the CASA Board met with an Industry member and was provided the opportunity to understand the Operator's business better.
- While we would not classify this as a "gift", for transparency, it is recommended publishing the instance on CASA's external web-site on behalf of the CEO/DAS and Board with an "unquantified" value..

- Include it in the monthly report to Lembit as reviewer of Board expenses. If Lembit considers the actions inappropriate in any way, we can redress at that time.

16. The following entry was made on CASA's Gifts and benefits register in June 2021<sup>4</sup>:

Crocodile Farms NT gifted a briefing and helicopter flight demonstrating crocodile egg collection operation to Tony Mathews, Pip Spence, Michael Bridge and Elizabeth Hallett in Northern Territory. Estimated value is not quantified.

### Gifts and benefits: policy and guidance

17. Best practice for the acceptance of gifts and benefits is set out in the Australian Public Service Commission's *Guidance for Agency Heads - Gifts and Benefits*<sup>5</sup> (**the APSC Guidance**).

18. Relevant to CASA (a non-APS agency) the Guidance sets out that agency heads must:

- publish a register of gifts and benefits they accept that are valued at over \$AUD100.00 (excluding GST) on their website on a quarterly basis;
- collect and store the relevant information, and manage their register, in accordance with their agency's procedures; and
- update the register within 31 days of receiving a gift or benefit.

19. While not mandatory, the APSC Guidance states:

- statutory office holders and heads of Commonwealth entities and companies are strongly encouraged to adopt this guidance, and mirror these arrangements, as best practice; and
- there is a strong expectation that agency heads will also publish gifts and benefits received by staff in their agency that exceed the threshold of \$AUD100.

20. A gift is defined in the APSC Guidance as:

any item or service accepted by an agency head from clients, customers (including potential clients or customers) or other associates of an agency head in the course of their official duties. Examples include tangible gifts, free or discounted travel or accommodation, entertainment, hospitality (see 'Receipt of Hospitality' section), discounts or other preferential treatment.

21. The APSC Guidance sets out that where recording the estimated value of the gift or benefit may cause offence, the dollar figure is not required to be recorded. Further guidance is found in the APSC's frequently asked questions<sup>6</sup> where it sets out:

Gifts and benefits can be added to the register without recording a dollar figure. For example, where recording a value may cause offence, or where the value of an item is likely to be in excess of the monetary threshold but cannot be calculated accurately.

<sup>4</sup> [Gifts and benefits register | Civil Aviation Safety Authority \(casa.gov.au\)](https://www.casa.gov.au/gifts-and-benefits-register)

<sup>5</sup> [Guidance for Agency Heads - Gifts and Benefits | Australian Public Service Commission \(apsc.gov.au\)](https://www.apsc.gov.au/guidance-for-agency-heads-gifts-and-benefits)

<sup>6</sup> [ATTACHMENT D Gifts and Benefits FAQ.docx \(live.com\)](#)

22. With respect to hospitality, the APSC Guidance states:

Hospitality can be accepted if it is in accordance with the agency head's official duties. Hospitality exceeding the value of \$AUD100.00 (excluding GST) that has been accepted and may give rise to a real or apparent conflict of interest must be recorded in the register.

23. CASA's Hospitality and Gifts Policy applies to all CASA officials as defined by Public Governance, Performance and Accountability Act 2013, and any other individuals or bodies representing CASA. The CASA Gifts policy states:

- a. Examples of a gift include *offers of a free flights*.
- b. Gifts with an estimated value of \$100 or more should not be accepted, except in circumstances where it would be inappropriate to refuse the gift.
- c. Any gift accepted with a value over \$100 must be recorded on a gifts and benefits register published on CASA website.
- d. Gifts should *never be accepted from lobbyist groups, or persons affected or likely to be affected by policy rulings/determinations*.
- e. A person (individual or corporate) subject to regulatory oversight by CASA.

24. While the Hospitality and Gifts Policy states gifts should never be accepted from lobbyist groups, it goes on to say:

Care should be taken in accepting gifts of any kind from aviation industry members and should be avoided from lobbyists.

25. What constitutes a lobbyist is not defined in CASA's Hospitality and Gifts Policy.

26. The most authoritative definition of a lobbyist in the Australian Government context is found in the Lobbying Code of Conduct (a legislative instrument) (**the Lobbying Code**). The Lobbying Code defines a lobbyist as *any person, company or organisation that conducts lobbying activities on behalf of a third party client*<sup>7</sup>. Lobbying activities are defined as:

communications with a Government representative<sup>8</sup> in an effort to influence Government decision making, including the making or amendment of legislation, the development or amendment of a Government policy or program...

27. Excluded from the definition of lobbyist in the Lobbying Code are 'in-house' lobbyists such as the Crocodile Farmers Association of the Northern Territory (**CFANT**). That is because the interests that in-house lobbyists represent will be evident to Australian Government representatives<sup>9</sup>.

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<sup>7</sup> [Lobbying Code of Conduct | Attorney-General's Department \(ag.gov.au\)](#)

<sup>8</sup> Government representatives are defined as including Agency heads and those employed under the Public Service Act 1999. CASA staff are not employed under the Public Service Act.

<sup>9</sup> [Information for Lobbyists | Attorney-General's Department \(ag.gov.au\)](#)

## Gifts and benefits: observations and conclusions

28. CASA's Hospitality and Gifts Policy largely mirrors best practice as set out in the APSC Guidance.
29. It is open to interpretation as to whether the demonstration flight on 23 June 2021 was a gift, or a demonstration of what was perceived by industry as an impending issue with the introduction of Part 138.
30. On balance, the inclusion of an offer of a free flight in CASA's Hospitality and Gifts Policy lends weight to a conclusion that the flight on 23 June 2021 was a gift requiring declaration. It follows that declaration of the gift (as occurred) was appropriate and reasonable.
31. The issue of whether accepting the gift accorded with CASA's Hospitality and Gifts Policy is more nuanced, given the express prohibition of accepting gifts from lobbyist groups.
32. It is noted that CASA's Hospitality and Gifts Policy goes on to say that gifts from lobbyists should be avoided.

33. Given the contradiction this presents (mandatory non-acceptance contrasted with avoidance), it is **recommended** CASA's Hospitality and Gifts Policy be amended to remove reference to *avoiding* lobbyist gifts to ensure the intent of never accepting gifts from lobbyists is captured.

34. In the course of this review, Mr Bridge described the purpose of the industry engagement as follows:

s 47F who represents the Northern Territory Crocodile Farmers (and who organised the site visit in June 2021) is not a CASA regulated entity. The industry engagement was with s 47F on behalf of the Crocodile Farming industry and not Helibrook and had been sought given the industry's concerns with future regulations (Part 138) which imposed requirements that were not considered or appropriate and had the potential to have reduced safety in their operations.

35. In his email to Ms Spence of 24 May 2021, Mr Bridge noted that the industry visit was:

... to get a number of the 'light' Helicopter operators together and talk through some of their challenges and concerns with the new Regulations...I still see there being opportunity to improve the roll-out of the new Regulations from both a safety and economic perspective (the general thoughts of industry are that the new Regs support the larger helicopters well, however some of the implications for the 'light' end of the industry may in-fact increase the safety risk [decrease safety] to Operators).

36. In his email to s 47F of 26 May 2021, Mr Bridge said:

I have now spoken with the new CEO/DAS (Director Aviation Safety), Pip Spence and she is keen to take-up ... a Meeting/Presentation from the Top-End Helicopter industry on the Wednesday morning (I said specifically highlighting some of the concerns and issues associated with the new Regulations).

In my view, this is a once-off opportunity given that my tenure on the Board is currently due to expire in October and the new Regs are slated for 3rd December 2021... Anyway, let me know your thoughts and how you think we (you guys) can get something together to address the foreseeable issues.

37. It is therefore open to conclude that the purpose of the meeting on 23 June 2021 was to allow CFANT (or its members) to communicate with CASA in an effort to influence decision making on the making or amending of Part 138 of the Civil Aviation Safety Regulations. This

meets the definition of lobbying activities. Mr Bridge highlighted that at this point, the Northern Territory operators had been seeking clarification from CASA for some time on how light helicopter human external cargo operations would be impacted by the introduction of Part 138.

38. The entity hosting CASA has been described as both CFANT, and the Northern Territory light helicopter industry or operators. It appears from the available information that the purpose of the visit was to highlight issues with the implementation of Part 138 on the crocodile egg collection. Mr Bridge highlighted that s 47F is not a regulated entity<sup>10</sup>.
39. Mr Bridge said the original intention was to get a number of Northern Territory light helicopter operators together to discuss the implications of Part 138, but it was later decided it would be more beneficial if the briefing was at an industry level rather than with the operators given the different ways each would be impacted.
40. Irrespective of whether CASA was hosted by CFANT or Northern Territory light helicopter operators, the purpose of the visit was to attempt to make representations to CASA about Part 138. Whether s 47F was representing CFANT or the Northern Territory light helicopter industry (or operators), both are excluded from the Lobbying Code's definition of lobbyist as he would have been acting in an in-house capacity, given the interests he represented were evident to CASA. Therefore, the gift was not accepted from a lobbyist as defined by the Lobbying Code.
41. Because the gift was accepted, its inclusion on CASA's published gift register was appropriate.

42. It is **recommended** that CASA consider whether the Hospitality and Gifts Policy should specify whether the reference to lobbyists is as defined by the Lobbying Code, or any lobbyists (including in-house lobbyists).

### **Conflict of interest: background**

43. On 10 December 2014, a design engineer engaged by s 47F submitted an application<sup>11</sup> to CASA for a design approval to allow human external cargo to be carried for crocodile egg collection. The application was rejected by CASA on 22 December 2014. An application for an STC was subsequently made on 26 November 2015.
44. In an update of various matters to Mr Mathews on 5 October 2018, then CASA CEO/DAS Shane Carmody noted:

An approach to me from Michael Bridge re RW/Load certification for the Crocodile Egg collection industry – an ongoing saga on behalf of s 47F. I will respond to Michael B later today.

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<sup>10</sup> Record of conversation June 2023.

<sup>11</sup> Copied to s 47F.

45. On 26 November 2019, Mr Bridge forwarded Mr Carmody an email to § 47F from CASA Manager – Aircraft Certification Klaus Schwerdtfeger the previous day in relation to assessment of the STC. Mr Bridge said:

Thanks for your time this morning Shane and I am genuinely sorry to drag you into this.

The below email chain is just for background mate.

§ 47F has been chasing this for months (hence your intervention four months ago) and has been trying to actively monitor the progress (he hasn't left it to his Structural Engineer as he had last time so he wasn't embarrassed again....).

To get a one-liner with bugger all information, after more than three years of process, doesn't exactly bode well either. I'm sure Klaus is flat-out but that's not § 47F issue after so much time.

Anyway, if this cant be resolved urgently, can they please look at an identical EO as they have done for the last two seasons, which even last season was told "wont be needed as we are just about there".

See you in a couple of weeks and appreciate any feedback as soon as you can.

46. Mr Carmody replied on 27 November 2019 with an explanation of the issues in finalising the STC application. Mr Bridge replied on 28 November 2019:

Thanks Shane.

Needless to say, § 47F continues to get a differing view from his design engineer. Particularly with regards the feedback and direction being given (I.e. CASA ask for something to be done and so they do it, then CASA find something else and/or change their mind).

Are you comfortable in me providing the below feedback and asking them to respond so we can actually get to the bottom of this?

47. Mr Carmody advised he was happy for Mr Bridge to use his reply of 27 November 2019 in discussions with § 47F on 28 November 2019. On 4 December 2019, Mr Bridge replied:

... I have passed the information onto § 47F and suggested he forward it to Thompson Design and if they have a different view of the "state of play" I have invited them to come back to you (via me). What is frustrating is how industry and the regulator can be so far apart that something like this, which is a clear safety improvement, takes years and years to deliver upon.

48. Then CASA Aviation Group Executive Manager Graeme Crawford emailed Mr Bridge and Mr Mathews on 24 December 2019. He said:

I know you have had numerous discussions with both Shane and § 47F on the external load hook approval so that Porosus can suspend a human from a single piston engine R44 helicopter in order to conduct crocodile egg collection.

Just as a heads up, before you hear it from § 47F, yesterday CASA received specialist review feedback on the outstanding engineering report associated with the approval of the human external load cargo hook. This feedback has unfortunately identified that further action is required before the report can be accepted.

Thomson Design has been advised accordingly.

49. On 26 February 2020, Mr Bridge emailed Mr Carmody, copying in Mr Mathews:

Sorry, I should know this but do we have a Part 138 (Helicopter) TWG?

I was out with a few guys yesterday and they were concerned about some of the sling-loading restrictions (minimum requirements) that may come into effect in the future.

Who are they best talking to? AHIA or someone from CASA or the TWG?

50. Mr Carmody replied to Mr Bridge and Mr Mathews the following day:

Yes the Part 138 is Part of the 6 pack. The Regulation was made 12 months ago with a commencement date (now) in late 2021. The external load standards are contained in the Manual of Standards (MOS) which is due for public consultation next month. It has been considered by the Part 138 TWG, with a number of issues being worked through. The provision of the MOS to the TWG was not for public distribution. This enables CASA to develop standards with a small focused industry group and get it to a reasonably settled point without being endlessly sidetracked with a multitude of opinions and vested interests without a consensus ever being reached.

I 'assume' you might have been chatting to you crocodile mate because external load standards have not been publicly consulted since 2015, but he has been actively pursuing certification of his hook which, as we have discussed, won't meet the requirements in 138. He has been aware of this since 2015 but still decided to pursue certification.

51. Also on 27 February 2020, Mr Bridge replied to Mr Carmody, copying in Mr Mathews:

Thanks Shane and no it wasn't **s 47F**, but two other top-end Operators who also collect Crocodile Eggs for the various Farms.

Are we sure we are going to implement the twin engine requirement? I thought this was still 'up-in-the-air' (so to speak) when it was raised some time back. I assume that's in line with what happens in the US and NZ? (or anywhere else for that matter)?

Is the AHIA on the TWG? If so, I will just redirect them to speak with them so I'm not involved.....

52. On 28 February 2020, Mr Carmody replied to Mr Bridge and Mr Mathews:

If the twin engine requirement you are referring to is in relation to human external load operations (Croc eggs), there has never been a twin engine requirement. The proposed standards have been consulted on several occasions including a meeting held in Darwin specifically with operators representing the mustering sector and Croc Egg collecting operations.

The minimum standard to be reconsulted next month is;

- a turbine powered helicopter with a usage monitoring system (a system which records time in service and exceedances – enhances reliability),
- a cargo hook certified for the carriage of humans (so there is assurance that the hook will not inadvertently release the human cargo),
- a mass that does not exceed 90% of hover out of ground effect mass (a performance margin to limit the potential of pilot mishandling, on the person outside of the protection offered by the airframe).

Considering the inherent risk of such an operation (a person carried on line suspended beneath a helicopter without the protection of the airframe in the event of a mechanical issue and above a crocodile swamp) it would seem on the face of it that the requirements are proportionate to the risk.

The human external cargo operations are modelled on Transport Canada's, are comparable to the FAA. I'm advised that the NZ CAA has been closely monitoring our work in this regard and I understand they have plans to follow suit.

The AHIA is on the Part 138 TWG and Ray Cronin (AHIA President) is also on the ASAP. Pushing them towards the AHIA would be a good start.

53. Mr Bridge replied later that day, copying in Mr Mathews:

Thanks Shane and the below is perfect.

The issue raised with me was the "twin engine" requirement. They are all conscious of the turbine requirement.....

Thanks very much.

54. On 26 February 2021, Mr Bridge emailed Mr Crawford<sup>12</sup>'s EA Kerri Gisik:

... ideally I would like to get him in front of a couple of the larger Helicopter operators up here so he can see the level of sophistication and quality that is going into their operations these days (the Crocodile Egg collection industry is now controlled by the Hermes empire which is worth greater than \$80billion Euro.....). If he could go and meet the Darwin CASA team as soon as he gets off the flight (as they are at the airport) we may be able to grab him and Craig for a few hours in the afternoon (say from 3.30pm). We would take them out to one of the Croc farms probably.

55. Following confirmation of Mr Crawford's arrangements while in Darwin, Mr Bridge emailed Ms Gisik again later that day:

I can pick-up Graeme up from the CASA Office (@ 3.30pm) and we will head out to one of the Crocodile Farms and then to Remote helicopter's operation (<https://www.remotehelicopters.com.au/about/>) where he can meet both § 47F (Crocodile Farmer – partner of Hermes – the 80 billion Euro global operation) and § 47F (owner of Remote Helicopters). The main mission will be to show Graeme the sorts (and sophistication) of equipment and operations these organisations are running. § 47F will want to chat to Graeme about his "Hook STC" which has been a challenging process for everyone (CASA and he).

56. Following Mr Crawford's visit to the crocodile farm, on 11 March 2021 he emailed § 47F a summary of the issues discussed, which he then forwarded to Mr Bridge (and Mr Mathews) thanking him for arranging the visit. Also on 11 March 2021 Mr Bridge replied, copying in Mr Mathews:

Thanks mate and an absolute pleasure. I'm glad both you and industry got positives out of it.

57. On 24 May 2021, Mr Bridge emailed Ms Spence through the CASA Board Secretariat:

Dear Pip,

Firstly let me pass on my congratulations and welcome you to CASA, both from myself and also from many from industry who I have spoken to recently.

I have tried not to annoy you until you've had the chance to get your feet under the desk, however our Chairman has suggested I touch base with you regarding the next Board Meeting scheduled in Darwin on 22nd June. I am assisting Colin and the team with the itineraries and as you are probably aware, we have some 'spare' time on both the Monday afternoon (21st June) and Wednesday morning (23rd June). I think it is vitally important for the CEO/DAS (as well as all senior Executives of CASA) to get out and meet industry and see first hand their operations. I have endeavoured to do this with Shane and Graeme over the last two plus years and I think both have benefited from the first hand knowledge. I would therefore welcome the opportunity to facilitate something similar for you whilst you are in Darwin.

My suggestion/s would be:-

Monday PM 21st June: Travel on a Hardy Aviation "RPT service" from Darwin out to Bathurst Island (Nguui) and return. The flight departs at 1600 and returns at 1720 (so basically you would be engaged from 1530 to 1730). I have reserved two seats on these services (one for you and one for the Chairman, however he has suggested I may be best placed accompanying you, given my local knowledge of issues in the Top-End). These tickets can easily be cancelled if this is not of interest to you and I expect, if you are interested, that CASA may prefer to pay for these tickets even though Hardy Aviation welcome the opportunity to familiarise yourself with these types of operations free-of-charge. This will give you a great insight into some of the challenges and opportunities with the smaller "RPT" type operations. Ideally we (or you and the Chairman) would fly one way on a twin piston-engine Cessna and the other on one of Hardy Aviation's new Cessna 208 Caravans (what I see as being the future workhorse of the

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<sup>12</sup> Mr Crawford was now Acting CEO/DAS.

industry). Please have a think about it and let me know if this is of interest to you or if you would prefer some other familiarisation event.

Wednesday 23rd June: I was thinking that it would be beneficial to get a number of the 'light' Helicopter operators together and talk through some of their challenges and concerns with the new Regulations. I would ensure (to the best of my ability) that this is not a confrontational event and I think you would be pleasantly surprised by the professionalism of some of these Operators. Graeme has been great dealing with some of these guys over the last six months however I still see there being opportunity to improve the roll-out of the new Regulations from both a safety and economic perspective (the general thoughts of industry are that the new Regs support the larger helicopters well, however some of the implications for the 'light' end of the industry may in-fact increase the safety risk [decrease safety] to Operators).

Industry Event: You are probably aware that we have organised (as we usually do these days) an 'industry function' on the Tuesday afternoon after the Board Meeting and whilst this is a fantastic opportunity for you to hear from a large range of operators, it doesn't allow any detailed, in-depth discussions on particular issues. I think you will find industry to be overwhelmingly supportive of you and the work that the CASA Executive have done over the last five or so years (predominantly driven by finally getting the new Regs out – even if they do need some tinkering here and there) as well as their more recent efforts to standardise decision making across the organisation.

Thanks very much for your consideration of the above and if you have any specific questions or would like me to investigate any other options for you, then please just let me know.

Once again, congratulations on your appointment and I look forward to supporting you for the rest of my tenure on the Board (and thereafter from afar).

58. Mr Bridge emailed s 47F on 26 May 2021:

As mentioned a couple of weeks ago, we have the entire CASA Board and Executive Team coming to Darwin from 21st to 23rd June (Board Meeting on 22nd June).

I have now spoken with the new CEO/DAS (Director Aviation Safety), Pip Spence and she is keen to take-up both my suggestions of a Hardy Aviation RPT flight to the Tiwi Islands and back on Monday afternoon and then a Meeting/Presentation from the Top-End Helicopter industry on the Wednesday morning (I said specifically highlighting some of the concerns and issues associated with the new Regulations).

In my view, this is a once-off opportunity given that my tenure on the Board is currently due to expire in October and the new Regs are slated for 3rd December 2021.

Accompanying Pip would be Graeme Crawford (who you previously met as Acting CEO/DAS – and is now back to his previous role as Group Executive Manager – Aviation) as well as Craig Martin (who I wanted you to meet last time but who flew out to Cairns) who is Executive Manager - Regulatory Oversight. I expect there may be a few others who would attend as well.

Anyway, let me know your thoughts and how you think we (you guys) can get something together to address the foreseeable issues.

59. On 23 June 2021, Mr Mathews, Ms Hallett, Mr Bridge and Ms Spence were taken on a tour by helicopter of crocodile farms in Darwin after a briefing by s 47F .
60. In an email to Mr Mathews dated 6 July 2021, Ms Spence noted she had been progressing crocodile egg collection issues and was hoping to get back to s 47F with proposed next steps which she said she could run by Mr Mathews first.
61. On 9 July 2021, Mr Crawford emailed Mr Bridge a summary of CASA's assessment of the STC. Mr Crawford said:

Please find detailed below an update on the Supplementary Type Certificate (STC) for the HEC 2 Hook used for helicopter croc egg collection:

- Our certification team has arranged to contact the approved CASA 21.M design organisation (Walter Thompson) by telephone today to provide context to the feedback we will be providing back on the package submitted in June 2021 covering the establishment of the fatigue life aspects of the attachment hardware i.e. to satisfy the continued airworthiness requirements.
- The changes that are required are largely administrative and we anticipate when they are addressed and the package is returned to us we will need approximately 3 weeks to complete the internal peer review and finalisation (sign off) of the STC.
- Even though CASA hasn't finalised the STC for the HEC 2 hook configuration, the good news is, the helicopter operators are able to use the design in service as it has been approved by the CASA 21.M authorised person (Walter Thompson).

I will ensure s 47F and you are both informed when the STC is signed off.

62. Mr Bridge replied to Mr Crawford later that day:

Thanks mate and really appreciate that effort to get a position. Have a great weekend.

63. On 20 July 2021, Ms Spence emailed Mr Mathews and Mr Bridge:

Sorry for the delay in getting back to you, but I've been discussing with the team here the presentation from s 47F and working through what the Part 138 transition looks like for the crocodile egg collectors.

I'll go back to s 47F directly suggesting that we get together to discuss, but some key points that we would like to explore with him are:

- Reissuing the individual operator permissions to the three operators that held a permission last season. This would be done prior to the commencement of the 21/22 season and prior to the commencement of the Flight Operations Regulations on 2 December. The transitional provisions ensure that such an instrument issued prior to commencement of the new regulations is extended beyond the commencement date of the new regulations, effectively providing a 12 month extension.
- Exploring s 47F concerns about the helicopters that could be used under Part 138. We are keen to understand why s 47F thought that the new regulations required a shift to much bigger helicopters (Bell 407 and AS350B3E) which are more expensive and have the downdraft issues.
- The team here have advised me that in the context of the discussions on the STC for the hook, they have confirmed that the R66 would meet the requirements of Part 138.
- Hopefully when combined with the 12 month extension, this should make the transition much more manageable given that all of the operators currently conducting croc egg collecting are authorised to operate the R66 on their AOC and one of the operators has an R66 in their existing fleet.
- Finally, we would go through how we can work together to progress the necessary STC for the HEC 2 hook for the R66

This outcome hopefully gets a balance between the concerns raised by s 47F on behalf of the egg collectors and the risk that a failure of the engine or the drive train presents to the person on the ground.

Happy to discuss if anything jumps out at you, otherwise will keep you posted on our engagement with s 47F

64. Mr Mathews replied to Ms Spence on 20 July 2021:

Thank you for the update. Just a couple of questions from me would be:

1. How many engines or drive chain failures have occurred in the past 15 years in the helicopters operating the croc egg collection?
2. What is the increase in operating costs between the Robinson R44 and the R66?
3. As it has taken some years to approve the R44 hook can we guarantee approval for the R66 in 12 months?

I think some recognition of past achievements and operating processes need to be taken into account before we seek to change them.

The granting of the individual permissions for 12 months will give time to sort this through with minimal risk associated with it.

65. Mr Bridge also replied to Ms Spence (and Mr Mathews) on 20 July 2021:

Thanks Pip and that sounds like a very good process/result.

I have actually asked § 47F the same question as to where does it say “dual fuel systems and dual hydraulic systems”. He did (many months ago) show me the reference in Part 138 however I wasn’t confident that it applied to their operation however (and without picking an old sore...) the rules are just so complex that any layman trying to read them (such as me) is easily lost or confused.

I reckon they would all support the R66 or similar going forward § 47F actually just sold his R66 – hence why they all have it on their AOC’s – to get the Long Ranger that we flew in a few weeks ago). There is still a question of ‘overall safety’ (i.e. a piston engine has a lot more instantaneous power as opposed to a turbine engine) however there are smarter people than me that can make that determination....

66. Ms Spence replied to Mr Mathews’ questions of 20 July 2021 on 23 July 2021:

Sorry for delay – the team have got back to me with responses to your questions (which as you mentioned will align with the issues § 47F and his team may raise)

1. How many engines or drive chain failures have occurred in the past 15 years in the helicopters operating the croc egg collection?

Since 2007:

R44 - 68 reported occurrences that involved an engine or drive train failure.

Some other relevant points to note include:

- On 21 June 2021 CASA issued an Airworthiness Bulletin for the R44 drive train (Attached)
- On 10 June 2021 CASA issued revised Airworthiness Bulletin (Issue 4) for the R44 Engine Intake Valve and Valve Seat Distress
- On 14 October 2020 Robinson Helicopter company issued a Safety Alert for the R44 Engine Intake Valves (Attached)
- On 21 October 2019 the Australian Helicopter Industry Association (AHIA) provided an independent industry- supported investigation titled “DURABILITY ISSUES - LYCOMING O-320, O-360 AND O-540 ENGINES FITTED TO ROBINSON HELICOPTER CO R22 AND R44 MODELS” which made a number of recommendations including “Consideration be given to the potential airworthiness implications for conventional piston engine powered aircraft operating in environments of high ambient air temperature and using aviation gasoline products containing reduced lead and correspondingly increased levels of aromatic hydrocarbon compounds.”. (Attached)
- On 20 October 2014 CASA issued revised Airworthiness Bulletin (Issue 3) for all piston powered spark ignition aircraft utilising magnetos.

It is also noted that the turbine powered R66 –

R66 - 2 reported occurrences that involved an issue with the engine governor resulting in a reversion to manual RPM control. Robinson R66 recently passed 1.2million flight hours without a single reported engine failure. Robinson delivers 1000th R66 - Australian Flying

2. What is the increase in operating costs between the Robinson R44 and the R66?

From Robinson figures approximately \$150 US dollars per hour.

r66\_eoc\_jan\_2021.pdf (robinsonheli.com)

r44\_2\_eoc\_jan\_2021.pdf (robinsonheli.com)

3. As it has taken some years to approve the R44 hook can we guarantee approval for the R66 in 12 months?

The delay in approving the hook for the R44 can be attributed to delays with the design organisation in providing the necessary test data for the hook to establish that it meets the required standard.

A modification for a dual hook system for R44 HEC operations has been approved by a CASA 21.M authorised design person. CASA has not yet issued the STC for this modification, but expects to do so before the commencement of the crocodile egg collection season. AEB is currently reviewing the recently provided certification documentation for the structural fatigue inspection limitations. This is the last issue requiring resolution before the STC can be issued. Fatigue inspection limitations mandate the frequency of future maintenance inspections, typically set at 5,000 AFHRS or longer. Crocodile Egg collection typically uses 50 AFHRS per season so there is an acceptable margin of safety to allow operations this season while the fatigue inspection aspects are finalised under the STC approval.

Regarding HEC operations for the R66, it is likely that some of the existing R44 HEC dual hook provisions will be applicable and we would anticipate the applicant would not be starting from scratch. However, the certification basis of the R66 is more recent than the R44, so there may be some additional contemporary certification requirements that need to be satisfied. To date AEB has not received an application to assess the R44 HEC design for installation on the R66.

I've copied Chris, Roger and Damien Fing in, as they are the experts in this space. We'd all be happy to discuss.

67. Mr Bridge replied to Ms Spence's of 23 July 2021 the following day:

Thanks for this response Pip and thanks to all copied for your ongoing input and efforts.

Just as an aside, I believe the R44 Dual Hook STC will be substantially similar to one put forward for the R66 as I'm told the airframes are identical, although as mentioned, maybe there has been some design improvements with newer model R44's and R66's.

68. On 30 July 2021, Ms Spence forwarded Mr Bridge confirmation from AEB that the STC had been approved:

Hi Michael

Thought you might be pleased to see this... Enjoy your weekend

Pip

69. AEB's email to Ms Spence forwarded to Mr Bridge read:

I am pleased to inform you that the AEB Aircraft Certification Team finalised the R44 Human External Cargo Dual Hook Installation for collection of crocodile eggs this afternoon. § 47F [REDACTED] has been notified and he has been sent of copy of the approved Supplemental Type Certificate.

70. Mr Bridge replied on 31 July 2021:

Thanks so much Pip and really appreciate all your assistance in ensuring that due process was conducted in a reasonable timeframe....

71. On 2 September 2021, Helibrook (the operator with who the flight was taken on 23 June 2021) applied to CASA to renew Instrument CASA.CARRY.0163.
72. In the week ending 3 September 2021, Ms Spence met with s 47F *about his crocodile egg harvesting operations.*
73. On 9 September 2021, CASA's then Manager – Regulatory Services Mal Campbell sought advice from CASA FOI Tim Borella on the renewal of Helibrook's instrument:

I see you issued the last approval for this. Are there any concerns regarding the re-issue of the same approvals?

74. Mr Borella replied later that day:

The STC mentioned in the approval has now been issued – Klaus Schwerdtfeger was running that and I'll forward you an email with more detail shortly. As that has been a long-running saga, the instrument caters for pre-STC equipment and post-STC issue maintenance requirements.

There have been no changes to the operator's equipment or procedures that I know of, and as Part 138 isn't in force yet, I see no reason why a new instrument shouldn't be issued.

However, it's relevant that when Part 138 commences, the R44 will no longer be acceptable in CASA's eyes as a platform for human external cargo (HEC) / Class D external loads. I've argued strongly against the change, because I don't believe that there's a compelling statistical argument to force operators to pay a likely \$2 million to set up alternatives, but FSB and RIB don't agree.

Happy to discuss further – I just have to go to an appointment now but will be back this afternoon and can talk more then. The operator phoned me recently to discuss reapplying for the approval, and I advised them to apply on the grounds that it would be better to have authorisation when 02 Dec arrives than not.

75. Also on 9 September 2021, in accordance with his delegations, Mr Campbell issued instrument CASA.CARRY.0163 with a repeal date of 31 December 2024.

#### **Conflict of interest: definitions and best practice**

76. The APSC's *APS Values and Code of Conduct in practice*<sup>13</sup> (**the APSC Col Guidance**) defines a perceived (or apparent) conflict of interest as arising *where it appears that an employee's personal interests could improperly influence the performance of his or her duties but **this is not in fact the case.*** (emphasis added)
77. The APSC Col Guidance continues that *the appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.*
78. The APSC Col Guidance sets out in Section 5 best practice for identifying and managing conflicts of interest in the context of the APS Code of Conduct.
79. The APSC Col Guidance:

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<sup>13</sup> [APS Values and Code of Conduct in practice | Australian Public Service Commission \(apsc.gov.au\)](https://www.apsc.gov.au/aps-values-and-code-of-conduct-in-practice).

- a. Identifies regulating individual or business activities involves a heightened risk of conflict of interest.
- b. Highlights relationships formed through work or engagement with the local community which have the potential to conflict with official duties need to be declared.
- c. Sets out the factors to be considered in assessing the materiality of a conflict of interest.
- d. Notes that while it is not possible to establish definitive rules about accepting gifts or benefits, as (depending on the roles and responsibilities of the employee and the agency) doing so can create a real or apparent conflict of interest that should be avoided.
- e. Notes the relationship of agencies with external clients and stakeholders is such that offers of gifts and hospitality are commonplace for senior employees, who often deal with heads of organisations and senior business representatives.
- f. Sets out public servants can only deal with registered lobbyists. Agencies are expected to ensure that employees are aware of the Lobbying Code and their obligations in dealing with lobbyists.
- g. Highlights that an agency's policy and guidance on identifying and managing conflicts of interest needs to be tailored to reflect its key business risks.

#### **Conflict of interest: Statement of Expectations**

80. Every Ministerial Statement of Expectations in force between 27 March 2017 and 30 June 2023 set out the expectation that the Board *facilitate effective interaction between CASA and the industry*<sup>14,15, 16</sup>.
81. That expectation remains in force in the current Statement of Expectations<sup>17</sup>.

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<sup>14</sup> [Statement of Expectations for the Board of the Civil Aviation Safety Authority for the Period 27 March 2017 to 30 June 2019 \(legislation.gov.au\)](#)

<sup>15</sup> [Statement of Expectations for the Board of the Civil Aviation Safety Authority for the Period 15 July 2019 to 30 June 2021 \(legislation.gov.au\)](#)

<sup>16</sup> [Statement of Expectations for the Board of the Civil Aviation Safety Authority for the Period 1 July 2021 to 30 June 2023 \(legislation.gov.au\)](#)

<sup>17</sup> [Statement of Expectations for the Civil Aviation Safety Authority from 1 July 2023 to 30 June 2025 \(legislation.gov.au\)](#)

## Conflict of Interest: Board Governance Arrangements and CASA policy

82. Among CASA's functions under section 9 of the Civil Aviation Act<sup>18</sup> is *issuing certificates, licences, registrations and permits*.
83. Section 53 of the Civil Aviation Act sets the Board's functions as including: deciding the objectives, strategies, and policies to be followed by CASA; and ensuring that CASA performs its functions in a proper, efficient, and effective manner.
84. The Board Governance Arrangements provide that *the Board's role is not to manage the day-to-day affairs of CASA*<sup>19</sup> and that *no individual Board member has the power to direct the Director in the performance of his or her functions*<sup>20</sup>.
85. The principles set out in CASA's Conflict of Interest policy apply to the Board by operation of 2.5.2 of the Board Governance Arrangements.
86. Paragraph 1.2.3 of the Board Governance Arrangements imposes an obligation on the Board to *keep themselves informed between meetings in relation to relevant CASA and industry issues*.
87. Paragraph 2.3.3 of the Board Governance Arrangements states *the Board must encourage CASA officials to cooperate with others to achieve common objectives, where practicable*.
88. Paragraph 2.4.3 of the Board Governance Arrangements stipulates that Board members must not improperly use their position at CASA to gain an advantage for themselves or someone else.
89. Paragraph 2.4.5 of the Board Governance Arrangements states: *Members conducting interactions with industry representatives must advise the Chair and include the Director and the Board Secretary in relevant correspondence*.
90. Paragraph 2.5.2 and 2.5.3 of the Board Governance Arrangements state:

Section 29 of the PGPA Act and section 14 of the PGPA Rule provide that a Board member who has a material personal interest in a matter that relates to the affairs of CASA must disclose details of the interest, orally or in writing, to each other Board member. **The notice must include details of the nature and extent of the Board member's interest and how the interest relates to CASA's affairs.** The disclosure must be made at a Board meeting, as soon as practicable after the Board member becomes aware of the interest or, if there is a change in the nature or extent of the interest, as soon as practicable after the Board member becomes aware of that change. The details of the notice given must be recorded in the minutes of the Board meeting....

In considering potential Conflicts of Interest matters, the Board and individual Board members will adhere to the principles reflected in CASA's Conflict of Interest Policy referenced in section 1.2.6, having regard to the corresponding provisions of the associated instruction, which, by its terms, is applicable to CASA staff.

2.5.3 Standing Notices

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<sup>18</sup> [Civil Aviation Act 1988 \(legislation.gov.au\)](http://legislation.gov.au)

<sup>19</sup> Paragraph 1.2.3.

<sup>20</sup> Paragraph 1.2.5.

A Board member may give other Board members a standing notice of his or her interest in a matter or range of matters. The notice may be given at a Board meeting or individually to the other Board members in writing, provided that the notice is also tabled at the next Board meeting after the notice is given. In any event, the nature and extent of the interest notified must be recorded in the minutes of the next Board meeting. If a new Board member is appointed, the notice must be given by the new Board member in order for it to continue to be operative. Additionally, for the notice to remain operative, a new notice must be given if the nature or extent of the interest materially increases.

91. CASA's Conflict of Interest Policy incorporates CEO Directive 03/2017 (**the Directive**). The Directive defines an actual conflict of interest as arising when:

there is a direct conflict between a person's employment-related duties and responsibilities and their private interests.

92. Private interests are defined as including:

the personal, professional or business interests of individuals or groups with whom they are closely associated. Such a close association can include family members, friends and former employers, but may also include rivals and former competitors. Private interests can be pecuniary or non-pecuniary. Money does not need to change hands for an interest to be pecuniary and the benefit does not need to be an immediate one but can involve a future gain.

93. The Directive defines a potential conflict of interest as arising when *a person has private interests that may conflict with their employment-related duties and responsibilities*.

94. A potential conflict of interest is defined by the Directive as arising when:

a third party could reasonably form the view that a person's private interests may influence the performance of their employment-related duties and responsibilities now or in the future. This can occur whether there is an actual conflict of interest or not. A conflict of interest can arise where a person avoids a loss or detriment as well as when an advantage may be gained for the person or a third party.

95. The Directive includes the CASA document *Guidance on the Identification, Assessment and Management of Actual, Potential or Perceived Conflicts of Interest*.

96. The Directive counsels against including personal comments or taking an overly familiar approach when writing to the wider aviation community:

Including personal comments or taking an overly familiar approach could reasonably lead a third party to conclude that the relationship between the staff member and industry member is closer than it may be, which might in turn give rise to the perception of a conflict of interest. The common courtesies that are extended to colleagues in professional business dealings, such as polite inquiries as to the recipient's health, are not inappropriate, but comments that suggest a more personal relationship, such as invitations to social gatherings, or comments about mutual friends, would be.

97. The relevant CASA and Board policies are broadly consistent with APSC best practice.

### **Conflict of interest: compliance with requirements**

98. While paragraph 2.4.5 of the Board Governance Arrangements requires Board members conducting interactions with industry representatives to advise the Chair and include the Director and Board Secretariat in relevant correspondence, it does appear to be universally adhered to from the documents reviewed in the course of this review.

99. Paragraph 2.5.2 of the Board Governance Arrangements requires that Board members declare any material personal interest, and mandates this must include details of the nature and extent of any interest and how the interest relates to CASA’s affairs.
100. Section F of Mr Bridge’s Standing Notice of Material Personal Interest records:

F	Other material personal interests that relate to the affairs of CASA	
	Description	Nature and extent of interest
	Having spent 30+ years in the aviation industry I have a very wide network of friends and associates who deal with CASA regularly.	

101. On that basis, it can be said any connection Mr Bridge had with § 47F (and helicopter operators involved in crocodile egg collection) has been declared.
102. The Standing Notice does not, however, meet the requirements of paragraph 2.4.5 of the Board Governance Arrangements in that it does not include any details of the nature and extent of any interest and how the interest relates to CASA’s affairs.

103. It is **recommended** that all current Board members’ Material Personal Interest declarations be reviewed to confirm they meaningfully set out the nature and extent of interest relevant to CASA’s affairs.

**Conflict of interest: observations and conclusions**

104. The Civil Aviation Act and the Board Governance Arrangements delineate the functions of the Board and CASA: the Board sets CASA’s strategic direction; while CASA issues permissions. There is no scope for Board members to be involved in the issuing of permissions.
105. The Statement of Expectations imposes an obligation on Board members to facilitate effective interaction between CASA and industry. The Board Governance Arrangements require Board members to encourage CASA Officials to cooperate with others to achieve common objectives.
106. At the same time, the Board must also avoid any actual, potential, or perceived conflicts of interest.
107. There is no guidance for Board members on how they should facilitate effective interaction between industry and CASA while at the same time avoiding perceived conflicts of interest. This is problematic in that from a Board member’s attempts to facilitate effective interaction

and co-operation with industry, there is a very real risk that a third party could reasonably form the view that a Board member's facilitation or encouragement has created an advantage or benefit for the industry or industry participant.

108. The background to the CASA Board meeting in Darwin in June 2021 highlights this tension.
  109. It is apparent that Mr Bridge facilitated effective interaction and co-operation between CASA and the crocodile egg collection industry. Examples of this include:
    - a. Mr Bridge was appointed to CASA's Board on 1 October 2018. On 5 October 2018, Mr Carmody noted to Mr Mathews that he had been approached by Mr Bridge on behalf of s 47F about load certification for crocodile egg collection.
    - b. In March 2021, Mr Bridge arranged for Mr Crawford (as acting DAS) to meet with Mr s 47F and helicopter operators involved in crocodile egg collection to demonstrate the sophistication of their operations and equipment, and to discuss the status of s 47F's STC application.
    - c. Mr Bridge arranged the Board's meeting with the light helicopter operators to discuss Part 138 in June 2021.
  110. The tension between facilitating that effective interaction and co-operation between CASA and industry and the potential for conflicts of interest to arise is highlighted when reviewing how this facilitation was undertaken.
  111. There is no evidence to conclude that Mr Bridge had an actual or potential conflict of interest.
  112. However, based on how the relevant correspondence reads, it would also be open to a third party to reasonably form the view that Mr Bridge has a close association with s 47F which could (but did not) influence the performance of his duties and responsibilities, constituting a perceived conflict of interest.
  113. The reason a third party could reasonably form that view when considering the following in conjunction, or as a series of events:
    - a. During Mr Bridge's first week as a Board member, he raised issues with Mr Carmody as CEO/DAS CASA on behalf of s 47F.
    - b. Mr Bridge made subsequent approaches to each DAS (or acting DAS in the case of Mr Crawford) in 2019, 2020 and 2021.
    - c. Mr Bridge's email exchange with Mr Carmody on behalf of crocodile egg collecting operators in February 2020 could be interpreted as implying an awareness that he should not be involved in escalating the operators' concerns to CASA.<sup>21</sup> (*Mr Bridge has stated that he had not wanted to be in the middle of communications between*
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*CASA and industry participants, and therefore once the issue had been raised at the appropriate level he had expected further communications and resolutions to be handled by those parties.)*

- d. While Mr Bridge recognised that it was not appropriate for the Board to be involved in day-to-day operational matters or to have any say in any specific approvals, (as opposed to the impact of proposed or actual regulatory changes) on 26 November 2019 he requested CASA look at granting operators the same approvals they had been issued the last two crocodile egg seasons.
- e. In his email to s 47F dated 26 May 2021, Mr Bridge appears to draw a connection between his remaining tenure on CASA's Board expiring; the impending introduction of Part 138; and those involved in crocodile egg collection's concerns with the requirements of Part 138.

114. It is **recommended** that guidance be developed and incorporated into the Board Governance Arrangements addressing the tension for Board members between their obligation to facilitate effective interaction and co-operation between CASA and industry while also avoiding perceived conflicts of interest arising.

#### **Other Conflict of Interest considerations: applications under consideration in June 2021**

- 115. Kristin Short's article in The Australian on 30 May 2023 references that at the time of the CASA Board visit in June 2021, s 47F and s 47F had applications for exemptions under consideration and that *just weeks* later they (and Mr Burbridge) were granted three-year exemptions permitting them to continue operations in piston powered helicopters.
- 116. The article could be read as inferring a connection between the site visit and the granting of any approvals or exemption.
- 117. In June 2021, CASA there was one current application relevant to crocodile egg collection under consideration: the application for a Supplementary Type Certificate (STC) for a Human External Cargo hook to be fitted to a Robinson R44 first submitted in 2015 and still under consideration.
- 118. Following an update to Mr Bridge and Mr Mathews on the status of the STC assessment from Mr Crawford on 9 July 2021, Mr Bridge thanked Mr Crawford for the effort to get to that position. Following advice from Ms Spence that the STC had been approved on 31 July 2021, Mr Bridge thanked her for her assistance in ensuring that due process was conducted in a reasonable timeframe.
- 119. While the language used implies that the STC approval was in some way influenced by the Board or Executive Management, there is no evidence to conclude that this was the case. Instead:
  - a. AEB Branch Manager Richard Stocker said:

- i. While he knew the STC application was a *high profile/priority job* and that § 47F had representations into CASA Executive, he was not doing the certification work. He had kept a degree of independence between the Executive and the technical staff working on the STC application.
    - ii. He knew the Board was meeting in Darwin, but he was not aware of any specific agenda items or discussion topics. *AEB's work was not compromised as a result of the Board visit.*
    - iii. There had been *no undue influence exerted on AEB to approve the STC application.*
  - b. CASA's Manager of Aircraft Certification Klaus Schwerdtfeger led the project team that assessed the STC. Mr Schwerdtfeger said:
    - iv. The application took many years to assess. While some delays were attributable to a lack of CASA SME resource, mostly they were as a result of Mr Thompson's delays in providing the compliance data that was required.
    - v. As the Project Manager, he had *never felt any undue pressure*. The only pressure he felt to complete the assessment was self-imposed given the length of time the job had been open.
    - vi. He was not aware of the Board visit to Darwin. He only interacted with the 21M approval holder, as it was him (and not § 47F) who needed to provide the compliance data.
120. It was not correct that § 47F had an exemption request being considered by CASA at the time of the Board's site visit: Helibrook's application to renew Instrument CASA.CARRY.0163 was not made until 2 September 2021. The instrument was issued on 9 September 2021.
121. Mr Campbell also exercised delegations to issue two other Instruments to other operators in September 2021 permitting carrying of HEC while collecting crocodile eggs<sup>22</sup>.
122. Like the STC assessment, emails between the Board and CASA Executive Managers following the Board meeting in Darwin imply a level of involvement in the assessment of the instruments:
- a. On 20 July 2021, Ms Spence emailed Mr Mathews and Mr Bridge setting out CASA intended on exploring with § 47F the possibility of further 12 month instruments being issued to operators involved in crocodile egg collection prior to Part 138 coming into effect on 2 December 2021.

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<sup>22</sup> Northshore Holdings (NT) Pty Ltd (ARN § 47G) 20 September 2021 to 30 September 2024; Bell Pacific Holdings Pty Ltd (ARN § 47G) 28 September 2021 to 30 September 2024.

- b. Mr Mathews' reply later that day suggested recognition of past achievements and operating processes needed to be taken into account and issuing permissions for 12 months would give time to sort the remaining issues with minimal risk associated with it.
123. In addition, when the instruments to Helibrook (and the two other operators) were issued in September 2021, they were valid for three years. This stood in contrast to all previous CASA instruments permitting operators to carry HEC while collecting crocodile eggs which were valid for around six months (coinciding with the egg collection season), or one year.
124. However, despite these observations there is no evidence that the issuing of the instrument (or its length) was influenced by the Board, or CASA Executive Management. Mr Campbell said:
- a. There was nothing unusual in the assessment of the instruments. No managerial (or any other) pressure or interference occurred.
  - b. The applications were assessed like any other, *the only difference being perhaps an enhanced level of diligence and scrutiny.*
  - c. In the case of Helibrook, he had contacted the local overseeing FOI to see if anything had changed, and it had not – the operator had the same Ops Manual and there was no adverse local intelligence.
  - d. When assessing the corresponding instrument for Mr Burbridge he had noted that the DAMP requirement had been removed on the basis that the operator did not consider the person in the sling was a crewman. After seeking advice (including from Legal) he had insisted that it be put back in.
  - e. The longer validity period *was in accordance with a directive to CASA staff to issue such approvals for three years to reduce red tape.*
125. Verification of this CASA directive to issue instruments for three years was sought from geographically dispersed, senior, and longstanding operational ROD staff with substantially similar delegations as Mr Campbell: Saskia Coleman and David Edwards. Ms Coleman<sup>23</sup> and Mr Edwards<sup>24</sup> independently confirmed a verbal directive by Peter White to issue all instruments for three (or five) years had been made.

#### **Other Conflict of Interest considerations: arrangement of Board industry events**

126. Paragraph 4.2.1 of the Board Governance Arrangements states *Board meetings should periodically be held in Regional Offices to provide CASA staff with exposure to the Board.*

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<sup>23</sup> This directive originated from Peter White and then moved on through Craig Martin. It was never put in writing despite numerous requests but we were told it was our policy and was designed to reduce the impact on aviation red tape...

<sup>24</sup> Peter White made a decree that all instruments would be issued for 5 years. This was asked for in writing but never received. As punitive action was taken against some - for disregarding a 'lawful management instruction', some were very forceful in applying the policy even when (its application) made no sense...

127. The Board Secretary explained industry events and visits are arranged as follows:
- a. The Board forward schedule and meeting location is known more than a year in advance.
  - b. During Mr Mathew's tenure as Chair, the Board expanded its outreach and stakeholder engagement activities significantly. The Board became visible, and there was an appetite in industry to discuss concerns directly with the Board.
  - c. At every interstate Board meeting there is an industry event, always in the evening and open to all sectors by invitation. Invitations are generated through a postcode search on EAP, and as many industry participants as possible are invited.
  - d. As well as the evening events, the Board participates in focussed industry site visits. There is no exact science to how they are chosen, and these are initiated by cold contact with operators after taking into account local office knowledge and input from the Chair and Board members.
  - e. The process culminates in a top 2 or 3 candidates who the Board Secretary then contacts to ask if they would be interested in contact with the Board.

128. Mr Mathews explained that:

site visits and social gatherings with the industry were an important part of the Board's ability to understand the challenges and opportunities being faced by industry... it was important for the Board and Executive to see what was happening in industry. CASA's Senior Executive did not always fully realise the scale of some operators, and without visiting you do not see the size of the operations and what they are doing.... These visits also gave real industry perspectives: the Board and Executive were able to hear the pluses and minuses from regulation, and hear any complaints and compliments. Without talking to industry and hearing their feedback, CASA could not improve.

129. The arrangement of industry events and visits by the Board is consistent with its obligations *to facilitate effective interaction between CASA and industry*<sup>25</sup> and *encourage CASA Officials to cooperate with others to achieve common objectives*<sup>26</sup> and for Board members to *keep themselves informed ... in relation to relevant CASA and industry issues*<sup>27</sup>.

130. Nevertheless, it is **recommended** that section 4 of the Board Governance Arrangements be amended to set out the existing process by which industry events and visits are arranged, and to note that *meetings should periodically be held in Regional Offices to provide CASA staff and local industry participants*<sup>28</sup> with exposure to the Board given this appears to be an ancillary purpose of holding meetings in regional locations..

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<sup>25</sup> Statement of Expectations, above n 19.

<sup>26</sup> Paragraph 2.3.3 of the Board Governance Arrangements.

<sup>27</sup> Paragraph 1.2.3 of the Board Governance Arrangements.

<sup>28</sup> Or words to that effect.

### Other Conflict of Interest considerations: arrangement of the June 2021 site visit

131. Unlike the process set out above, the industry site visit during the Board visit to Darwin in June 2021 was arranged by Mr Bridge directly. Mr Mathews said he had *signed off* on the arrangements.
132. In the course of this review, Ms Andre said she had no knowledge at the time of the industry visit (or the helicopter flight) that coincided with the Board meeting in Darwin in June 2021. She had only become aware of it in December 2022. Ms Andre also said the only reference at the time was an incidental comment from Ms Hallett saying she was doing a flight that Mr Bridge was organising.
133. Ms Andre had been unable to attend a Board dinner at a Greek restaurant while in Darwin, and she had later been told that this may have been the reason she was not aware of the Board's industry visit.
134. Ms Hardman said the only industry event in Darwin she was aware of was the 'Meet the Board' event on 22 June 2022 as this was included in the Board itinerary sent to Board members on 15 June 2022.
135. Ms Hallett observed that this Board meeting *coincided with the middle of COVID* and in that context *Board arrangements needed to be nimble (in contrast with the rigid formality that would now apply)*. That being the case, site visits had been arranged at short notice particularly given it was not clear until the last minute who would be able to travel to Darwin.
136. Ms Hallett said that rather than just being just one Board dinner in Darwin in June 2021 there were two: one on Monday 21 June 2021 at Hanuman Restaurant, and on Tuesday 22 June 2021 at YOTS Restaurant.
137. A contemporaneous email<sup>29</sup> records the attendees<sup>30</sup> as follows:
  - a. Hanuman Restaurant 21 June 2021: Ms Spence, Mr Mathews, Mr Bridge, Ms Hallett, Mr McLachlan, Ms Crome, Mr Walker, Mr Martin.
  - b. YOTS Restaurant 22 June 2021: Ms Spence, Mr Mathews, Ms Hallett, Mr McLachlan, and Ms Crome.
138. Ms Hallett recalled that the arrangements for the industry visit had been discussed and made while at Hanuman Restaurant. Ms Hallett recalled that Mr Bridge had arranged the Greek dinner the following night, but because of a family emergency he had left early.
139. It is therefore more likely than not that the wider Board arrangements on the site visit attendees were finalised at Hanuman Restaurant on 21 June 2021, after earlier being

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<sup>29</sup> Dated 28 June 2021.

<sup>30</sup> Then CASA Board Secretariat staff member Kate O'Toole attended both dinners, and Mr Bridge's spouse the Monday 21 June 2021 dinner.

mooted and approved by email. Ms Hardman and Ms Andre had not attended either dinner due to other commitments.

140. Supporting Ms Andre's recollection that she was not aware of the site visit was that it was not recorded in the Minutes of the June 2021 Board meeting which noted only:

The meeting was followed by a two-hour aviation industry 'Meet the Board' event at 5:30pm to conclude the Darwin 'FlySafe' program hosted by Stakeholder Engagement Division.

141. However, it is noted that the flight was declared on CASA's public gift register in June 2021 and therefore there is no evidence that arrangements had been withheld from other Board members.

142. There is no express requirement in paragraph 4.8.2 of the Board Governance Arrangements that site visits be recorded in Board minutes. However, it would enhance protections against Conflict of Interest if that was the case, and it is therefore recommended that the Minutes or the Board's meeting communiques note any site or industry visits taken during regional Board meetings.

#### **Other Conflict of Interest considerations: Use of personal email**

143. *CASA's Acceptable Use of Information and Communications Technology (ICT) Resources Directive (the ICT Directive)* governs the use of all externally provided systems that transmit, process or store CASA information but may not be under CASA's direct control. The ICT Directive requires that any use of externally provided systems must comply with any legislation or departmental policy that is relevant to the use.
144. By operation of the ICT Directive, the *Acceptable Use of ICT Resources Manual (the ICT Resources Manual)* applies to all CASA employees, contractors, consultants, and others with access to CASA ICT resources.
145. Section 2.2 of the ICT Resources Manual defines both the redirection of official CASA communications to a non-CASA phone or email address and the use of personal ICT resources to conduct CASA official business as inappropriate usage.
146. In its April 2019 report on the *Governance and Integrity of the Northern Australia Infrastructure Facility*<sup>31</sup>, the Australian National Audit Office noted the use by NAIF Board members of non-official email accounts to conduct official business, with records being stored on private or consumer-grade email services. The ANAO highlighted Australian Signals Directorate advice that particular care should be taken when choosing to use such services. The ANAO also noted that the deletion of Commonwealth records from non-official email accounts could also contravene the record keeping requirements of the Archives Act 1983.

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<sup>31</sup> [Auditor-General Report 2018-2019 33.pdf \(anao.gov.au\)](#)

147. While it may be open to some interpretation as to whether the ICT Directive and ICT Resources Manual would apply to Board members, it is common practice for CASA Board members to use personal email accounts, rather than CASA accounts.
148. It is acknowledged that Board papers and any other sensitive documents are distributed only via Diligent. There will be instances, however, where Board members conduct CASA business through personal non-CASA email accounts — as has been apparent in the course of this review.

149. That being the case, to enhance both the perceptions that the conflict of interest policies and procedures applying to the Board are robust and to ensure compliance with the Archives Act, it is **recommended** that CASA Board members only use CASA email accounts when conducting official CASA business, including when conducting interactions with industry representatives as a CASA Board member.

150. Recognising, however, that this may prove to be impractical with how Board members conduct their business among their various other commitments, in the alternative it is **recommended** that paragraph 2.4.5 of the CASA Board Governance Arrangements be amended to stipulate *Members conducting interactions with industry representatives must advise the Chair that they will use personal email accounts and ensure that they include the Director of Aviation Safety and the Board Secretary in **all**<sup>32</sup> correspondence related to CASA business.*

151. It is also **recommended** that CASA obtain external legal advice that definitively sets out when emails from Board members' non-CASA email addresses are captured by the Freedom of Information Act.

#### **Other Conflict of Interest considerations: REX share price**

152. In the course of this review, a former CASA Board member expressed a view that other Board members had a conflict of interest with Rex's application to add the 737 to its AOC. The former Board member felt that Rex's share price had risen at around the time of CASA board meetings.
153. It was not clear which Board member had a conflict of interest, and it is noted that (unlike Qantas shares) no Board member had specifically declared ownership of Rex shares.
154. A cursory review of Rex's share price<sup>33</sup> for the two weeks either side of every CASA Board meeting since January 2020 indicated a significantly larger than what appeared normal

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<sup>32</sup> Currently paragraph 2.4.5 provides: *Members conducting interactions with industry representatives must advise the Chair and include the Director and the Board Secretary in **relevant** correspondence.* (emphasis added).

<sup>33</sup> s47G(1)(a)

increase<sup>34</sup> coincided with the December 2020 CASA Board meeting. This analysis is attached as Appendix A.

155. Noting that Rex had made an ASX release on the evening (8:09PM) of 1 December 2020<sup>35</sup> announcing the commencement of the 737 on the Sydney – Melbourne route on 1 March 2021, in the absence of any specific evidence of a conflict on the part of a CASA Board member there is a plausible explanation for the share price increase and this issue was not further reviewed.

#### **Issues raised outside the scope of this Review**

156. The scope of this review was on the adequacy of, and compliance with, applicable Conflict of Interest policies with reference to the June 2021 Darwin Board meeting and associated industry engagements.
157. In the course of undertaking this review, other issues not within the scope were raised.
158. Given these fell outside the scope of this review, they were neither validated nor further explored. They were:
- a. Instances of small subsets of the Board involving two or three members making decisions has occurred frequently. Existing Board Governance Arrangements and policies do not specify how and when smaller numbers of Board members making decisions are considered to be those of the Board in total.
  - b. Board appointment processes as set out in the Board’s Governance Arrangements were not reflected in what actually occurs. Board subcommittee appointment processes were also not transparent.
  - c. Compliance with paragraphs 1.2.10 (communication with staff) and 2.4.4 (use of information) of the Board Governance Arrangements by Board members was not universal.
  - d. Paragraph 2.5.1 (outside employment) of the Board’s Governance Arrangements was not strictly enforced.
  - e. The restrictions on share trading in 2.5.4 of the Board’s Governance Arrangements did not go far enough and should be retrospective, with a greater reporting onus imposed.
  - f. Compliance with paragraph 2.5.5 (use of information by individual board members) of the Board Governance Arrangements was not enforced.

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<sup>34</sup> s47G(1)(a) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>35</sup> s47G(1)(a) [REDACTED]

- g. While paragraph 4.5.3 of the Board's Governance Arrangements sets out voting arrangements it was not clear on what matters needed to be voted on particularly when only two or three members pass resolutions

159. It is recommended the Board consider whether further review or amendments to the Board Governance Arrangements are required.



Jonathan Hanton  
Industry Complaints Commissioner

## Appendix A: Rex share prices two weeks either side of CASA Board meetings 2020 – 2023

Board meeting 13 February 2020:



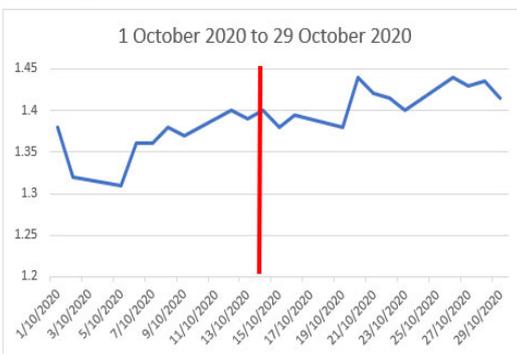
Board meeting 21 April 2020



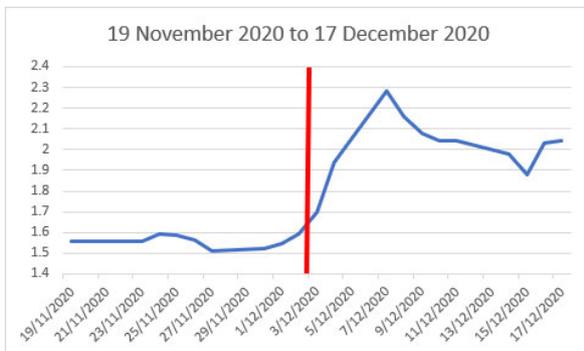
Board meeting 20-21 August 2020



Board meeting 14-15 October 2020



Board meeting 3 December 2020<sup>1</sup>



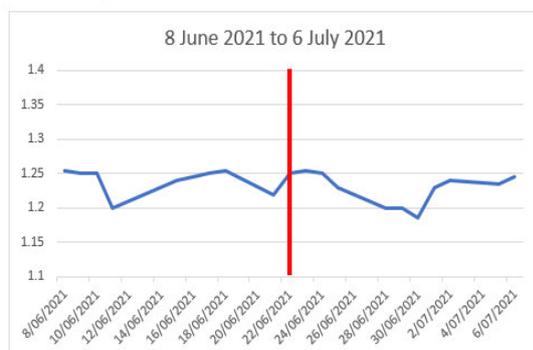
Board meeting 23 February 2021



Board meeting 21 April 2021



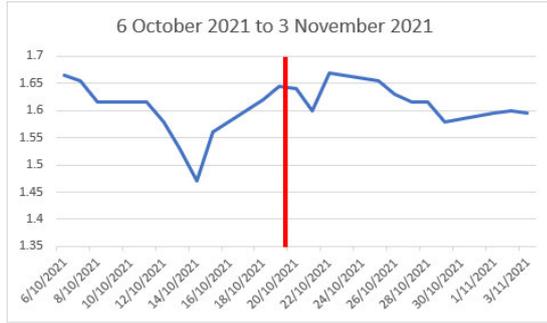
Board meeting 22 June 2021



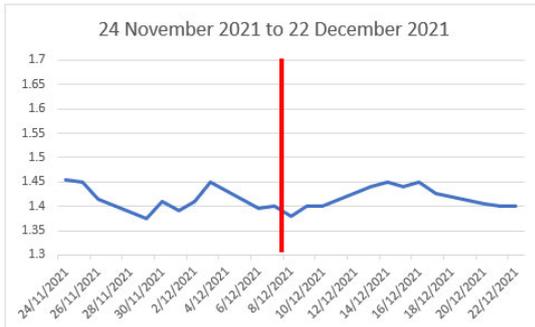
Board meeting 18 August 2021



Board meeting 20 October 2021



Board meeting 8 December 2021



Board meeting 1 March 2022



Board meeting 28 April 2022



Board meeting 23 June 2022



Board meeting 24 August 2022



Board meeting 19 October 2022



Board meeting 7 December 2022



Board meeting 28 February 2023



Board meeting 20 April 2023



Board meeting 22 June 2023

