

**UFU OF A AVIATION BRANCH**

**SUBMISSION IN RESPONSE TO THE**

**AVIATION RESCUE AND FIRE FIGHTING SERVICES**  
**REGULATORY POLICY REVIEW**  
**PUBLIC CONSULTATION PAPER, DECEMBER 2015**

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## **Introduction**

The United Firefighters Union of Australia Aviation Branch (“the UFU”) submission is provided and is inclusive of two parts.

- Below, the key points of the UFUA’s submission are detailed in response to the *“Aviation Rescue and Fire Fighting Services Regulatory Policy Review, Public Consultation Paper December 2015 ; and*
- *Attached is a University of Newcastle report “Prioritising safety in the allocation of Australian Aviation Rescue Fire Fighting Services (ARFFS)” (February 2016).*

The UFU commissioned the Newcastle University Centre of Full Employment and Equity Report (“the COFFEE Report”) to provide comprehensive and independent research into the critical issues raised in the Review consultation paper.

The COFFEE Report analyses the implications of the proposals outlined in the Review consultation paper in terms of national and international requirements and obligations and the likely impact on public safety.

Part 1 of the UFU submission (below) has been organized reflecting the structure of the Public Consultation Paper including headings.

### ***Consultation***

It is disappointing that key stakeholders like the UFU was not involved in consultation related to these issues. The UFU although a primary stakeholder and foundation member of the 139H SCC was not included in discussions with DIRD. It is a significant concern that only agencies involved in assessing policy settings was the Regulator CASA and the service provider AS/ARFF. This demonstrates an unhealthy nexus between the Regulator and ARFFS provider and there is a clear conflict of interest where the provider advises the Regulator on regulatory changes. It is also of concern that CASA by its own admissions lacks the necessary resources and personnel to conduct a review of the CASR 139H

The UFU has been engaged with the regulatory development of CASR 139H since its inception and are currently working with CASA SCC on the 2<sup>nd</sup> Post Implementation Review [PIR] of the CASR 139H MOS and Regulations. The Union had expected those discussions to continue in a bipartisan manner however it appears that process has been usurped.

## **PART ONE – UFUA SUBMISSION**

### **Response to the Executive Summary of the Public Consultation Paper**

Of all the 38 recommendations proposed by the *Aviation Safety Regulation Review* [ASRR] Panel, none specifically advocated or identified a need to provide policy advice on potential improvements to ARFFS. However, the Panel did express the opinion that better policy outcomes could have been achieved in the area of ARFF.

*“In Australia, the requirement for ARFFS is triggered when an airport deplanes 350,000 passengers in a year. While the service levels provided in Australia match ICAO requirements for certain airport categories, this threshold trigger is unique to Australia. The Panel understands there are a range of different perspectives among Australian government agencies on whether the trigger should be changed or if a range of graduated services should be adopted. Because the matter requires a clear policy judgement, the Panel would expect the Department to take the lead in providing policy guidance to the regulator and service provider.”<sup>1</sup>*

It appears that ASSR Panel determined a need for regulatory change based solely on their view that there is a range of different perspectives among government agencies on whether the pax benchmark trigger should be changed or if a range of graduated services should be adopted and that CASA needed DIRD oversight to ensure clear policy judgement. Given DIRD’s responsibility for the coordination of Australia’s engagement with ICAO it should be expected that they provide advice consistent with ICAO SARPS and not contrary to them by advocating an increase in the pax benchmark further exacerbating Australia’s non-compliance with ICAO standards.

The UFU considers any regulatory review should be addressed through a properly constituted SCC [Standards Consultative Committee] made up of subject matter experts, industry groups and employee associations provided with the necessary funding and resources from government to ensure Australia can meet its legislated obligations to ICAO rather than opting for a public consultation paper that provides pre-determined recommendations and preferred outcomes reached without any consultation with stakeholders. The proposals are contrary to ICAO SARPS and sadly demonstrate the lack of professional expertise by DIRD in this area.

The significant changes in the aviation industry relate to increased airline competition, mining activity, growth in passenger numbers and advances in aircraft technology (A 380), none of which change the fundamental principles of what triggers the establishment/disestablishment of an ARFFS and begs the question of why CASA and AS are committed to reducing ARFF services around regional Australia. By proposing to raise the existing passenger benchmark by 150,000 pax, we will see professional ARFF services removed from both current and forecast regional areas around Australia. The UFU question how this proposal can be seen as a potential improvement to the efficiency and clarity of Aviation Rescue and Fire Fighting Service (ARFFS) requirements.

#### ***Arrangements for establishment/Disestablishment of ARFFS***

It is a requirement under both the CASA and AS Acts that CASA and AS adopt ICAO standards and recommended practices. CASA should not certify an airport as International unless it has the necessary infrastructure including ARFF (refer ICAO Manual on Certification of Aerodromes).

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<sup>1</sup> Aviation rescue and firefighting page 23 *Aviation Safety Regulation Review May 2014*

The assumption that you place all the ARFFS resources at the busiest places has nothing to do with meeting ICAO SARPS. The question that needs to be asked is, “how do we provide ARFFS at all certified airports?” Firstly, you don’t raise the pax benchmark, you lower it as Canada did. Secondly, if there are too many “Certified Airports” CASA should review the criteria for determining “what is a certified airport?”

If DIRD was serious about applying best practice regulatory systems then they should be suggesting the establishment passenger benchmark should be lowered to 180,000 pax rather than increasing it to 500,000 (refer to Attachment A: Overseas Practice). Australia has already been identified by ICAO as failing to meet international obligations by not having ARFFS established at all Australian certified airports. The filing of differences identifies that Australia has failed to comply with ICAO SARPS. Further, Australia committed to review current 139H regulations and address the lack of compliance with any amendments necessary as part of the corrective actions proposed under ICAO’s USOAP (refer to Attachment A: Overseas Practice).

DIRD are proposing that the passenger benchmark be increased by 150,000 (almost the trigger for the establishment of an ARFFS in ICAO compliant countries) and linking it to a 4% increase in the 90% POB determination to 94% despite previously stating –

*“The percentage of overall passenger numbers (for a benchmark of 90 per cent or 95 per cent of passengers in transport flights at all Australian airports) was discounted as a viable measure on the basis that such arbitrary method of determination could likely result in some airports with similar risk profiles required to have an ARFFS where others may not.”*

Confusing to say the least. Never mind the lack of credible information to justify a change to establishment/disestablishment criteria in the first instance, especially as the proposal takes us even further away from the establishment criteria of our major overseas ARFF providers.

There is no substantive reason to raise the disestablishment figure to 400,000. If adopted today it would result in the closure of ARFFS at approximately one third of current ARFF units around the country and stop the establishment of ARFFS at a number of regional airports on the cusp on current establishment criteria. This would be contrary to Australia’s commitment to implementing ICAO’s USOAP to review 139H and make any necessary regulatory amendments to provide an ARFFS at certified aerodromes.

### ***Regulatory Role at Non ARFFS Airports***

Rather than find ways around its ICAO obligations it is incumbent upon CASA to act in a manner consistent with ICAO SARPS and rather than raising passenger benchmarks to avoid providing ARFFS at regional locations, lower them and come into line with other ARFFS providers and set benchmarks accordingly and establish ARFFS at all Australian certified aerodromes.

While CASA’s regulatory role is already well defined through the CASA ACT and Regulations, there remains an inherent need to have applicable CASA approved firefighting standards operating at airports in accordance with ICAO standards.

Currently an airport that doesn’t meet ARFF establishment criteria is considered a Level 2 airport and does not need to have an ARFF. There is no impediment to having firefighting equipment available and volunteers trained to use such equipment provided they are not providing or advertising an ARFFS as prescribed under the AS ACT. There is also no impediment for local fire services to assist airport operators in a fire/crash emergency.

Regulation should be amended to reflect that an ARFFS should be provided if CASA are to be consistent with their obligations to implement and give effect to the ICAO SARPS.

### ***ARFFS Roles and Responsibilities***

The AS Regulations are very specific and need no clarification about ARFF areas of responsibility and operations. The Union is not aware of any requirement for State or Territory Services to hold

separate CASA approvals to assist in ARFF operations. There already is a clear statement of the functions of an ARFFS and arrangements with State and Territory fire brigades in the *Airservices Regulations 1995*.

## ***Division 2 Rescue and fire fighting services***

### ***4.02 Functions of the Rescue and Firefighting Service***

*(1) The functions of the Rescue and Firefighting Service are:*

*(a) to conduct operations to rescue persons and property from an aircraft that, as the result of an incident at, or in the vicinity of, an aerodrome, has crashed or caught fire; and*

*(b) to conduct operations to control and extinguish, and to protect persons and property threatened by:*

*(i) a fire at an aerodrome, whether in an aircraft or elsewhere; or*

*(ii) a fire in the vicinity of an aerodrome that is in, or that started in, an aircraft.*

*(2) In carrying out its functions under subregulation (1), AA must give priority to operations that are conducted:*

*(a) at an aerodrome; or*

*(b) within 1000 metres of any boundary of an aerodrome.*

### ***4.05 Arrangements with State or Territory fire brigades etc***

*For the purposes of an operation under this Division, AA may make an arrangement with:*

*(a) a State or a Territory, or an authority of a State or a Territory — in relation to the use of a State or Territory fire brigade; or*

*(b) the Defence Force — in relation to the use of a fire fighting service provided by the Defence Force; or*

*(c) any person or organisation — in relation to use of a rescue or fire fighting service provided by that person or organisation.”*

***[Regulation 4.02 and Regulation 4.05 Air Services Regulations 1995]***

The proposal that CASA Regulations be amended to provide that state and territory fire authorities are not required to hold separate approval to assist Airservices Australia (Airservices) in the provision of ARFFS where they are providing the service under an agreement with Airservices would seem to be superfluous given the current *Civil Aviation Safety Regulations 1998 (CASR)*.

### ***“139.780 Agreements with other fire fighting bodies***

*An ARFFS provider may make an arrangement:*

*for an aerodrome that is a joint user airport (within the meaning of the Airports Act 1996)— with the Defence Force for the provision of the ARFFS provider’s services to the Defence Force for the part of the aerodrome under the control of the Force; or*

*with a State or Territory, or another person or body, for the services of the provider for firefighting or rescue in the State or Territory beyond the airside of the aerodrome concerned.*

*If a provider makes such an arrangement, the provider must ensure that it is recorded in writing.”*

***[Regulation 139H, 139.780 Civil Aviation Safety Regulations 1998]***

In relation to airport owner/operators the matter is simple, if they want an Operating and/or Aerodrome Certificate from CASA they must facilitate the establishment of an ARFFS be that the requirement to provide land, landings or access.

### ***Removing Red Tape***

It is the “red tape” that maintains standards and stops goal posts from moving in regard to public safety. Regulation is prescriptive for a reason and that is to prevent misinterpretation and maintain consistency both of which are essential when dealing with public safety. To be flexible about training and equipment standards is a recipe for disaster especially in an industry where you don’t get second chances. There must be a thorough examination of who is advocating these sorts of changes, what is their motivation and will the safety record of the Australian aviation industry be maintained.

The primary objective of this review is stated as being the examination of the regulatory policy settings for determining when ARFFS are required at Australian civil airports and whether there are opportunities to improve current arrangements by the adoption of modern risk assessment approaches and more effective allocation of resources. Improvement cannot occur with an approach that clearly advocates a reduction in ARFFS at regional airports and a position of no growth for the foreseeable future. Australia is a signatory state to the Chicago Convention and has an obligation to comply with and adopt ICAO SARPS as legislated in the Airservices Act and CASA Act and Regulations.

## **Response to DIRD Summary of Key Proposals**

- *The Use of risk reviews to determine future establishment/disestablishment of ARFFS at Australian airports using the requirement for scheduled international passenger air services and total number of passenger movements as trigger criteria for reviews*

Risk reviews are subjective. They may indicate the likelihood of a major aircraft tragedy in Australia is low, they may also say the risk of being injured using cheap PPE is also low and that chances of cheaper equipment failing is low but it is the travelling public/passengers who bear the risk of the decisions of legislators and regulators. Are the risks associated with non-compliance with ICAO Standards and the associated reduction in public safety a risk they will accept? The answer is obvious.

- *The ARFFS regulatory framework be updated to provide for:*
  - a) fire fighting related services at airports which are not required to have ARFFS not being subject to the regulatory framework;*

Australia committed to review and make any necessary amendments to the regulatory requirements relating to ARFF provision at certified airports as detailed in CASR Part 139H (reference ICAO USOAP 2010). To adopt a policy that certified airports are not subject to ICAO SARPS is contrary to Australia’s legislative obligations..

- Clarification of what areas and facilities at an airport are covered by ARFFS;

These are already adequately covered in the following Regulations:

### ***Division 2 Rescue and fire fighting services***

#### ***4.02 Functions of the Rescue and Firefighting Service***

*(1) The functions of the Rescue and Firefighting Service are:*

(a) to conduct operations to rescue persons and property from an aircraft that, as the result of an incident at, or in the vicinity of, an aerodrome, has crashed or caught fire; and

(b) to conduct operations to control and extinguish, and to protect persons and property threatened by:

(i) a fire at an aerodrome, whether in an aircraft or elsewhere; or

(ii) a fire in the vicinity of an aerodrome that is in, or that started in, an aircraft.

(2) In carrying out its functions under subregulation (1), AA must give priority to operations that are conducted:

(a) at an aerodrome; or

(b) within 1000 metres of any boundary of an aerodrome.

#### **4.03 Designation of officers in charge**

The AA may designate a qualified employee to be the officer in charge of operations under this Division for:

(a) a specified aerodrome; or

(b) a specified location in the vicinity of a specified aerodrome.

#### **4.04 Duties and powers of officer in charge**

(1) For the purpose of conducting an operation under this Division, the officer in charge may:

(a) give directions, that the officer thinks proper, to fire fighters and volunteers under the control of the officer; and

(b) take measures that the officer thinks proper.

(2) Without limiting the generality of paragraph (1) (b), the officer in charge may do the following things for the purpose of an operation:

(a) enter (by force, if necessary), take possession of and deal with in any appropriate way, premises, an aircraft or other property;

(b) close a road or other thoroughfare to traffic;

(c) without payment, use a convenient water supply (including shutting off water supply from a main or pipe to obtain greater pressure or supply);

(d) disconnect electricity supply to premises;

(e) remove flammable, explosive or other dangerous material from premises, an aircraft or other property;

(f) order a person to leave premises, an aircraft or other property;

(g) remove from the vicinity of the operation, a person or thing the presence of whom, or which, in the officer's opinion, is likely to significantly interfere with the operation;

(h) take a fire engine or other fire appliance onto land or premises;

(j) shore up or destroy a wall or building that, in the officer's opinion, is insecure or may be dangerous to persons or property;

(k) direct or authorise a fire fighter or a volunteer to do an act or thing that, under this regulation, the officer is empowered to do.

(3) In relation to an operation, a fire fighter may do an act or thing set out in paragraph (2) (a), (b), (c), (d), (e), (f) or (h) without authorisation under paragraph (2) (k), if the fire fighter is of the opinion that, for the purpose of conducting the operation:

(a) it is necessary or desirable to do that act or thing; and

(b) it is not practicable for the fire fighter to obtain authorisation.

(4) In this regulation:

*fire fighter, in relation to an operation, means:*

- (a) a qualified employee; or*
- (b) a member of a fire brigade, or of a rescue or fire fighting service, who is taking part in the operation in accordance with an arrangement under regulation 4.05.*

*officer in charge, in relation to an operation, means:*

- (a) the employee designated under regulation 4.03 for the operation; or*
- (b) if, in accordance with an arrangement under regulation 4.05, the person in control of an operation is a member of a fire brigade, or of a rescue or fire fighting service — that person.*

*volunteer, in relation to an operation, means a person who has volunteered to assist in the operation under the direction of the officer in charge.*

#### **4.05 Arrangements with State or Territory fire brigades etc**

*For the purposes of an operation under this Division, AA may make an arrangement with:*

- (a) a State or a Territory, or an authority of a State or a Territory — in relation to the use of a State or Territory fire brigade; or*
- (b) the Defence Force — in relation to the use of a fire fighting service provided by the Defence Force; or*
- (c) any person or organisation — in relation to use of a rescue or fire fighting service provided by that person or organisation.*

#### **4.06 Action not to lie against AA etc**

*No action lies against AA, or an employee or agent of AA acting in the course of the person's employment or agency, for injury or damage caused, directly or indirectly, to a person or the property of a person, by the exercise of a power under regulation 4.04.*

- *Specification that state and territory fire authorities are not required to hold separate CASA approvals to assist Airservices in the provision of ARFFS;*

The Union is not aware that such a requirement currently exists, if it does. ASA Regulations already detail the interaction between Airservices and State and Territory services and their role in an emergency and on this basis sees no necessity for change to the current Regulations.

- *Clarification of the role of airport operators in relation to ARFFS;*

The Union's view is that if there is no ARFFS at a certified airport then the airport operator is not issued with an operating certificate.

- *Replacement of prescriptive requirements in the current regulations with a more systems and outcome based approach supported by a SMS approved and audited by CASA.*

The Union believes that this is a recipe for disaster. If existing regulations need some tweaking then this should occur through a proper PIR process with full consultation with the full involvement of ALL stakeholders [which includes the Union as the workers' representative], subject matter experts and not just an amendment to satisfy the current provider.

Without standardization and proper accountability standards are lowered and public safety is compromised. The provision of ARFFS for public safety should not be compromised on the basis of cost.

## International Obligations

Non-adoption of ICAO Standards is notified by lodging a “difference” with ICAO. While differences are formally notified to ICAO they are usually done to advise why compliance with the SARPS cannot be achieved.

Differences have occurred because of conflicting measurement systems, climatic differences, language or terminology or the use of a stricter or higher standard, as examples. As a signatory, and council member of ICAO, Australia and, by legislation, CASA have an obligation to abide by and act consistently with ICAO SARPS.

In 2010 the ICAO USOAP found Australia was not complying with ICAO SARPS and Australia committed to reviewing CASR 139H and implementing necessary regulatory amendments addressing the non-provision of ARFFS at certified aerodromes.<sup>2</sup>

*“In certifying 190 airports and requiring less than 15% of them to have an appropriate rescue and firefighting capability that accords with Annex 14 of the Chicago Convention, the Australian civil aviation system is considerably at variance with the international standard. The DIRD discussion paper asserts that there is nothing remarkable about this and that Australia meets its compliance obligations by lodging a notification of ‘difference’ with the standard.”<sup>3</sup>*

In broad terms, the DIRD proposals constitute an intention to diminish compliance with ICAO standards, and diminish aviation safety standards in Australia, rather than improve them as should be the function of aviation safety regulatory reform.

## Implementation of ARFFS In Australia

CASR 139H was established in 2002 and at the time specific covenants were placed on the development of the regulations. Specifically, they could not place any additional cost on industry. They had to reflect current standards and practices and were the absolute minimum requirements. As a result, Australia has fallen well behind other nations and does not comply with ICAO SARPS for the provision of ARFFS at all certified airports. Now, through this review, there are proposals to further reduce ARFFS coverage, which can only result in further compromise to public safety. This is unacceptable and if the proposals in this paper became public knowledge there would be a public outcry.

Australia was forced to lodge a number of differences due to the fact that an ICAO safety oversight audit in 2009 made a scathing assessment of Australia’s noncompliance with ICAO SARPS.

Aviation Firefighters have the capacity to provide emergency medical responses, monitoring of fire alarms and a range of non-aviation rescue and fire fighting. The paper seems to attach some significance to the fact that 95% of these responses have been at international airports. This would be expected however the capacity is generally available at all airports where ARFFS is established. This capacity has been utilized on so many occasions and there can be no doubt that without it loss of life and property most likely would have been higher than it has been. The proximity of ARFFS to airport terminals and other property provides a much quicker response to all types of incidents and the value of this service to the public and airport owners cannot be underestimated. The cost benefit is most likely incalculable and makes ARFFS a significant and valuable asset for public safety at airports and backup to local brigades and services. In short, the non-aviation fire and rescue services are a public benefit and asset particularly in regional areas.

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<sup>2</sup> refer to ICAO 36<sup>th</sup> Session Report of The Technical Commission Appendix D Implementation of SARPS and PANS

<sup>3</sup> COFFEE Report page 25

## Arrangements in Comparable Countries

In general, differences are filed on unique circumstances. Whether it be due to climatic conditions, language or cultural issues or an inability to afford necessary infrastructure to meet ICAO SARPS. However, a filed difference should not be made because it is inconvenient to meet international obligations.

Australia is a major partner and Council member in ICAO and has clear regulatory obligations to meet and abide by ICAO SARPS. Where a major difference is filed, contracting states should continue to strive to eliminate those differences as resolved by the Assembly.<sup>4</sup>

Reference is made to a number of overseas models and if these were adopted, there would be a significant increase in the number of airports with established ARFFS. Why is this an issue? What price do you put on public safety and a human life?

The real issue behind the provision of ARFFS in Australia is funding. A proper funding model is required. All of the major overseas ARFFS providers have lower passenger benchmarks than Australia. They all provide an ARFFS at aerodromes that RPT aircraft operate with a capacity of 30 or more passengers and importantly, have a funding regime that does not place an impost on the aviation industry.

The UFU has advocated, since the inception of CASR 139H, the need for a user pay system to fund ARFFS allowing Australia to meet its obligations and commitment to public safety and ICAO SARPS. The Union has advocated and has a policy position that a PFC [Passenger Facilitation Charge] similar to that in the USA be introduced in Australia. Such a charge removes the cost of ARFFS from the industry and allows ARFFS services to be funded by the ultimate risk takers, the travelling public. Such a charge, even at a relatively low level would adequately fund ARFFS in Australia including smaller regional airports and bring Australia into line with overseas best practice provides listed in **Attachment A to the consultation paper**.

Ironically, the Union believes that CASA have applied to the Minister for Transport and Regional Infrastructure for approval of a similar charge to fund CASA operations.

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<sup>4</sup> ASSEMBLY — 36TH SESSION MONTRÉAL, 18 TO 28 SEPTEMBER 2007 REPORT OF THE TECHNICAL COMMISSION ICAO Doc 9899, *Report of the Technical Commission*

### APPENDIX D Implementation of Standards and Recommended Practices (SARPs) and Procedures for Air Navigation Services (PANS)

*Whereas* Article 37 of the *Convention on International Civil Aviation* requires each Contracting State to collaborate in securing the highest practicable degree of uniformity in regulations and practices in all matters in which such uniformity will facilitate and improve air navigation;

*Whereas* in accordance with Article 38 of the *Convention* any Contracting State which finds it impractical to comply in all respects with any international standard or procedure and deems it necessary to adopt regulations or practices differing there from is obliged to give immediate notification to ICAO; and

*Whereas* it is important that all available means of the Organization be employed in encouraging and assisting Contracting States in overcoming their difficulties in implementation of SARPs and PANS;

*The Assembly resolves that:*

1. Contracting States shall be encouraged and assisted in the implementation of SARPs and PANS by all available means;
2. the differences between the regulations and the practices of Contracting States and the

SARPs and PANS shall be monitored by the Council with the aim of encouraging the elimination of those differences that are important for the safety and regularity of international air navigation or are inconsistent with the objectives of the international Standards; and the Council shall analyse the root cause for non-implementation and take appropriate action.

## Measures of airport activity

The consultation paper proposes a reduction in the provision of ARFFS in Australia at a time when BITRE modeling predicts a steady increase of 3.7% per year in annual passenger movements.

Any increase in aircraft traffic increases the likelihood of an event. New technologies do not guarantee safer aircraft as seen with the multiple incidents involving A380 aircraft. Other factors such as pilot error, lithium batteries igniting, fuel spills, hydraulic events and bird strikes also cannot be predicted.

Risk assessments are subjective at best and cannot be allowed to be a means of justifying the avoidance of international obligations.

*The DIRD discussion paper proposes a risk assessment be conducted of a given airport once it has reached a threshold number of passenger movements (e.g. 500,000), to determine if it should have a rescue firefighting service, or not, implying some will be justified in doing so and some will not. The proposal seem reasonable at first glance, since risk assessments are a standard feature of commercial life, and we are used to significant decisions being made on their basis, as in allocating emergency services resources and determining the location of urban fire service stations, etc. However, when we consider the nature of the risk we are attempting to assess in relation to a particular airport, we find that it is not conducive to testing. It would amount to little more than an unverifiable assertion.<sup>5</sup>*

The fact remains, that ICAO expects ARFFS to be provided at all certified airports. Which airport is more or less likely to experience an incident is irrelevant to the extent that it is impossible to predict where an incident may occur and to base the provision of ARFFS on such a basis is bordering on criminal.

Australian standards remain significantly behind international best practice in relation to the provision of ARFFS and will lag even further behind if the benchmarks proposed in the consultation paper are allowed to be adopted.

## Potential Measures

The exclusion of overseas benchmarks from the list of potential measures suggests a hidden agenda and that a decision on the outcome of the review already made based on the preferred outcome highlighted in the consultation paper.

Nowhere in the review paper is there any consideration of additional or alternative ways of adequately funding the provision of ARFFS in Australia? There is no basis for claiming that ARFFS resources should be focused on the major airports. Passengers at smaller regional airports are just as important as the bulk of passengers passing through the major airports.

Great focus should be placed on ways of increasing funding of ARFFS through means of the PFC [passenger facilitation charge] proposed by the Union or a combination of a PFC and the current pricing arrangements agreed to between Airservices and the airlines.

It would be very interesting to know how many passengers smiling reassuringly at the ARFFS station as they taxi for take-off realize and know that, in many cases they do not have an ARFFS at the end of their journey. How would they react if they knew of the lack of ARFFS in Australia and that consideration was being given to reducing that cover even further?

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<sup>5</sup> COFFEE Report page 45

- *Measure 1: Receipt of Scheduled International Passenger Air Services*

In reference to Norfolk Island, administration of the island has changed and reverted to the Australian Government. This is a location that could require establishment of an ARFFS and not the removal of ARFFS on the island.

The consultation paper notes that removing ARFFS from Norfolk Island could reduce cost to airlines that provide services to the island. Again, the emphasis of this review seems to be about cost reductions for Airservices, the regulator and airlines at the expense of public safety. The continual references to cost savings makes this very clear.

- *Measure 2: Annual airport passenger numbers*

Table 1 on page 21 demonstrates that increasing the passenger number threshold leads to a reduction in the number of travelling passengers covered by an ARFFS. The proposals to increase the establishment/disestablishment for the provision of ARFFS are illogical and misguided in the face of BITRE modeling which predicts a steady annual increase of 3.7% in passenger numbers. To reduce ARFFS provision with a focus on saving costs to the provider and the airlines is irresponsible and potentially reprehensible.

- *Measure 3: Percentage of overall passenger numbers*

This measure is considered by the review to be the least effective for determining at which airports ARFFS should be provided, yet Table 1 on page 21 of the review paper demonstrates that such an approach maximizes ARFFS coverage for the travelling public. The narrow focus of the review paper on cost savings to the provider and the airlines, backed by contrived, subjective risk assessments is too narrow and neglects of broader funding considerations to properly and adequately fund ARFFS for the maximum number of the travelling public.

- *Measure 4: Aircraft movements*

While the number of aircraft movements could trigger the need to establish an ARFFS at secondary airports the provision of an ARFFS should not be discounted necessarily due to no scheduled aircraft movements. These airports could still have a significant number of people and passengers moving through and working at them. As the paper notes, a significant range of activity occurs/can occur at these airports and the lives of people engaged in or affected by those activities are just as important as those at any other airport where an ARFFS is currently provided or proposed to be provided.

## **Risk Assessment**

The risk of an aircraft emergency is universal and that is why at all certified aerodromes ICAO SARPS apply.

## **Preferred approach to ARFFS Establishment/Disestablishment**

- *Policy and risk context*

The paper says that “an enduring bi-partisan position of consecutive Australian Governments is that the safety of passenger transport services is given the highest priority in aviation safety regulation.” How then can the review be proposing a reduction in the provision of ARFFS around the country?

If the key objective of providing ARFFS is to save lives in the event of an aircraft accident or incident at an airport then the primary response to this objective should be to ensure the

provision of ARFFS at CASA certified airports. It does not necessarily follow that the provision of ARFFS should be focused only on those locations where the safety of the most people is at risk.

The provision of an ARFFS at an airport is not risk based. It is based on ICAO Standards which support a task based analysis to physically determine what is required in an emergency scenario.

- *Disestablishment of ARFFS*

The UFU sees the DIRD proposals in the Public Consultation Paper as flagging an intention to further diminish Australia's compliance with ICAO Standards with a consequent reduction in aviation safety standards in Australia. The object of any aviation safety regulatory review should be the improvement of aviation safety not its diminution.

The brunt of any increased risk will be borne by current and future passengers and flight crews who may experience aircraft emergency incidents yet there is nothing to indicate their views will be considered in the review. Clearly, the opinions of those who stand to gain financially from an increased risk are evident in the proposed outcomes in the DIRD proposals.

The views of people who will bear the increased risk, namely future passengers and crew experiencing aircraft emergencies, will not be heard in the review, whereas those of people who seek to gain financially from the increased risk will be.

*"The discussion paper offered by the government to frame the review that is currently being undertaken, is not proposing to rectify Australia's non-compliance but to exacerbate it. It is relying on the fact that:*

*Ultimately ICAO has a significant lack of authority to enforce its own policies. It relies on the assumption that the individual member states will do everything they can to maintain the system the way it is designed (Spence et al, 2015: 3).*

*The government's willingness to brazenly flout international standards in this important international sphere is one thing, but we need to be clear that it is not just our international reputation that is at stake. A recent empirical study into the relationship between a nation's compliance with ICAO standards and safety concluded:*

*Despite the size of a state, the wealth of a state, the number of commercial aviation operations, or the number of total fatalities in a given period of time, the more compliant a particular state is with international standards coincides with a reduction in commercial airline fatalities. ICAO member states need to be informed of this research and understand what the findings suggest. The member states should make their best effort to ensure compliance with the international standards set forth by ICAO because an associated improvement in safety should result in a reduction in number of fatalities (Spence, et al, 2015: 7).*

*So while we have been fortunate in the low civil aviation accident rate in this country, it is a dangerous expression of hubris among regulators to suggest that this justifies being less compliant with the ICAO standard than we already are"<sup>6</sup>*

The DIRD proposals in the consultation paper place greater emphasis on cost containment rather than on improving aviation safety.

*The proposed establishment / disestablishment changes are premised on two principal assumptions. The first is that recent historic gains in aviation technical reliability mean that safety regulation can and should be reduced if it produces a cost saving. The second is that it would be possible to determine the probability of an aviation accident occurring at a given airport. Both of these assumptions are unsustainable.<sup>7</sup>*

There is no evidence that the past rates of improvement in the occurrence of aircraft incidents is an indicator of future rates.

*..... we do not know that the past rate of improvement in the aviation accident rate is*

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<sup>6</sup> COFFEE Report page 25

<sup>7</sup> COFFEE Report page 53

*indicative of its future course, given emerging challenges. Technological improvements were relatively 'low hanging fruit' as compared to what remains, namely the human and environmental factors that now constitute the major causes of aviation accidents<sup>8</sup>.*

The literature is skeptical about the value of modelling the probability of rare events such as an aircraft incident at a given airport. Risk assessments may be able to meaningfully assess the consequences of an incident at a given airport under given conditions but not the probability of such an occurrence. This reflects the ICAO position of ensuring that there is the means of providing an appropriately prepared ARFFS at all certified airports.

## **Regulatory Role at Non-ARFFS Airports**

CASA as the regulator should undertake its own due diligence to ensure that some form of firefighting capability exists at all registered airports even if it is supported by volunteers in association with local fire brigades. Such service would not constitute an ARFFS but would operate in the same manner as having fire wardens or extinguisher training available in a workplace.

Any associated costs should be picked up by the airport owner as it bears the duty of care to have basic firefighting equipment which should be required as part of their license. This should be considered by CASA/DIRD.

## **ARFFS Roles and Responsibilities**

- Nature and division of responsibilities at airports

Aside from what has already been cited from current legislation, this is what the then government said in relation to ARFFS in the White Paper "*Flight Path To The Future*" in 2009.

*Airservices will invest almost \$900 million over the next five years to upgrade and replace existing infrastructure. This investment includes critical radar and navigational aid replacements, new control towers and new aviation rescue and fire fighting stations and equipment.*

*The Government will also improve aviation rescue and fire fighting services through establishing better governance arrangements that clarify roles and responsibilities*

*Airservices Australia faces shortages of trained staff in a range of key fields particularly air traffic controllers and aviation fire fighters, which will remain an ongoing challenge for the agency. To meet this challenge Airservices has developed an initial Workforce Plan covering all areas of its workforce, including air traffic controllers, aviation rescue and firefighting officers and other technical and asset services staff.*

*Airservices provides civil air traffic management and aviation rescue and fire fighting services at our major airports.*

*The Minister issued a new Statement to the Airservices Board in October 2008. The Statement requires Airservices to focus on delivering core air traffic and aviation rescue and fire fighting services*

*The Government will also ensure that the scope, roles and responsibilities of Airservices and other agencies in relation to aviation rescue and fire fighting services (ARFFS) are clearly defined.*

*Coinciding with the release of this White Paper, the Department of Infrastructure is releasing for consideration by stakeholders a policy framework paper on the intended future arrangements for ARFFS, non-aviation rescue and fire fighting and other functions at airports. The Department will liaise with industry stakeholders in early 2010 regarding implementation and transitional arrangements.*

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<sup>8</sup> COFFEE Report page53

*Airservices maintains an asset base of \$650 million at over 600 sites in Australia and manages air traffic operations for more than four million flights carrying about 65 million passengers each year. It operates 26 air traffic control towers and 21 aviation rescue and fire fighting services at capital city and major regional airports around Australia.*

*This investment includes critical radar and navigational aid replacements, ADS-B technology, new air traffic control towers and aviation rescue and fire fighting stations and equipment. Defence will also be investing in new and upgraded ATM infrastructure.*

*Airservices has developed an initial Workforce Plan covering all areas of its workforce, including air traffic controllers, aviation rescue and fire fighting officers and other technical and asset services staff. This is a much needed initiative to ensure there are sustainable workforce strategies in place to address the long-term human resource needs of Australia's major civil air traffic service provider.*

With increasing aircraft and passenger movements it is not a time to be reducing service to the travelling public who bear the ultimate risk of flying. ARFFS' role is already clearly defined in legislation and the "non-core" services it provides are an asset that supplements and compliments the service of all emergency services at airports and the value of the services ARFFS provides has already been established through the lives and property saved by its presence at airports where it exists.

The ultimate solution to Airservices meeting its ICAO obligations is to establish a proper funding base which adequately funds the service and maintains its ability to meet current and future needs.

*The provision of ARFF services should ideally be paid by stakeholders in proportion to the benefit they derive from their provision, which can only be roughly estimated. It needs also to be very sensitive to a capacity to pay.*

*The passengers and air crews arriving and departing from an airport with an ARFF service are probably the principal beneficiaries of its presence because it enhances their safety.*

*The airline operators benefit from the protection of their aircraft and staff, while airport operators whose airports are made safer also benefit.*

*The tourism sector also benefits from the investment in aviation safety because it makes tourist destinations more attractive and diminishes the risk of a market decimating disaster.*

*The nation as a whole also derives a strategic benefit in having a skilled and equipped emergency response capability maintained around the nation's airports that can be called upon in special circumstances to help deal with other catastrophes and crises at a local or national level. ARFF teams have been deployed in life threatening emergencies such as bushfires, and to have the available skills pool supplementing our national emergency response capability is of strategic benefit to the country as a whole.*

*These services should therefore be funded from a national levy on air travellers, of around seven dollars per landing at airports with ARFF, which if applied to the airports currently with an ARFF establishment would raise about \$495 million using 2014-15 annual passenger movement data (BITRE, 2015). Airlines should pay the levy for their crews and non-paying passengers.*

*Any net surplus over operating costs should be invested in the establishment of services at new airports, in order of airport category and traffic levels.*

*This is consistent with recommendation 17 of the 2003 House of Representatives Standing Committee on Transport and Regional Services (SCTRS, 2015).<sup>9</sup>*

Functions and responsibilities must align with ICAO Standards as a minimum and must also include Area B in the Response Zone.

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<sup>9</sup> COFFEE Report pp 51 and 52

Aviation related infrastructure is mentioned on page 34 of the consultation paper but has omitted refueling installations.

In regard to settling the ambiguity between ARFFS roles and those non-aviation fire fighting roles and establishing a firm basis for agreements between Airservices and other agencies, while this may have some substance, the obligation of the nearest responder cannot be removed on this basis.

- *Approval of State and Territory fire authorities as an ARFFS provider*

The UFU does not consider mutual aid from local fire service to be a provision of ARFFS.

Current legislation (ASA and CASA already provides for State and Territory brigades to assist ARFFS to perform its functions.

Local agencies lack the proper infrastructure and resources to provide an ARFFS. To approve State and Territory fire services to provide an ARFFS will only further compromise public safety

- *Clarifying the role of airport operators*

In addition to the dot points mentioned in the consultation paper, operators must also be responsible for:

- Maintaining suitable access and approach/departure areas at gates
- Power, buildings workshops safe from radiation areas
- Provide environmental support
- Stretchers and co-ordination areas.

There are a number of matters that need to be addressed within the CASR Regulations and MOS 139H but the main issue remains there must be compliance with ICAO Annex 14. Once that is resolved the 139H PIR should continue with full resourcing and consultation (including the Union) to work through what are technically minor issues.

## **Removing Red Tape**

Extremely broad statements such as those listed on page 37 of the report need more specific detail before any changes can be considered and addressed. Such proposals must be considered and addressed through a properly established SCC forum which includes the Union, particularly with such issues as qualifications and competencies required to perform duties, requirements relating to training programs, competency/skills maintenance and training providers, the procurement and provision of protective clothing.