

Submission to the Rural and Regional Affairs and Transport Legislation Committee into Australia's General Aviation (GA) Industry

16<sup>th</sup> March 2022

Attachments

- APTA before CASA action
- APTA after CASA action
- Commonwealth Ombudsman's Report Phase One
- Link to Glen Buckley's presentation to Senate on XXXXXXXXX

This correspondence specifically relates to the following stated terms of reference:

- The operation and effectiveness of the Civil Aviation Safety Authority (CASA)
- The legislative and regulatory framework underpinning CASA's aviation safety management functions.
- The application of the *Civil Aviation Act 1988* and the *Civil Aviation Safety Regulations 1998* to Australia's aviation sector, and whether the legislation is fit for purpose.
- The safety and economic impacts, and relative risks, of CASA's aviation safety frameworks
- The immediate and long-term social and economic impacts of CASA decisions on small businesses, agricultural operations and individuals across regional, rural and remote Australia.
- CASA's processes and functions, including:
  - its maintenance of an efficient and sustainable Australian aviation industry, including viable general aviation and training sectors.
  - the efficacy of its engagement with the aviation sector, including via public consultation; and
  - its ability to broaden accessibility to regional aviation across Australia, considering the associated benefits of an expanded aviation sector.

My submission is relevant and it highlights my own personal experience and my perspective.

Additional Comment regarding the Terms of Reference

Irrespective of the Terms of Reference, this is a matter of Aviation Safety. To the Senators that cannot be expected to be Subject Matter Experts on Aviation Safety, you will comprehend the following.

Any national aviation safety regulator that engages with the industry, the way CASA does, can only negatively impact on aviation safety. At best, and highly unlikely, it will maintain safety. It cannot possibly improve the safety of aviation.

## About myself, Glen Buckley

My name is Glen Buckley, I am a Commercial Pilot with 25 years' experience in the flight training industry, as a Grade One flying Instructor, CASA approved Chief Flying Instructor (CFI) , CASA approved CEO and a CASA approved Head of Operations (HOO).

I was also the owner of two business that were shut down by CASA in October 2018 with no prior warning, and no concerns at all being raised by CASA prior to that notification.

I walked into my business on October 23<sup>rd</sup>, having absolutely no idea that by 5PM that day, CASA would advise me that after more than 10 years, I was now operating unlawfully, not unsafely, but unlawfully. I was given only 7 days surety of operations, prevented from taking on any new customers, and CASA advised all existing customers that I was operating unlawfully, then forced them to leave my business despite their preference that they wanted to remain.

The name of those two businesses closed down by CASA were Melbourne Flight Training (MFT), and Australian Pilot Training Alliance (APTA).

It is crucial to understand that at no stage did CASA ever make any claims of any concerns about safety, and I had demonstrated a record of more than a decade of industry leading safety and regulatory compliance.

It was a reversal of the Company's CASA approval of more than a decade. A regulation from 1988 was used as the basis of CASA action. That was the only regulatory breach alleged by CASA. The Ombudsmans report found that in fact there was no regulation that I had breached.

The impact of the CASA action resulted in me personally losing several million dollars, losing my home and being declared bankrupt. The forced closure of my business resulted in staff losing jobs and entitlements, students both domestic and international having their training impacted, and suppliers being left unpaid. Several other businesses that were dependant on me were also forced into closure.

The experience has been life changing and traumatic to say the least. It has impacted me and my family significantly. I was left bankrupted and destitute. We have been left living week to week in rented accommodation.

Like most small business owners, their business provides their livelihood, and the intent is to sell the business at some stage in the future to fund their retirement. I lost all hope of any future financial wellbeing when CASA closed my business. I am broke, declared bankrupt, living in rental accommodation, unable to save any money. Home ownership in my late 50s, having been declared bankrupt, is an impossible dream. The reality is that my wife and I would be homeless when one of us stops working, as we have no savings. At some stage in the future that will happen.

Of most concern as the person impacted is that CASA has been unable to provide any supporting safety case at all, and in fact made no allegations against any quality outcomes at all.

CASA took a legislative requirement from 1988 and applied it to my business of more than a decade and used that as the basis to shut my business down.

I had been highly critical of CASAs failed Part 61/141/142 regulatory program on the basis that the regulatory change was delivered a decade behind schedule, hundreds of millions of dollars over budget, and I was critical of the impact of the regulations and their impact on flight training organisations, particularly in the regional areas. I obtained some media coverage of my concerns and believe that was a contributing factor to why a single CASA employee changed his mind and declared my business unlawful in October 2018, 12 years after it commenced trading.

It concerns me that a single CASA employee, without drawing on any precedent, not seeking any external and independent legal advice, could take a rule from 1988, and apply it to my business of a decade. It does not seem reasonable that a single CASA Employee can have that much authority, and particularly so when there is no supporting safety case.

It is important to clarify that the CASA action was not based on safety concerns. The CASA Employee simply reversed my Company's approval overnight, on the basis that it had suddenly become unlawful.

It was a ludicrous assertion, and that was confirmed when the Commonwealth Ombudsman's Office investigation determined that in fact my business was not unlawful, and I quote directly from the Ombudsmans Phase One report issued in June 2020, approximately 1 year after the business was closed down by CASA, and the damage had already been caused.

*"...as of October 2016, No Australian legislation prohibited "franchising of an Air Operator Certificate, and that remained the case as of 25<sup>th</sup> March 2020..."*

*"There would be no legal or regulatory impediment to Mr Buckley selling or licencing intellectual property in the form of its AOC exposition...."*

*"in my concluded view there was an administrative deficiency due to an absence of a direct relationship between the activity being regulated and the policy said to regulate it. This gave rise to ambiguity and uncertainty, with the potential to cause detriment...."*

I would like to take the opportunity to provide my story to the Senate Inquiry. I felt that I was too close to the matter, therefore engaged the services of a journalist to tell my experience with CASA, and that will follow. At the conclusion of my story, I would like to put forward some suggestions that I sincerely feel may enhance aviation safety, and improve CASA as an organisation.

What follows is the article written by the journalist. I would also encourage you to read the two attached magazine articles from Australian Flying, "APTA before CASA action" and "APTA after CASA action."

I understand that the names may have to be removed prior to publication. My preference however, is to retain the names if permissible, as the actions taken by CASA were the actions of a single CASA employee, and I do not wish to harm the reputation of CASA generally, or the 900 employees that discharge their duties professionally, and are motivated by the safety of aviation.

I have published this submission on my "forum" where the entire story has been told. The link to that forum is attached. It has had almost 1,000,000 views and over 2000 comments. It contains the entire matter in detail. [Glen Buckley and Australian small business -V- CASA - PPRuNe Forums](#)

### **My Story written by a Journalist**

**It is an ill wind that blows nobody any good.**

*What happens when an industry regulator's senior management has unchecked power over the industry's participants?*

Dear Senators,

'The Canberra Bubble' has emerged as *the* buzz term when it comes to describing Parliament House and the government's apparent dysfunctional culture. Facing allegations of corruption, bullying and intimidatory behaviour, a barrage of sexual assault and harassment claims, and a growing public sentiment that Australia's ruling bodies are 'out of touch' with the general population, the government stumbles along through scandal after scandal, often dragging the executive and judiciaries of our democracy with it.

This matter is particularly relevant with an approaching election, and many from the community calling on their elected leaders from both sides of Parliament to introduce an anti corruption body to deal with misfeasance in public office and misconduct. Matters that are particularly relevant to my story.

In amongst the turmoil, in November 2020, the Senate Standing Committee's General Aviation Inquiry, heard allegations of malfeasance in public office against (principally three) long-standing public servants from senior management at the Civil Aviation Safety Authority (CASA); including Shane Carmody, the then Director of Aviation Safety, Jonathan Aleck, current Executive Manager of Legal, International and Regulatory Services, and Graeme Crawford, then Manager of CASA's Aviation Group. The same individuals that presided over CASA's response to Bruce Rhoades's fatal air crash in January 2017; the subject of an investigation on ABC 7.30 Report (Adele Ferguson and Chris Gillett - October 2018).

The forty minutes of testimony that Mr Glen Buckley, former Director of APTA (Australian Pilot Training Alliance) and MFT (Melbourne Flight Training) provided to the Senate Committee, is a snapshot, he alleges, of the depth of wrongdoing and abject failure of the safety regulatory authority to discharge its obligations to his company, to the aviation industry, and the Australian public.

The link to that presentation can be accessed via the link provided above in the Appendices above.

Under the democratic principle of 'trias politica' - the separation of powers - each arm of democracy (the parliament, the executive, and the judiciary) should have the power to govern, but also be kept in check by the power of the other arms. The democratic principle is the purposeful dissolution of power to ensure the integrity of all.

This principle, as demonstrated by Glen's story detailed below, is not the modus operandi of CASA. In effect, a law unto itself, it develops the regulations, often with no parliamentary oversight or control. It has absolute power to govern those regulations. It has the power to decide whether those regulations have been broken. And it has the power to decide the fate of those under its control. CASA, or more specifically, those in power within it, took a mere matter of months to destroy Glen's 25-year career and his burgeoning businesses, and both his mental and physical health.

Aviation is weather dependent; and it is a brave aviator indeed that flies in ill weather. Glen's story lays bare the actions of an industry regulator, primarily facilitated by those individuals at the helm, behaving like an ill wind to whomever it chooses. A regulator acting at personal whim, and without tangible accountability.

With recent change of leadership at CASA's helm, perhaps now is the time for this story.

*Aviation is one of the most regulated industries in the world. From the airline industry to general charter, sport, recreational, and even unmanned aviation, no pilot or flight organisation escapes the rules. Rule One is 'Safety First'. Rule Two is see Rule One. Rule Three is comply with Rules One and Two at all cost.*

*With a pot of public money that pays no urgent heed of time, and a legal team to match, the regulator can gladly comply with Rules One and Two. It has the money and time to afford and protect its self-interests, and to take a far more measured and considered approach to its actions than the often cash-strapped, time-poor, tax-paying organisations that it oversees. Public perception that anyone involved in aviation is just a 'rich dude with toys', although occasionally true, is far from the front-line reality. General aviation in particular, maintenance providers, flight training schools, joy flight operators, private charter organisations, and the like, are, more truthfully, a labour of love and passion.*

*And in Australia, Glen Buckley was one of those front-line tax-paying organisations labouring away at what he loved. A key general aviation industry participant, his Moorabbin-based, registered flight training organisation, Melbourne Flight Training (RTO #22508) had an exemplary reputation, a team of 25 employees and instructors, and included the necessary approvals to train overseas students. The school also had a safety record the envy of industry for the duration of its operation under his tenure. Glen was living the aviation dream. Glen was also respected by industry as an advocate for general aviation, publicly opposing the regulator on occasion, sometimes passionately. He adopted a stance of raising his concerns about the introduction of the new regulations for flight training that were by now a decade behind schedule and hundreds of millions of dollars over budget. He was concerned about the impact on flight training organisations and most particularly those operating in regional areas.*

*In 2017, driven by CASA's regulatory overhaul to the flight training organisation certification requirements, Glen restructured his businesses; Melbourne Flight Training and the Australian Pilot Training Alliance (APTA). With assistance from CASA, he successfully created a business model that ultimately impressed the industry, and, evidently, many in the safety authority itself. The model addressed industry's economic concerns regarding the significant administrative burden of the new regulations without compromising Rules One and Two.*

*But, it seems, not everyone in CASA was happy with Glen.*

*From September 2018 to October 2019, Glen believes that key senior personnel from CASA launched an attack on the new business – and it went from 'all systems go' to 'dead in the water' in twelve months. Glen's*

*dream had crashed and burned. The organisation's demise was not due to mismanagement, maladministration, a series of unfortunate events, an industry crisis or a financial crisis (historically the usual suspects) or even a one-in-a-hundred-year pandemic. APTA's unravelling was insidious and defied logic, beginning with a single, devastating blow from the regulator itself, and then an unrelenting series of strategically-placed cuts. The full story has more twists and turns than an entire season of Dynasty, and, if Glen's testimony is to be believed, points to a very sour problem with some past and present senior management of Australia's aviation safety authority - CASA.*

*Below is Glen's story.*

An ill wind blows nobody any good.

The first inklings of a catastrophic storm building over Glen Buckley's fertile patch of the aviation industry began a long time ago. In the early 2000s, CASA began drafting regulatory changes that would significantly alter the flight training school landscape in Australia. However, after more than a decade of development, it became clear to industry that the proposed legislation, although widely accepted as necessary, would place significant and often prohibitive financial and regulatory burdens on Australia's grassroots flight-training organisations. Many of the schools likely to be most affected would be the quintessential Aussie 'mum-and-dad' businesses, time-poor and financially ill-equipped to afford the implementation and sustainment of the proposed weighty changes. Many of them did not survive, and many of those operated from regional and rural areas; their demise accelerating an historical overall decline in the General Aviation ecosystem in Australia that continues to this day.

At smaller than airline-industry airfields, no flight school means less aeroplanes flying on a regular basis. No aeroplanes regularly in the sky means less work for a maintenance facility. No maintenance facility means private pilots are less likely to hangar their aircraft at the airfield. Less private aircraft in hangars means less income for regional airfields, accelerating a weakening in investment and upkeep. Reduced airfield income means less aviation industry organisations drawn to the field due to lack of available industry services and potentially greater safety risks to aircraft, pilots, and passengers. Not a good outcome by any measure.

These regional aero clubs also provide an important social role, bringing together people from regional areas to engage and share common interests and passions.

Further, a decline in the health of regional and rural airfields may mean private aircraft owners are forced onto metropolitan fields, where yes, facilities are available, but also increased hangarage demand. Flight training, too, would be forced to concentrate at metropolitan airfields. More flight-training and private aircraft owners at metropolitan airfields means more small aeroplanes and their (perceived) safety concerns, over dense suburbs. The changes proposed by CASA, according to Glen, held the potential to further degrade the aviation ecosystem and drive the system towards failures. To the viewing public, failure in aviation looks like aircraft accidents;

prime-time viewing that the regulator, the government, and especially the industry, would rather avoid.

Glen had been in aviation for decades. He knew the general aviation system was a diaspora, a population geographically scattered, and that the whole was greater than the sum of its parts. Australia, the land of wide-open plains and rugged mountain ranges, relies on a web of remote, rural, regional, and metropolitan airfields. The health of the aviation ecosystem relies on the people that work at, and on, those airfields, and their businesses. The aviation industry relies on the regulator to govern that system; to ensure the safety of all the humans and the aircraft in it and the public that use it. But should the system allow that the regulator manages the business concerns of those within it? To the extent of its impact on air safety, perhaps. To the extent of deciding a business structure or model, perhaps not. Creating income in aviation is one thing, creating income safely, as is the foremost concern of all things aviation-regulated, is quite another, and the aviation industry is one of **the** most-regulated industries around.

Although Glen's business, Melbourne Flight Training, was metropolitan-based, at Moorabbin, and as a standalone organisation stood to ultimately benefit from the demise of smaller, remote flight-training schools, Glen was never one to shy away from advocating for his beloved industry. He knew that, although at times factious and fractious, the entire industry relies on each part's survival. He believed that many of the regional and more remote flight-training operators would not survive under the new regulations, and that a ripple of small failures held the potential to disrupt the entire industry, creating a less safe environment for all.

More administrative staff, more paperwork, more reporting, meant less time in the air for instructors; less time doing the one thing that a flight-training business needed to survive; creating income and doing so with safety, not paperwork, dictating the time frame.

The new regulations demanded an unacceptable diversion of already stretched resources to tasks unrelated to improving safety or quality outcomes. Glen saw the incoming administrative burden and associated costs looming darkly on his business' horizon. He fought hard against the changes; his active and vocal opposition to the regulator's legislative proposals is one of public record. Unfortunately for Glen, it seems, his record would come back to haunt him.

Not known for complacency, Glen began thinking outside the box. How to build a business that would weather the impending storm? One that, as required by CASA, focussed on safety first but was still financially viable? Also, never one to turn his back on others, Glen knew there could be strength in numbers, and it was from this premise that he turned his mind to creating an alliance of businesses with the following elements:

1. Improving aviation safety by bringing a number of operators together to cohesively share safety information, and to develop a large and well funded safety department.



2. Increase standards and regulatory compliance by bringing operators together under a single approval, headed up by a highly qualified team of industry leading professionals that an organisation operating alone could not access, using state of the art systems and procedures.
3. To draw on the Registered Training Organisation capability, the CRICOS approval to deliver training to overseas students, and the Part 142 capability (highest accreditation for a flying school), to pursue opportunities with large international contracts and to develop export markets.
4. To protect the Australian owned sector of the industry, as more than half of all pilot training in Australia is now delivered by foreign owned Companies with the majority of those being Chinese owned.
5. Getting instructors into the aircraft and focussed on teaching the student with improved quality outcomes.
6. Enlisting a team of specialists to perform the regulatory actions needed to fulfil CASA's compliance requirements for all alliance members (a major expense), and,
7. Spreading the administrative expense of compliance across more than one organisation, significantly reducing the expense to each Alliance member.

The industry knew that the old system had its flaws; the 'lending' of Air Operator's certificates, and the 'borrowing' of instructors from other off-site flight-training organisations in adhoc scenarios, that, in reality, afforded both companies no real safety oversight. Operators did this because their organisation simply couldn't afford or attract, or didn't have the amount of work for, a full-time Chief Instructor, a full-time Safety Officer, or a designated administrator.

The current rules for flying school operations and the control of flying schools were hopelessly outdated and written before the advent of mobile phones and the internet. Quite simply the rules were decades behind the advances in technology. It was, for the most part, why CASA was changing them. And, they were wielding a big stick. Change to the new rules before 1 September 2017 or be forced into closure after that date.

Glen understood that CASA was driving change to address what it saw as a failure of the system. But he also believed that CASA had adopted a safety-at-ALL-cost attitude; a cost many organisations would not be able to afford. Glen sensed that the situation, however, had a potential win-win for the regulator *and* for the industry; a chance for organisations to operate in a way that made the previously adhoc system safer, more transparent, stable, collaborative *and* more efficient without the consequences of business-failures and their inevitable detrimental effects on the aviation ecosystem. Glen's vision included businesses working as a team, collectively able to access the largest safety department of any flying school in Australia, all operating under a single CASA issued Air Operator Certificate (AOC)

So, as the saying goes, if you can't beat 'em, join 'em. Glen contacted CASA and put forward his concept in June of 2016. CASA welcomed Glen's model with open arms,

even so far as to allocate many hundreds of hours of employee time assisting in its development. Around ten CASA employees, over the course of two years, were meaningfully involved. Back and forth between Glen and CASA went the model; information, advice, revisions, amendments, and paperwork for around 600 requirements, carefully working towards the definitive document (the Exposition) that would allow his new business to operate. Every one of the procedures was assessed by CASA personnel, signed off by CASA personnel, and peer reviewed by CASA personnel. In fact Glen had been operating in the same structure for six years prior, this was a significant investment in improving and upgrading what he had been doing with full CASA approval prior.

Given the business model was not too different from the current practices of larger flight training organisations, and what he was doing was simply formalising what many in the industry were already doing that CASA had previously tacitly sanctioned, Glen trusted the governing authority to act in good faith. Even to the extent of providing the regulator with commercial-in-confidence documents such as the proposed business contracts for alliance members. Glen was incredibly grateful for the professional assistance and advice of CASA in developing his Exposition.

With CASA well and truly on board, and after an investment of hundreds of thousands of dollars of his own money, Glen (and CASA) had built APTA; The Australian Pilot Training Alliance. CASA hadn't simply been consulted, APTA had been built on approved CASA material, on hundreds of hours' discussion and oversight, on good faith and mutual aims.

It is also well known that CASA has an active and eager legal department; Legal, International & Regulatory Affairs. CASA employees do not make big decisions autonomously and without context; there are implications to be considered, processes and approvals. When CASA makes a decision, it makes an informed decision. A *very well-informed* decision. It would be remiss to not stress this enough. CASA is an organisation of educated, well-informed, aviation and legal personnel whose ultimate objective is to ensure the safety of pilots and public. The organisation takes its responsibility to oversee safety in the aviation industry very seriously, and at whatever cost.

But CASA didn't simply advise and consult and provide quality information through its wide-angle legal-context lens to Glen over those two years of development; CASA also recommended a number of rural and regional flight training organisations that would benefit from being a part of APTA, to Glen. Alliances were forged, organisations joined the cause, and with CASA appearing to be smiling down upon it all; APTA was set to be a working model. Five organisations, one administrative setup, expensive expert personnel employed to fulfil CASA's new compliance and safety requirements, and a software system that provided 360-degree oversight of flight safety, all using CASA-provided manuals and compliance systems. Of note, is that the system was set up so that CASA could, at any point, log onto and *be* an active part of the system. CASA could see exactly what APTA was doing, whenever it liked, in relation to flight training; from flight and aircraft records to staff training,

communications, and instruction delivery. A first for the flight training industry, providing total transparency and full oversight. And all with CASA's blessing.

Too good to be true comes to mind.

In April 2017, CASA approved APTA. Four months before CASA's September deadline for transition to the new rules.

Glen thought he was on a winner. The new rules hadn't come into force for the industry yet. He was ahead of the game. In a field of what had been around 350 organisations, he now had a mere 12 competitors that were also approved. Ready to roll it all out, he had CASA on side and, significantly, assurances from the authority that they wouldn't extend any deadline. So far ahead of the game, who *wouldn't* want to be *that* business? Glen, and his alliance organisations, stepped fully into the gold-standard APTA.

Then, just weeks after certifying APTA as a fully-fledged flight training organisation under the new rules, CASA moved the goal posts. The storm had begun to brew.

Whereas it is said that all is fair in love and war, the same is not said for business. There are rules by which businesses must abide or face consequences. Both federal and state laws exist; fair trading, insider trading, trading whilst insolvent. CASA's remit, however, is not the business of business, it is not concerned with competitive economics. It needed flight training organisations able to *safely* comply with the new rules, and safety, as always, was paramount. Faced with a tsunami of flight training organisations potentially in breach of the Act, CASA extended the 'big stick' date by a year. Glen was dismayed.

To be fair, CASA really had little option. Rightly or wrongly, in August 2017, the vast majority of flight training organisations were simply not ready.

But, in striving to be ahead of the game, Glen had employed the experts, setup the software, invested hundreds of thousands of dollars, and was working his expensive gold-standard new system. The two training organisations that made the business an alliance, Melbourne Flight Training and TVSA Pilot Training at Bacchus Marsh, approved as APTA bases by CASA, were also heavily invested. Working the new rules and operating a flight training curriculum that wasn't required for another 12 months, however, was costly. Very costly for all involved. Except CASA that is. But then CASA is also not in the business of making money – and rightly so. But Glen's business, before the real game had even started, was now operating under financial pressures not of its own, or even force majeure, creation.

Being on the back foot is never a good position for a business. The aim was always to grow, to offer others the opportunities of safety *and* the efficiencies that APTA presented. They say there is always opportunity in a crisis, so Glen sucked up the cost, borrowing heavily from his family, and got on with funding the associated salaries and procedures for the next 12 months whilst waiting for the postponed legislation to be introduced. He figured it would only be a matter of time before everyone caught up, therefore, best to stay on the front foot.

In November 2017, APTA was due for its first big CASA audit, called a Level One. This meant a week-long review of APTA's operations. Happily for Glen, it passed, along with the alliance's bases, Melbourne Flight Training, TVSA at Bacchus Marsh, and, significantly, the two newest CASA approved bases, AVIA and Learn to Fly, both at Moorabbin. No concerns were raised about the business model or its operations. As far as APTA was concerned, CASA's audit had further provided confirmation that the model had dotted all its i's crossed all its t's. Glen saw a future.

CASA had also suggested a number of other training organisations to Glen that might fit into his business model. Latrobe Valley Aero Club was one of those small, rural flight-training organisations struggling to fit into CASA's new rules. It looked at Glen's business model and saw a good option. After CASA raised a number of issues with Latrobe Valley operations that were subsequently rectified, the aero club began operating under APTA's umbrella on 21 May 2018. This was made possible by CASA's own 'Temporary Base Procedure'; a procedure that allowed a flight-training organisation to be under the full operational control of another whilst an application was assessed. This was a procedure that had been recommended by CASA to Glen; a standard and well-utilised industry practice. Glen was confident that, in collaboration with CASA, Latrobe Valley could become another alliance member.

Those patches of grey cloud on the horizon, however, had begun to darken and coalesce.

May 2018 heralded the arrival of a new CASA Regional Manager for Glen's business locale. At the time, CASA operated teams of personnel charged with overseeing a number of flight school training certificates. These teams were also to be reshuffled. Glen's old team had been pivotal to the successful development of the APTA business model. The new Certificate Management Team, of eight inspectors and a manager, however, exhibited two concerning characteristics; the first being that a member of the new team had an established reputation within industry as being exceptionally difficult to work with. Glen formally raised his concerns with the Regional Manager at the time.

The second was that communication from the new team had begun to dry up and had a very different 'feel'. Glen found this more than a little worrisome. He began to wonder whether the new team either hadn't received a substantive handover from the old team regarding APTA, or, because the model was 'different', they simply didn't understand it. Or, perhaps that difficult team member was causing some friction?

Regardless, Glen, having no tangible evidence at that point to back up that niggling feeling of unease, proceeded with his business plan. He continued marketing the new business as a successful, working model and, moving amongst aviation circles, spread the word. By early 2018, aeroclubs and training facilities as far as Ballina, Brisbane, and even Darwin were either interested or already operating under APTA temporary base procedures. Although on the back foot financially and now with 60 approved competitors, things were still looking up for APTA in mid-2018 as the bulk of the industry played catch-up with the revised big-stick deadline looming.

In June 2018, APTA sent in the paperwork to CASA for Latrobe Valley and Ballarat Aero Clubs to be formalised as permanent operating bases of APTA (rather than temporary). CASA had already approved several schools to operate under APTA, so he was confident there would be no significant hurdles. Then, in August 2018, APTA also asked to add a new base for Learn to Fly at Moorabbin (where one already existed) and Whitestar Aviation in Ballina. The addition of permanent locations were considered by CASA to be significant changes to the Exposition – the document that CASA had helped Glen build.

The next big compliance hurdle, however, was for Latrobe Valley to undergo its Temporary Base audit, a stepping-stone to Permanent Base. APTA welcomed the CASA team to Latrobe Valley on 3<sup>rd</sup> September 2018 and the audit went well. An exit interview is required by the regulations and any concerns regarding the operation must be raised by the team at this onsite exit meeting; that is, *on the day*. None were raised, the team left, everyone was happy – or so it seemed. Latrobe Valley, with a clean bill of health, was left to continue to operate under the Temporary Base procedure, with an expectation of moving towards permanently joining the business, once CASA formally approved it.

But, that niggling unease? Those grey clouds on the horizon? On October 23<sup>rd</sup> 2018, they turned into a storm.

Without any sign, signal, or warning, the winds changed dramatically. CASA pivoted 180 degrees on its official position on APTA's business model. APTA received a carefully considered and meticulously worded email from CASA, with the subject; "A Notice of Proposal Refusal to Approve Significant Changes to Exposition and Operations Manuals". It was an extraordinary email by any account, with an eye-watering deadline.

The email declared that, unless Glen could prove otherwise within seven days, APTA was considered an unauthorised operation, and as a result five bases would be required to cease operations, one base would have its approval reversed, two new base applications would not be processed, and no new members would be allowed to join.

Glen was horrified. Not only did it seem as if he could lose his own flying school, but it seemed he may have inadvertently dragged many others down with him.

In support of the claims in the email, and despite historical support for the business model, CASA pointed to an Aviation Ruling (an advisory setting out CASA's policy or position on a particular issue) from 2006, regarding the franchising of commercial operations, that purportedly disallowed APTA.

Interestingly, months after CASA took action against APTA, they withdrew the Aviation Ruling that they used, and it was not replaced.

Just like that. In October 2018. Not during all those discussions? Not three years before, during the development phase, when CASA was made aware of the model? Not before approving the model in April 2017 and granting the new-rule Part 141/142 Certificate? Now, after all was said and done and spent.

But it was not that the Ruling had escaped the painstakingly thorough consultative process, but that CASA was using a Ruling that, in 2014, had been amended specifically to *exclude flight training organisations*. Glen was stunned. This was a ruling that did not apply to Glen's business but was going to be used to blow the doors shut.

The email also stated that the organisations or temporary bases operating flight-training from locations other than APTA's head office at Moorabbin, were likely in contravention of the Act, and further, that as APTA had facilitated the contravention it may face 'enforcement action'. These were the exact procedures that CASA had previously designed with Glen, and used to approve new members.

CASA had also contended, that their legal department had not, until now, been aware of the franchised structure of the business. An extraordinary claim given that, as one of the very first flight-training schools to be issued with the new certificate, APTA would hardly have been able to slide under the radar. If anything, it would have been the subject of much closer legal and regulatory scrutiny.

To all this APTA had a mere seven days to respond or face being stripped of its certification. And, if it did try to state its case, it had to provide the relevant contracts with alliance organisations that proved APTA was the official on-site operator of the flight-training organisation at each of those locations. Only Glen had already provided the regulator with the relevant master documents of alliance member's contractual arrangements, on a number of occasions.

Ignoring for a moment the legal integrity or otherwise of CASA's email, what this shift in direction really signified and where it bore the greatest immediate implication, having effectively placed APTA on one week's notice of impending closure, was that Glen suddenly had nothing to sell. Without a legally operating business structure in a highly regulated industry, Glen effectively had nothing. The email, although it wasn't expressly worded as such, was a death warrant for the business. The actual execution, however, was still nearly 12 months away. Glen, at this point, had simply been hung out to dry. Slowly. In a very ill wind.

The implications of CASA's decision to reject the business model as 'disallowed', slammed into Glen. Those pesky laws that businesses need abide by to legally operate? With just seven-day's notice of the possible termination of APTA, how could Glen legally, let alone morally, continue to take on, or allow his temporary bases to take on, new students? If students had no certainty of finishing their training, why on earth would they train with APTA? How could he legally, let alone morally, take new alliance members on board? With APTA potentially unable to continue operating, why would new members even look at his model? And how could he legally, let alone morally, continue to operate at a cost of more than \$20,000 a week when income, already an issue, with potentially no new students moving through the system, was suddenly looking dire? What would the lawmakers have to say about that?

And Glen certainly couldn't simply pretend to his members that he hadn't received it, keep half a dozen bases operating under the pretence that everything was going to

be OK, send the paperwork in again, and hope for the best. Aside from Glen's personal expectation of integrity, aviation is a small industry. To threaten the closure of that number of flight-training bases, everyone would know within minutes, confidence in his business would be lost immediately, and his hard-earned reputation would be in tatters.

However, Glen immediately spoke to the bases and his employees and powered on. He advised CASA they already had the master contracts, but also provided copies with signatures. Glen also requested more information from CASA as to how to move forward and rectify the perceived issues. Then Glen rang and spoke to David Jones, the new Regional Manager. According to Glen, Mr Jones said he wasn't really 'all over the matter', but strangely, *he had signed* the letter. Mr Jones said he would organise a team meeting to 'bring him up to speed'. A seven-day notice of termination of a sizeable business had been delivered to an organisation but the person signing that letter of proposed termination, needed to be 'brought up to speed'?

Glen pushed CASA to admit that the 2006 Aviation Ruling did not apply to flight-training organisations. For a full nine weeks, whilst CASA deliberated, Glen was allowed to operate, basically haemorrhaging cash. Eventually CASA admitted the Ruling didn't apply, checked its wind and changed tack.

Temporary Base procedures became the new problem. CASA asserted that the procedure it had developed, and further, approved APTA to operate bases under, was *not designed for flight training organisations*. Again, Glen was gobsmacked. He replied that the Temporary Base procedure that CASA had recommended to him had been included in CASA's very own 'How-To-Set-Up-A-Flight-School Guide'. Again, CASA retired to deliberate, 'permitting' Glen to continue operating. But the delay, for Glen, just meant more haemorrhaging of cash. Finally, CASA admitted the Temporary Base procedure was not an issue. But it wasn't done, it checked the wind and changed tack, again.

By now CASA was preventing Glen taking on any new customers, and wrote to existing customers advising them that they were operating illegally.

In December 2018, the new Certificate Management Team finally delivered the paperwork of the audit findings for Latrobe Valley after he made a Freedom of Information request. With the Act requiring CASA to provide these findings in writing within seven days of an audit, it had taken nearly three months. Remember that exit meeting? The exit interview, as required by the regulations, where any concerns regarding the operation are to be raised? The one where the auditing team had said there were none? Well, suddenly there were plenty. Glen was beginning to feel that this was more than a change of heart related to his business model. But he took a deep breath and leant into this new CASA-created headwind, asking what needed to be done to rectify the problems. More weeks passed whilst Glen waited for an answer. CASA was still 'permitting' APTA to operate, although exactly what Glen had to operate anymore, with no new clients and no new alliance members, and critically, no new income, was fast becoming uncertain.

Glen became increasingly frustrated. Time and again, in dozens of emails and phone calls, he had asked CASA what APTA *needed to do to comply*. Pleading for face-to-face meetings, clarification of any alleged breaches of the Act, he begged for direction. All through November, December, then January, February and March of 2019 Glen reached out to CASA, via email and phone. Time and again Glen received either no answer, a 'you are required to fix this' answer, or no constructive answer at all. Time, however, was something that CASA had plenty of and Glen had none. Infuriated by months of inaction, the dragging of bureaucratic feet, and a gut-wrenching fear of the corresponding explosion of debt, Glen's grey skies got darker by the day.

With little apparent left to lose, Glen, feeling entirely cornered, began lashing out. His correspondences, perhaps understandably, became increasingly urgent, penned in ink the colour of frustration. Drying that ink was a whirlwind of Glen's commitments, obligations, responsibilities, and liabilities. His exasperated requests for direction and guidance from CASA, over those five months, ever more frustratingly for Glen, continued to go unanswered. For those five months, APTA and its members were still 'allowed to operate', all the while Glen was desperately borrowing more and more money from family in the hope that all was not lost.

CASA, although unable, unwilling, or refusing to respond fruitfully to Glen's increasingly frequent emails, had however, found time to contact the alliance members and temporary bases, advising them they were most likely operating in contravention of the Act, that the structure of the APTA business model was illegal. Under threat of losing their businesses entirely, APTA's temporary bases and prospective members understandably began abandoning ship; the dismantling process had begun.

Finally, after nearly eight months of wholly unproductive to and fro, with APTA bleeding operating costs from every open wound, CASA delivered the fatal blow. In June 2019 it demanded that Glen's original business, Melbourne Flight Training, be absorbed into the deconstructed APTA business. With nothing left operating as a franchised part of the business structure, nothing left in his bank account, and a huge bill of debt to his creditors and family, Glen lost all hope, selling APTA for a fraction of its previous value.

CASA's actions, or inaction, had effectively destroyed the business model. And, by effectively relegating Glen to an employee, they had removed him from direct operational control of his beloved flight school.

Mere weeks later, CASA wrote to Melbourne Flight Training, directing that his continued employment was "*no longer tenable based on comments that he was making publicly*". After over a quarter of a century in the flight-training industry and twelve months battling the storm, Glen was done - forced to leave the industry both a broke and broken man.



Just months later, the Commonwealth Ombudsman found that the business structure, as operated by APTA and approved by CASA, was not illegal.

*Too late for Glen. Far too late. He had lost everything.*

*In February 2021, Glen was officially declared bankrupt. Forced to leave his beloved aviation industry at age 56, he knows he cannot recover. But he can fight. And, although, in the writer's opinion, Glen is severely traumatised by the battle lost, he is determined to fight for justice, for his reputation, and for his peace of mind. In pursuit of the truth, Glen has exhaustively demanded answers from CASA, approached the then Deputy Prime Minister and Minister for Transport, Mr Michael McCormack, MP Barnaby Joyce, the CASA Board, and his local MP for Chsholm, Ms Gladys liu without success. Glen has also made Freedom of Information requests, returned almost entirely redacted. He has submitted his extensive list of complaints regarding CASA's treatment of APTA to the Industry Complaints Commissioner.*

*Further, the initial CASA Industry Complaints Commissioner ICC report found CASA had a case to answer but the final report was a complete about-face, finding CASA had done nothing wrong. How can a preliminary report be completely different from a final? Does this bring into question the independence of the ICC? How is it that an office within CASA, that reports directly to CASA's board, is charged with investigating CASA?*

*Glen has also tabled his story and answered questions at a fiery Senate Inquiry at which Shane Carmody alleged Glen, by constantly demanding answers and action, had 'stalked' his staff at CASA, claiming he was assaulting and harassing them. Notably, the Chair of the Inquiry, Senator Susan McDonald, made the observation to Mr Carmody that, 'I hear all over Australia that individual little businesses don't have the capacity to go up against your legal team'.*

*CASA's remit as a safety regulator is to regulate the industry for safety. Its mission is 'to promote a positive and collaborative safety culture through a fair, effective and efficient aviation safety regulatory system, supporting our aviation community'. At no point has CASA been able to prove that Glen's business model was deleterious to aviation safety. CASA has tabled no evidence to suggest that aviation safety had or has been compromised by operating in the manner of franchise as utilised by APTA.*

*In effect, several bases overseen by a Head office, with high levels of supervision. Exactly as would be found in the Military or in any Airline. A system designed with CASA, approved by CASA*

*. Which begs the question, why Glen?*