

## EXPLANATORY STATEMENT

### Australian Airspace Policy Statement 2021

Issued by the authority of the Minister for Infrastructure, Transport and Regional Development

The responsibilities and functions related to airspace administration and regulation in Australia are set out in the *Airspace Act 2007* (the Act) and the Airspace Regulations 2007 (the Regulations).

Section 8(1) of the Act provides that the Minister must make a statement, the Australian Airspace Policy Statement (AAPS), and subsection 8(2) specifies that the AAPS must:

- (a) specify and describe the classifications to be used to administer Australian-administered airspace; and
- (b) specify and describe the designations to be used for the purposes of restricting access to, or warning about access to, particular volumes of Australian-administered airspace; and
- (c) describe the processes to be followed for changing the classifications or designations of particular volumes of Australian-administered airspace; and
- (d) outline the Commonwealth Government's policy objectives for the administration and use of Australian-administered airspace; and
- (e) include a strategy for the administration and use of Australian-administered airspace in the future.

Section 11A of the *Civil Aviation Act 1988* (the CA Act) requires that the Civil Aviation Safety Authority (CASA) must exercise its powers and perform its functions in a manner consistent with the AAPS. Section 11A of the CA Act also requires that CASA must notify the Minister in writing if it proposes to exercise a power or perform a function in a manner that is inconsistent with the AAPS, and provide its reasons for doing so.

Details of the AAPS are set out in [Attachment A](#) and information on the documents referenced in the AAPS is provided at [Attachment B](#).

The first AAPS commenced on 1 July 2007. The current AAPS came into effect on 5 October 2018. Consistent with review provisions in the Act, the Government has taken the opportunity to review the AAPS.

In reviewing the AAPS, the Government has consulted, as required by subsection 9(1) of the Act, with CASA and Airservices Australia (Airservices). The Government also consulted with the Department of Defence (Defence). Public and industry consultation was undertaken over the period 1 June 2021 and 23 July 2021, in the preparation and finalisation of the AAPS.

Subsection 8(5) of the Act provides that the AAPS is a legislative instrument for the purposes of the *Legislation Act 2003* but is not subject to the disallowance (section 42) or sunset provisions (Part 4 of Chapter 3) of the *Legislation Act 2003*, (see Regulations made for the purposes of paragraph 54(2)(b) of that Act).

The AAPS is a statement of Government policy, drafted by the responsible Minister as a representative of Government. It does not impose duties or obligations, or create penalties. For these reasons, it is not appropriate that the AAPS should be subject to disallowance by the Parliament.

## **Details of the Australian Airspace Policy Statement (AAPS)**

### Clauses 1, 2 and 3 – Name of Instrument, Commencement, Definitions and Reference Documents

Clause 1 provides the name of the instrument.

Clause 2 provides its commencement date will be 24 November 2021 and that this Statement repeals the previous AAPS, which commenced on 5 October 2018.

Clause 3 advises that a glossary of terms, and a list of referenced documents and how to access them, are provided at the end of the AAPS.

### Clause 4 – Purpose

Clause 4 sets out the purpose of the AAPS. The purpose has been updated to improve clarity in the guidance provided to CASA, as the airspace regulator, on the administration and regulation of airspace as a national resource, and guidance for the aviation industry and other aviation agencies.

### Clauses 5, 6 and 7 – The Functions and Powers of CASA

This section reflects that the Office of Airspace Regulation is a distinct business unit of CASA and exercises delegations in that role.

Clauses 5 and 6 state that CASA will exercise its authority and powers for airspace administration with safety of air navigation as the most important consideration and emphasises that all roles, responsibilities and functions in the Act and Regulations must be fulfilled by CASA.

Clause 7 sets out arrangements for coordination and harmonisation of civil and military airspace requirements being facilitated by Department of Defence personnel working within the OAR, and holding delegated powers under the Regulations.

### Clauses 8-14 – Government Policy Objectives

The Government's policy objectives are listed to provide improved visibility of the Governments objectives for the administration and use of Australian-administered airspace.

The policy objectives are set out clearly and define the requirement for CASA regarding safety; the Australian Future Airspace Framework; emerging aviation technology policy; airspace review; international consistency; regional aerodromes and regulatory reviews.

The policy also acknowledges that the changing nature of aviation may impact on the airspace regulations and provides the intent that CASA should undertake operational reviews of Australia's airspace architecture and continue to consider proven international best practice airspace systems with a view to delivering safe, efficient and appropriate airspace arrangements.

Protection of regional aerodromes and alignment with global plans remains a focus.

### Clause 15 – Airspace and Air Route Administration

Clause 15 provides eight broad principles to be applied in the administration and regulation of Australian-administered airspace, in addition to the mandatory considerations set out in the Act. It has been expanded in this version to cover national security requirements and consideration of the environment as far as practicable.

### Clauses 16-17 – Airspace Classes used in Australian-administered Airspace

Clause 16 states Australian airspace classes and associated levels of service are generally aligned with international conventions. Clause 17 specifies and describe the classes of airspace that may be used in Australia. Classes B and F are not used at present in Australian-administered airspace.

This section is aligned with previous versions but has been technically updated.

### Clauses 18-22 – Special Use Airspace

This policy statement has been updated to reflect the changing use requirements of airspace and the methods currently available to support such operations and potential future requirements.

Clauses 18 and 19 specify and describe the designations to be used, in a simplified manner, consistent with international convention, for the purpose of restricting access to, or warning about access to, particular volumes of Australian-administered airspace, i.e. Prohibited, Restricted and Danger areas.

Clause 20 and 21 outlines where the use of Prohibited, Restricted and Danger areas are not appropriate but where military operations are taking place.

Clause 22 outlines potential future requirements for defined airspace.

### Clause 23-31 – Review and Change of Airspace Classifications, Services and Facilities

Previously covered by changing the volume of airspace at an aerodrome and a volume of airspace, this section has been updated to reflect the Government's expectation that CASA will take a risk based approach to any future changes to airspace. Consultation with stakeholders is still a fundamental requirement. The removal of the aircraft movement and passenger volumes threshold criteria as the main determining factor, which was contained in the previous policy statement, is balanced by a wider assessment of airspace risks and increased reporting requirements to Government.

Clauses 23 to 26 set out the process to be followed by CASA when overseeing Australian airspace, forming initial safety assessments, reviewing a volume of airspace, its classification or level of service to be provided.

Clause 27 provides for CASA to update a previous review that was completed in the preceding 12 months.

Clauses 28 to 30 sets out the process to be carried out by CASA before implementing changes to airspace.

Clause 31 confirms that whilst there may be times when urgent decisions are required to meet a safety imperative, the airspace strategy requires transparency and the aviation industry will be consulted with regarding airspace administrative decisions.

### Clauses 32-41 – Australia's Future Airspace Framework

This section sets out the Government's expectations of CASA towards Australia's Future Airspace Framework.

Clauses 33 to 36 set out the Government's strategy on articulating Australia's future airspace architecture and how CASA, as airspace regulator and administrator, is to develop the framework and implementation plan.

Clause 37 reiterates the importance of international alignment according to Australia's commitments under the Chicago Convention.

Clauses 38 and 41 provides transparency to industry and reiterates the primacy of safety of air navigation, and the need for a risk-based approach to determining airspace.

### Clause 42-43 – Airspace Reporting

Reporting requirements to government have been increased with the removal of the threshold criteria.

Clause 42 requires CASA, as part of their corporate plan, to provide an outline of the major initiatives and priorities of the OAR.

Clause 43 and 44 detail the Government's ongoing reporting requirements.

## Referenced Documents

This section provides information on documents referred to in the AAPS, including on how these documents may be accessed, namely:

1. Convention on International Civil Aviation 1944 (the Chicago Convention) was ratified by Australia in 1947, and it can be accessed as Schedule 1 of the *Air Navigation Act 1920* available from the Federal Register of Legislation (FRL) website or from the ICAO website.
2. Annexes to the Chicago Convention include standards and recommended practices in relation to a range of aviation safety issues and other matters concerned with the safety, regularity and efficiency of air navigation promulgated by ICAO. Copies of Annexes to the Chicago Convention can be obtained from ICAO or most public libraries.
3. The FRL is the Australian Government website where legislative instruments are stored for public access.
4. *Airspace Act 2007*, which concerns airspace administration and regulation, is available from the FRL website.
5. *Airspace Regulations 2007*, which enable CASA to perform the functions and exercise the powers in relation to the administration and regulation of Australian-administered airspace, are available from the FRL website.
6. *Civil Aviation Act 1988*, which establishes a Civil Aviation Safety Authority with functions relating to civil aviation, is available from the FRL website.
7. The Aeronautical Information Publication (AIP) is published to satisfy the requirements of Annex 15 of the Chicago Convention requiring each State to publish an AIP – as part of the Integrated Aeronautical Information Package (IAIP). The AIP consists of a number of documents that are important for the safety and regularity of air navigation. Included in the IAIP is the AIP Book, the AIP Supplement and Aeronautical Information Circulars (AIC), Departure and Approach Procedures (DAP) and the En Route Supplement Australia (ERSA). The IAIP and all related documents are available by subscription from Airservices Australia or are available for viewing at the Airservices Australia website.