



## MAAA responds to claims MOP ‘duds rural communities’

The MAAA thanks the Editor of Radio Control Model News for the opportunity to respond to the article ‘MOP amendment duds rural communities’, published in the March-April edition of Radio Control Model News magazine (RCMN Article), albeit two months later. The MAAA is concerned that the Editor, by publishing a one sided assessment in a widely read bi-monthly model magazine, has provided the public, as well as MAAA members, with a subjective view which has the potential to complicate and confuse the situation.

The MAAA certainly does not fear debate associated with its activities but is keen to ensure a balanced presentation of the facts. In the RCMN article, the Editor referred to an MAAA ‘Education Document’ but neglected to include the reasons for the changes to MOP019 contained in it. These reasons have been widely circulated to MAAA State Associations and through them to clubs and members and they will be reiterated in this response.

The MAAA agrees that Displays are magnificent opportunities for both model aviation and the community. Over the years the holding of Displays of all types has provided great benefits including: raising funds, whether for charity or otherwise, enjoyment for the participants, model aviation shown as a spectacle, or inspiring the next generation of model fliers. The MAAA, State Associations, clubs and members totally support these activities. However, it is obviously important for Displays to be conducted in a safe and professional manner.

It is disappointing, but illustrates the lack of balance, that the RCMN article did not acknowledge the role of the Civil Aviation Safety Authority (CASA) in the regulation of model aviation. Additionally, the MAAA is concerned about the reference to a draft letter from CASA devolving all responsibility to the MAAA. The MAAA is not aware of any such letter being issued and does not believe this is CASA policy – we query whether CASA was quoted out of context?

CASA is the Federal Government Regulator for civil aviation, including model aviation. The Civil Aviation Regulations (CASA CASR) 1998 PART 101 are Federal legislation. They apply throughout Australia including to the MAAA and strict liability penalties can be applied by CASA for failure to comply with their Regulations.

CASA Regulations Part G 101.140 covers public flying displays. The safety standards required by CASA are:

*(c) he or she [the director of a display] ensures that: (i) having regard to the events making up the display, proper precautions are taken for the safety of the participants and spectators; and (ii) the operators participating in the display are competent to carry out each proposed manoeuvre safely.*

One of the drivers for change to the MOP was MAAA’s concern that the reference in the previous version of the MOP to ‘Gold Wings’ was being incorrectly interpreted by some as being the only mandatory requirement for pilot competence.

The Gold Wings standard cannot, by itself, ensure the Part 101 Regulations are met because:

- it is not subject to reassessment over time
- it can be achieved with most trainer style aircraft of modest size, speed and capability
- it gives no indication of a pilot’s ability to safely fly a faster, larger, more sensitive or less stable aircraft that may be under his command at the Display

- it gives no indication of a pilot's capability to fly with the added stress of what could be, but not necessarily, a large audience.

MOP019 'Displays' includes the requirements of Part 101 put into the context of MAAA operations. Within MOP019 the MAAA must incorporate the CASA standards, including the responsibilities of the Display Director. The MOP uses similar terminology including the word 'ensure'.

The previous MOP did not say that Gold Wings standard was all that was needed to ensure pilot competency. In Clause 7.9 it was clearly stated 'Gold Wings' was a minimum standard. The additional requirement was in Clause 7.10. If taken literally this was very tough to comply with. It required pilots to be able to fly to the maximum capability of the aircraft, not just flying safely within their own capabilities.

In the current version of MOP019 the flying standard is completely set out in Clause 7.9. Clause 7.10 was changed to reflect that standard and continues to provide guidance to the Display Director. Clause 7.9 uses 'ensure', as did the previous version and the complete document was drafted to better reflect the CASA Regulations. It includes clear guidance on how to assess 'safely' and 'competent' which are the Part 101 words. 'Without loss of control or orientation' is already used as the MAAA standard in MOP015 for Permits to Fly. The context of Clause 7.9 is one of capability and competence as the MAAA has emphasised many times in writing.

In the RCMN article, the author quotes three experienced display directors who do not like the change. The MAAA can quote many more who agree with the changes and say that they make it easier to discharge their responsibilities. The MAAA firmly maintains that any Display Director who competently assessed pilots under the previous MOP would, under the new MOP, be able to continue to assess pilots using the same process. They now also have additional flexibility.

Some people have suggested that use of the word 'ensure' effectively means that Display Directors must 'guarantee' that operators participating in the Display will carry out each proposed manoeuvre safely 'at all times'. On this basis, it has been suggested that MOP019 cannot be complied with. However, if this was the case then it would be equally true to say that CASA's Part 101 could not be complied with. In the MAAA's view this is clearly not the case.

On the basis of many discussions with CASA, the MAAA believed that CASA's intention (and the effect of the words in Part 101) was that the Display Director takes reasonable steps to 'ensure' that operators are competent to perform the manoeuvres. However, when a Display organiser claimed to have advice that the words 'guarantee' and 'at all times' were implicit in the new MOP, the MAAA sought formal CASA advice. Christmas held this up but confirmatory verbal advice was sent to State Organisations in mid January. The MAAA still had to be cautious until it had definitive written confirmation and received this advice on CASA's position in early February:

*CASA's interpretation of the term "ensure" in the context of a model aircraft display does not require the Display Director to guarantee the competence of the pilots in question.*

*CASA's interpretation however is for the Display Director to take all reasonable and prudent steps to ascertain whether the pilot appears to have the necessary competencies to safely perform the manoeuvres/operations in question.*

*This may involve the Display Director making appropriate enquires and taking appropriate steps to satisfy himself that the pilots have the necessary licences, certificates and the like to safely attempt the manoeuvres/operations in question.*

*It may also involve the Display Director in taking precautions, or making inquiries which are specified in the legislation (Part 101) or in the relevant MAAA procedures manuals.*

*Ultimately, no one can guarantee that even an apparently qualified and experienced pilot will not make an error that leads to an incident or accident and therefore the requirement to 'ensure' competence and safety does not rise to this level.*

Applying this advice, MOP019 has never placed any impossible conditions on Display Directors and is considered a reasonable standard to promote safety.

The RCMN article says there is a worry about linking insurance with compliance with MAAA MOPs. Yes of course there is a link. The insurer has to have a basis to assess the risk they are accepting and the insurer has determined that compliance with MAAA MOPs is a requirement for insurance cover. One of the main exclusions applicable in the MAAA policy and relevant to the MAAA MOPs is:

*This Policy does not apply to or include legal liability;  
13.1) for or arising out of the deliberate, conscious or intentional disregard by the Insured's technical or administrative management of the need to take all reasonable steps to prevent Injury or Damage.*

Note that it says *deliberate, conscious or intentional disregard*. This wording seems reasonable to the MAAA.

The MAAA is disappointed with the way this has been debated as it believes the RCMN article does not reflect a fair and balanced assessment of the wording in the current MOP019. Whilst the MAAA will review it at the May Council Conference, to make sure it is as clear as possible, there is no evidence that there is anything significantly wrong with the current MOP. Any policy, procedure or opinion can be challenged but the MAAA is confident that the current wording is reasonable and accurately reflects the standards expected by CASA under Part 101.