



**Australian Government**

**Australian Transport Safety Bureau**



**Australian Government**

**Civil Aviation Safety Authority**



**Memorandum of Understanding  
between the  
Australian Transport Safety Bureau  
and the  
Civil Aviation Safety Authority**

**February 2010**

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE AUSTRALIAN TRANSPORT SAFETY BUREAU**

**AND**

**THE CIVIL AVIATION SAFETY AUTHORITY**

## 1 THE ORGANISATIONS

### Civil Aviation Safety Authority

- 1.1 The Civil Aviation Safety Authority (CASA) is an independent Commonwealth statutory authority. Under section 9 of the *Civil Aviation Act 1988* (the CA Act), CASA is responsible, amongst other things, for the safety regulation of civil air operations in Australian territory and the operation of Australian aircraft outside Australian territory, and more generally, for the promotion of high standards of aviation safety.
- 1.2 As specified in section 3A of the CA Act, the main object of the CA Act is to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with a particular emphasis on preventing aviation accidents and incidents.
- 1.3 One of CASA's safety-related functions specified in subsection 9(3) of the CA Act is to cooperate with ATSB in relation to investigations under the *Transport Safety Investigation Act 2003* (TSI Act) that relate to aircraft.

### Australian Transport Safety Bureau

- 1.4 The Australian Transport Safety Bureau (ATSB) is established under the TSI Act as an independent Commonwealth statutory agency. The ATSB is governed by a Chief Commissioner and two or more Commissioners. The ATSB is not subject to direction from anyone in relation to the performance of its functions or the exercise of its powers.
- 1.5 The ATSB's function is to improve safety and public confidence in the aviation, marine and rail modes of transport through:
  - a) investigation of transport accidents and other safety occurrences
  - b) safety data recording, analysis and research
  - c) fostering safety awareness, knowledge and action.
- 1.6 Under the TSI Act, it is not a function of the ATSB to:
  - a) apportion blame or provide a means for determining liability for transport safety matters
  - b) except as provided by the TSI Act, assist in court proceedings between parties
  - c) allow any adverse inference to be drawn from the fact that a person was involved in a transport safety matter.
- 1.7 One of the ATSB's functions is to cooperate with organisations such as CASA that have functions or powers relating to transport safety.

## 2 PURPOSE AND STATUS OF THIS MOU

- 2.1 With respect to each organisation's separate but complementary safety functions, this MoU through its provisions, addresses the following objectives:
  - a) maximisation of beneficial aviation safety outcomes
  - b) enhancement of public confidence in aviation safety
  - c) support for the adoption of systemic approaches to aviation safety

- d) development of knowledge of the operations and the safety impact of each organisation's actions
  - e) promotion and conduct of ATSB independent no-blame safety investigations and CASA regulatory activities in a manner that assures a clear and publicly perceived distinction is drawn between each agency's complementary safety-related objectives, as well as CASA's specialised enforcement-related obligations
  - f) to the extent practicable, the avoidance of any impediments in the performance of each other's functions
  - g) acknowledgement of any errors and a commitment to seeking constant improvement
  - h) fostering strategic discussion between both organisations.
- 2.2 In pursuing the objectives outlined in 2.1, both organisations agree to give effect the following values:
- a) cooperation
  - b) honesty
  - c) trust
  - d) mutual respect
  - e) openness
  - f) professionalism.
- 2.3 **Attachments A and B** form part of this MoU. Where there is an inconsistency between a clause in the body of the MoU and a clause in attachment A or B the clause in the body of the MoU takes precedence.
- 2.4 **Attachments C and D** do not form part of this MoU and are provided for guidance only. They may be updated at any time by the organisation responsible for the information.
- 2.5 The ATSB and CASA will seek to uphold the values of this MoU and fulfil their respective commitments. However, both organisations acknowledge that this MoU is not legally binding and that nothing in this MoU can legally restrict the statutory duties, discretions and powers of either organisation under relevant legislation.

### **3 MEETINGS, SAFETY EDUCATION AND TRAINING**

#### **3.1 Executive meetings**

- 3.1.1 The Director of Aviation Safety (DAS) and/or Deputy Director Aviation Safety (DDAS) (CASA) and the Chief Commissioner (CC) and/or the Deputy Chief Executive Officer (DCEO) (ATSB) and/or their nominated representatives, will endeavour to meet regularly to discuss matters including but not limited to:
- a) each organisation's strategic direction and corporate/operational plans
  - b) relevant operating protocols of each organisation and any associated necessary or desirable interaction between the two organisations

- c) a review of each organisation’s individual and joint research programs
- d) ATSB identified Safety Issues and Safety Recommendations and CASA’s responses to these
- e) outcomes of CASA parallel investigations (Note: refer to 4.1 for definition of ‘parallel investigations’)
- f) mutual staff training and development opportunities.

### 3.2 Operational meetings

3.2.1 The Manager of CASA’s Accident Liaison & Investigation Unit (ALIU) and the Directors and relevant Team Leaders of ATSB and other agreed staff of both organisations, will endeavour to meet at least biannually to discuss matters including but not limited to:

- a) ATSB identified Safety Issues and Safety Recommendations and CASA’s responses to these
- b) outcomes of CASA parallel investigations (Note: refer 4.1 for definition of parallel investigations)
- c) issues related to existing and proposed legislation
- d) trends and other developments bearing on aviation safety
- e) research initiatives
- f) training/seminar opportunities
- g) annual review of the MoU.

### 3.3 Communication co-ordination and contact points

3.3.1 During the course of an ATSB investigation, ATSB research or the handling of REPCON reports, the ATSB will liaise in the first instance with the ALIU and thereafter in accordance with agreed protocols.

3.3.2 The formal communication of CASA’s position in response to matters raised by the ATSB, for inclusion in an ATSB investigation report, will normally be made by the DAS or his or her designee.

3.3.3 The processes specified in 3.3.1 and 3.3.2 are not intended to impede communication between the CC (ATSB), DCEO (ATSB) and the DAS (CASA) or DDAS (CASA).

3.3.4 Subject to the foregoing, interagency contact points for routine communications are set out in Attachment D.

### 3.4 Safety education:

3.4.1 Before either the ATSB or CASA commences a safety education program, the organisations will endeavour to consult with each other to identify any opportunities for mutual cooperation.

3.4.2 Both organisations agree to cooperate with respect to provision of information for *Flight Safety Australia* magazine.

*Note: refer to **Attachment B**.*

### **3.5 Shared training opportunities:**

- 3.5.1 The ATSB will advise CASA of its program of training for a calendar period when it becomes available. CASA, as soon as practicable, will advise the ATSB if there are any training opportunities in the program that it wishes to place CASA staff members on. To the extent that resources are available the ATSB will consider the capacity to accommodate the request and advise CASA.
- 3.5.2 CASA will advise the ATSB of its program of training (including new technologies, aircraft types etc) for a calendar period when it becomes available. The ATSB, as soon as practicable, will advise CASA if there are any training opportunities in the program that it wishes to place ATSB staff on. To the extent that resources are available, CASA will consider the capacity to accommodate the request and advise the ATSB.
- 3.5.3 CASA and the ATSB will endeavour to advise one another of any changes to their respective annual training schedules as soon as practicable.

## **4 COOPERATION IN RELATION TO INVESTIGATIONS**

### **4.1 Parallel investigations:**

- 4.1.1 The ATSB may undertake ‘no-blame’ safety investigations in accordance with the TSI Act and CASA may separately undertake investigations with a view to possible safety-related action pursuant to its functions under Section 9 and/or Part IIIA of the Civil Aviation Act.
- 4.1.2 As soon as reasonably practicable after either the ATSB decides to conduct an investigation, or CASA decides to conduct an investigation in relation to a matter that would be a reportable matter to the ATSB, each organisation will notify the other organisation.
- 4.1.3 If either organisation considers an investigation conducted by the other organisation is creating an unreasonable impediment to the performance of their functions, they will raise the matter with the other organisation.
- 4.1.4 With respect to its own investigation, each organisation will seek to gather evidence from original sources in the first instance and then, where practicable, on the basis of information provided by the other organisation.

### **4.2 Request for assistance or involvement:**

- 4.2.1 CASA and the ATSB may request assistance from each other in the performance of their respective functions. Resources permitting, and after consideration of any internal policies and legal requirements, as well as any conflicts of interest, each organisation will seek to accommodate a request from the other.
- 4.2.2 Where assistance is provided, each party will normally bear its own costs. However, if the party providing assistance at the request of the other party does so primarily or exclusively for the benefit of the requesting party, some or all of the costs of the party providing that assistance may be borne by the party to whom that assistance is provided.

- 4.2.3 **Attachment A** to this MoU provides guidance where the assistance provided involves participation in an investigation or where one organisation seeks to be involved in the other organisation’s investigation.

#### 4.3 **Physical evidence at accident sites**

- 4.3.1 In order to facilitate cooperation and coordination in relation to evidence at the site of an investigation, each organisation agrees to the following:
- a) The normal expectation is that CASA will not attend the site that the ATSB is attending. The onus will be on CASA to advise the ATSB without delay after notification of an accident if it has any need to attend and inspect the accident site. On occasions when CASA attends the accident site, the ATSB will make any physical evidence available for inspection to CASA and not move, take, dismantle, change or alter any such piece of evidence without providing CASA, where practicable and as authorised by the ATSB Investigator In Charge, with the opportunity to conduct a detailed inspection of it in situ.
  - b) The ATSB has priority with respect to removal and custody of evidence at an accident site. However, where CASA has a requirement to remove and/or retain evidence, the organisations will consult with each other with a view to the achievement of each organisation’s objectives.
  - c) Each organisation will ensure that the removal and/or retention of evidence is conducted in accordance with appropriate chain-of-evidence protocols.

#### 4.4 **Disclosure of information relating to investigations**

- 4.4.1 It is understood that the provision of all information will be subject to the legal obligations and policies applicable to both organisations.
- 4.4.2 CASA and the ATSB will consult with each other in the development of their policies and procedures regarding the disclosure and use of safety information, including the mechanisms for disclosure and protections to be applied to information received from the other agency.
- 4.4.3 If the ATSB requests information from CASA, such requests will normally be directed to and through the ALIU in the first instance. Thereafter, further and/or related communications may be directed to another relevant officer or group within CASA.
- 4.4.4 CASA agrees to assist the ATSB in relation to the provision of documents and other evidence or specialist participation concerning transport safety matters that the ATSB is investigating. Normally, the request will be made pursuant a Section 32 notice to ensure that information provided is protected as restricted information under Division 2 of Part 6 of the TSI Act. When a request for information is not directed to CASA by a Section 32 notice, CASA may request the issue of a notice to the Authority prior to the release of the requested information.
- Note: CASA and the ATSB recognise and acknowledge their respective obligations under the Privacy Act 1988.*
- 4.4.5 Unless otherwise agreed, a notice issued under Section 32 will allow CASA ten (10) Canberra business days to respond. CASA acknowledges that there

may be exceptional circumstances where shorter time frames may be required and will seek to cooperate in meeting those time frames.

- 4.4.6 CASA agrees that if a CASA Officer is known to have information that could assist the ATSB in the performance of its investigative functions, CASA will undertake to advise the ATSB of the existence of the information.
- 4.4.7 The ATSB recognises that CASA needs to be advised as soon as practicable where an investigation reveals information that indicates a need to take urgent safety-related action. In such cases, the ATSB will release such information to CASA, normally via the ALIU, who will disseminate the information in the most appropriate manner.
- 4.4.8 ATSB may disclose restricted information to CASA under section 61 of the TSI Act or authorise CASA's access to such information under section 62 of the TSI Act. If information is disclosed to CASA under section 61, and if CASA decides to take safety-related action on the basis, in whole or in part, of that information, CASA will advise the ATSB accordingly.
- 4.4.9 Where the ATSB, in consultation with CASA, agrees that the information released under section 62 discloses a need for CASA to take safety action, and CASA cannot obtain it from an alternative source in a timely fashion, the ATSB agrees to consider alternative means of releasing the information.
- 4.4.10 CASA agrees that, whenever it conducts a parallel investigation into a transport safety matter the ATSB is also investigating, CASA will, subject to any legal or other applicable requirements, provide the ATSB with a copy of the CASA investigation report or other compilation of relevant details as soon as it is practicable to do so
- 4.4.11 **Attachment C** to this MoU lists the types of restricted information that the ATSB may obtain during an investigation and the circumstances where that information may be considered for release. While acknowledging the need to protect sensitive, restricted and on-board recording (OBR) information, the occasional need for destructive testing, and the practical constraints in ensuring proof of chain of evidence, the guidance seeks to ensure that the investigations of both the ATSB and CASA can proceed in parallel.

## 5 OCCURRENCE NOTIFICATION AND INVESTIGATION REPORTS

### 5.1 Notification of Transport Safety Matters and provision of reports

#### 5.1.1 Notification to ATSB:

CASA Officers, in fulfilling their reporting requirements for immediately reportable matters (IRMs) and routine reportable matters (RRMs) under the TSI Act should normally use the contacts identified in Attachment D.

#### 5.1.2 Notification and reports to CASA:

- a) The ATSB will notify the CASA Media Contact (Section Head Corporate Communications) or the Manager ALIU (if CASA Media Contact is not contactable) of an IRM as soon as reasonably practicable.
- b) CASA will be provided with copies of all ATSB notifications. However, CASA understands that the ATSB will de-identify reports by removing information identifying individuals including:
  - i. name(s);



- ii. address(es);
  - iii. contact details; and
  - iv. ARN(s).
- c) The information in 5.1.2 (b) will be provided to CASA automatically by the ATSB in the form of a daily report and weekly report as appropriate.
- d) In addition to providing the initial notification, where the ATSB conducts an investigation, reports released to CASA will include:
- i. preliminary factual reports released approximately 30 days after the occurrence (if issued);
  - ii. interim factual reports, released approximately every six months after the release of the preliminary factual report until the draft report is ready for release to Directly Involved Parties (DIPs) (if issued);
  - iii. draft reports; and
  - iv. final reports.
- e) **Attachment D** contains the relevant contact points.

## 5.2 Directly Involved Party process

- 5.2.1 CASA will be deemed to be a Directly Involved Party (DIP) in relation to all ATSB aviation investigations. In the case of a Level 4 investigation, there may be no DIP response required by CASA. However, if CASA does wish to respond, it must respond within the notified time frames outlined in 5.2.3.
- 5.2.2 The ATSB will provide a copy of the Draft report to CASA and other DIPs for the purpose of making a submission to the ATSB on the report or to address any factual inaccuracies or analytical or safety issue incongruities identified in the report's findings. CASA is encouraged to make comment and where possible CASA is expected to support any comments with relevant evidence.
- 5.2.3 Unless otherwise agreed, all submissions from CASA as a DIP are expected to be made in writing within 28 days of the date of the ATSB's covering letter.
- 5.2.4 Submissions from CASA will be considered by the ATSB and, where considered appropriate, the ATSB report will be amended accordingly.
- 5.2.5 Where the ATSB seeks to publish a CASA submission in whole or in part, the ATSB will consult with CASA before doing so.
- 5.2.6 The ATSB acknowledges that nothing prevents CASA from commenting publicly on the final version of the report.
- 5.2.7 The ATSB will normally provide CASA with a copy of the final report eight Canberra working days prior to the date on which that report is to be publicly released.

## 5.3 Safety action

- 5.3.1 The ATSB understands actions may be taken by CASA in response to safety issues during the course of an ATSB or CASA investigation, and the ATSB will include this information in the investigation report to the extent it is practicable to do so. The ATSB encourages safety action that obviates the need to make safety recommendations.

- 5.3.2 In order to ensure that any safety action is properly acknowledged by the ATSB, CASA will advise the ATSB of any safety action taken or intended to be taken by CASA.
- 5.3.3 In making recommendations for safety action by CASA, the ATSB will clearly and explicitly identify the safety issue(s) involved. The ATSB will consult with CASA prior to a recommendation being made.
- 5.3.4 CASA response to safety recommendations- In accordance with section 25A of the TSI Act, CASA will respond to the ATSB in writing within 90 days of the date on which the report is published, and include in that response the information required under section 25A. The CASA response should clearly identify which part of the written response is intended for publication on the ATSB website and/or in the final report.
- 5.3.5 Where consideration and implementation by CASA of an ATSB recommendation is or may be protracted, CASA will inform the ATSB of progress at regular intervals as agreed between the organisations.
- 5.3.6 CASA and the ATSB will seek to ensure that information posted about the status of ATSB recommendations on their respective websites is consistent.  
*Note: This may be achieved via a link on the CASA website to the ATSB website.*

## **6 COOPERATING IN THE CONDUCT OF RESEARCH AND DATA ANALYSIS AND SHARING SAFETY-RELATED INFORMATION**

- 6.1 Before either the ATSB or CASA commences general research, data analysis or related investigations, the organisations will endeavour to consult with each other to identify the opportunity for input and mutual cooperation.
- 6.2 General research and data analysis reports will be provided to CASA in accordance with the ATSB's normal DIP process or as otherwise agreed between the organisations (having regard to applicable requirements and constraints).
- 6.3 CASA and ATSB will explore ways to access and make constructive use of the safety-related data each organisation collects.
- 6.4 Where appropriate and practicable, CASA and the ATSB will enter into discrete arrangements for sharing and providing reciprocal access to data and other safety-related information. Such arrangements may be included as appendices to this MoU.

## **7 CONFIDENTIAL REPORTING SCHEMES**

- 7.1 The Air Navigation (Confidential Reporting) Regulations 2006 establish an aviation confidential reporting scheme (REPCON) which allows any person who has an aviation safety concern to report it to the ATSB confidentially. Under the REPCON scheme, personal information will not be disclosed unless permission is granted by the individual concerned. Only de-identified information will be used for safety action.
- 7.2 The ATSB will forward relevant de-identified REPCON information to CASA.
- 7.3 As soon as practicable, but within 28 days or as otherwise agreed, CASA will advise the ATSB of its response to any safety concerns raised in relation to information provided to CASA pursuant to 7.1 above. CASA's written response

will indicate whether CASA considers the matter a valid safety concern and, if so, any proposed safety action CASA intends to take on the matter.

- 7.4 It is recognised that, due to the de-identification necessary to protect the identity of the reporter or a person referred to in a confidential report, there may be cases when CASA has a limited capacity to offer a view on the matter or to take any targeted safety action. In such cases, CASA may seek to discuss the matter further with the ATSB to determine whether additional information can be made available to CASA.
- 7.5 CASA may use information supplied in a REPCON report in *Flight Safety Australia* magazine or other appropriate educational and safety promotion materials.

## 8 BRIEFING AND CONTACT WITH THE MEDIA

- 8.1 **Executive briefing** – In addition to any advice about such matters the ATSB may provide to the Minister and/or the Department of Infrastructure, Transport, Regional Development and Local Government, the ATSB will advise CASA of serious and high profile aviation accidents and other aviation-related safety occurrences.
- 8.2 The ATSB will advise CASA whenever it makes recommendations, circulates final reports in relation to investigations of serious and high profile occurrences or proposes to release a significant media statement in relation to any matter related to aviation safety.
- 8.3 CASA will endeavour to inform the ATSB and provide advance briefings before it makes any comments pertaining to any serious or high profile transport safety matters the ATSB is known to be investigating.

**Contact with the media** – All media inquiries received by the ATSB in relation to regulatory matters, including CASA investigations, should be referred to CASA. Likewise, all media inquiries received by CASA relating to the initiation or conduct of ATSB investigations should be referred to the ATSB. CASA is, however, at liberty to comment on such matters arising from its own parallel investigations or, if there is a particular reason to comment on an occurrence, CASA will make it clear that the ATSB is undertaking an independent investigation which should not be prejudiced by any comment CASA may make.

## 9 DURATION, VARIATIONS & DISPUTE RESOLUTION

- 9.1 This MoU will remain in effect for three years from the date of its execution.
- 9.2 This MOU may be extended, varied or terminated by exchange of letters between the ATSB and CASA.
- 9.3 In the event that any disagreements or disputes arise in respect to any of the provisions of this MoU, the dispute/disagreement will initially be referred to the Director, Aviation Safety Investigation (ATSB) and the Manager ALIU (CASA). Should a mutually satisfactory resolution not be forthcoming, the issue will be referred to the DAS (CASA) and CC (ATSB) for resolution. If unresolved at that level, the matter should be raised jointly by the DAS (CASA) and the CC (ATSB) with the Secretary of Department of Infrastructure, Transport, Regional Development and Local Government.

Dated at Canberra this

ninth

day of February 2010



JOHN FRANCIS McCORMICK  
Director of Aviation Safety  
Civil Aviation Safety Authority



MARTIN NICHOLAS DOLAN  
Chief Commissioner  
Australian Transport Safety Bureau

## **ATTACHMENT A - Participation in investigations**

1. Participation in investigations will be co-ordinated through the Manager ALIU, CASA and the Director Aviation Safety Investigations, ATSB.
2. The Organisations may agree that a CASA officer may act as an observer or an external investigator for the purposes of an ATSB safety investigation under the direction of the Investigator In Charge (IIC). The CASA Officer will be required to sign an agreement acknowledging his or her obligations and duties, appropriate to the level of their involvement in a transport safety investigation.
3. The CASA Officer will be given access to evidence to the extent necessary to enable the IIC to effectively complete the investigation.
4. The ATSB will not normally seek to participate in CASA regulatory investigations, but may request participation in, or information from, any investigation undertaken by CASA. ATSB Officers who participate in a CASA investigation must comply with any lawful direction given to them by the CASA Officer-in-charge of the investigation.

### ***Safety equipment for on-site***

5. If CASA Officers attend an ATSB controlled accident site, they must ensure they meet the ATSB minimum training, occupational health and safety, and personal protective equipment requirements.
6. Where the ATSB has requested that a CASA officer attend an accident site to assist in an ATSB investigation, the ATSB will provide the CASA Officer with any required disposable protective equipment (i.e. overalls, face masks, gloves and safety glasses).

## **ATTACHMENT B – ATSB supplements in *Flight Safety Australia* magazine**

### **PURPOSE**

1. This attachment sets out the arrangements agreed between CASA and the ATSB regarding the inclusion of the ATSB material in *Flight Safety Australia* magazine.

### **BACKGROUND**

2. *Flight Safety Australia* is a magazine produced every two months by CASA for the purposes of safety education and promotion. It is generally distributed six times a year to all Australian aviation licence holders, other interested readers in Australia and overseas subscribers.
3. CASA has published editorial material provided by the ATSB in *Flight Safety Australia*, in the form of an ATSB supplement.

### **AGREED ARRANGEMENTS**

4. The ATSB will supply an eight-page ATSB Supplement to be included in *Flight Safety Australia* for the duration of the MoU. Where the ATSB seeks to temporarily or permanently increase this page allocation, the ATSB may negotiate this request with CASA.
5. CASA will publish the ATSB Supplement in the edition of *Flight Safety Australia* for which it was supplied, at no cost to the ATSB.
6. The editorial content of the ATSB Supplement is a matter for the ATSB. Consequently, ATSB takes full responsibility for the content of the ATSB Supplement, except to the extent that there is any substantive difference between the Supplement as supplied to CASA and the Supplement as published in *Flight Safety Australia*.
7. CASA may comment on the ATSB Supplement, including on editorial matters such as format, style, and language, and substantive matters such as factual content and opinion. The ATSB will consider these comments as provided in good faith.
8. If any material in the ATSB Supplement supplied to CASA is critical of CASA or the system of aviation safety regulation, CASA may request the ATSB to include in the ATSB Supplement a statement by CASA in response to that criticism. If such a statement is not agreed for publishing in the ATSB Supplement, CASA reserves the right to comment elsewhere within *Flight Safety Australia*. CASA will advise the ATSB of any such comment prior to its publication.

### **Design and provision of ATSB supplement**

9. ATSB will supply the ATSB Supplement as an In-Design document, or in a format agreed by both organisations. The ATSB will ensure the Supplement reflects the format and style of *Flight Safety Australia's* design while retaining its distinct identity that reflects the ATSB's role as separate from and complementary to CASA.

10. The ATSB will provide the pre-designed ATSB Supplement at a time that meets the production deadlines for *Flight Safety Australia* advised by CASA, for the forthcoming year.
11. The ATSB may elect to not provide the ATSB Supplement for an edition, but must advise the Editor, *Flight Safety Australia* of non-inclusion one week prior to the advertising booking date applicable for that issue.

### **Non publication of an edition of Flight Safety Australia**

12. Should CASA decide not to publish, or to delay the publication of, an edition of *Flight Safety Australia*, for any reason, CASA will advise ATSB of the decision as soon as practicable.

### **ATSB editorial representative for Flight Safety Australia editorial advisory group**

13. The ATSB may nominate an editorial representative to liaise with the editor, *Flight Safety Australia* on a regular basis.
14. The ATSB's editorial representative, or a nominee of ATSB's editorial representative, and the Editor, *Flight Safety Australia* will take part in regular meetings for the duration of this Memorandum, unless otherwise agreed.

### **Provision of other material in Flight Safety Australia which does not appear in the ATSB Supplement**

15. CASA may, from time to time, seek to publish articles in *Flight Safety Australia* which relate to investigations and research undertaken by ATSB. The ATSB undertakes to co-operate with CASA or writers nominated by CASA, in drafting and checking such articles, provided ATSB personnel are available to do so. The ATSB's inability to provide personnel for such purposes will not prevent CASA from publishing the article.
16. The ATSB will send to CASA a bi-monthly notification of its accident list for inclusion in *Flight Safety Australia*.
17. The ATSB will send to CASA a list of most recently published investigation reports for inclusion in *Flight Safety Australia*.
18. The ATSB may seek to publish material, including articles and advertisements, in *Flight Safety Australia* outside of the ATSB Supplement. In such cases, CASA and ATSB will enter into the normal contractual arrangements (including fees) for publication of that material.

### **Income from Flight Safety Australia**

19. All advertising and subscription revenue derived from *Flight Safety Australia* is retained by CASA.

## **ATTACHMENT C - Restricted information categories**

Subject to the applicable provisions of the *Transportation Safety Investigation Act 2003* (TSI Act), the following guidelines apply to the release of various types of Restricted Information by the ATSB:

**(a) Statements (whether oral or in writing) obtained from persons by a Commissioner, staff member or consultant in the course of an investigation (including any record of such a statement) under the TSI Act**

- Statements will not be released to CASA or to any other organisations seeking access because of the importance the ATSB places on encouraging the free flow of this information for safety purposes on the basis that it will be protected.
- Subject to any concerns raised by witnesses, the ATSB will seek to provide CASA with a list of all witnesses that have been interviewed by the ATSB during the course of the ATSB investigation.

**(b) Information recorded by a Commissioner, staff member or consultant in the course of an investigation under the TSI Act**

- This category of restricted information will most often contain personal information, opinions and analysis and will not generally be released. However, where it represents simple factual information, for example, a wreckage plot, such information would be considered for release after it has been verified by the ATSB. The Chief Commissioner would need to be convinced on a case-by-case basis that the circumstances warranted the release of any other type of restricted information recorded by a staff member.

**(c) Communications with persons involved in the operation of a transport vehicle that was or is the subject of an investigation under the TSI Act**

- This category of restricted information does not include OBR information. It would normally cover recordings such as Air Traffic Control and AVDATA tapes. The ATSB will advise CASA to obtain this evidence from the original source.
- Where advised in writing that it is not possible to obtain this evidence from the original source, including relevant justification, the ATSB will reconsider the request from CASA.

**(d) Medical or private information regarding persons (including deceased persons) involved in a transport safety matter that is or has been investigated under the TSI Act**

- Other than advised elsewhere in Attachment C, the ATSB will advise CASA to obtain other medical and private information from the original source.



**(e) In relation to a transport vehicle that is or was the subject of an investigation under the TSI Act – information recorded for the purpose of directing or monitoring the progress of a vehicle from one place to another or information recorded in relation to the operation of the vehicle**

- This category of restricted information includes a variety of recorded information such as radar plots and flight recordings.
- The ATSB will advise CASA to obtain this information from the original source.
- Where advised in writing that it is not possible to obtain this evidence from the original source, including relevant justification, the ATSB will reconsider the request from CASA.

**(f) Records of any analysis of information or evidential material acquired in the course of an investigation (including opinions expressed in that analysis)**

- This category of restricted information would include analysis carried out by ATSB personnel as well as external personnel assisting the ATSB either under contract or by other agreed arrangements, for example, technical analysis of components or human factors analysis.
- The Chief Commissioner would need to be convinced on a case by case basis that the circumstances warranted the release of this type of restricted information. It is likely that if the information is released to CASA it will be in the form of a section 25 report to ensure that the information cannot be used in any other legal forums.

**(g) Information contained in a document that is produced to the ATSB under paragraph 32(1)(b) of the TSI Act.**

- This category of restricted information has been obtained under compulsion powers where self-incrimination is not an excuse for not providing the information. Consequently, it attracts self-incrimination immunity and, as such, will not be released to CASA but may be obtained from the original source.

**(h) Information contained in a document that is produced to the ATSB under paragraph 36(3)(a) or 4(a)**

- This category of restricted information has been obtained under compulsion powers where self-incrimination is not an excuse for not providing the information. Consequently, it attracts self-incrimination immunity and, as such, will not be released to CASA but may be obtained from the original source.

**(i) Information contained in a report made under a voluntary reporting scheme**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

**(j) Information obtained or generated by the ATSB in the course of considering a report made under a voluntary reporting scheme**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

**(k) Records of analysis of information contained in a report made under a voluntary reporting scheme (including opinions expressed by a person in that analysis)**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

## **ATTACHMENT D: Contact points**

### **Investigations**

ATSB: Team Leader for investigation advised by ATSB

CASA: Manager Accident Liaison & Investigation Unit

### **Research and Data Analysis**

ATSB: Team Leader – Research, Investigations and Analysis

CASA: Manager Safety Performance Analysis – Safety Analysis and Education

### **Data Requests**

ATSB: Team Leader – Notifications and Confidential Reporting

CASA: Manager Accident Liaison & Investigation Unit

### **Confidential Reporting**

ATSB: Team Leader – Notifications and Confidential Reporting

CASA: Manager Accident Liaison & Investigation Unit

### **Safety Education**

ATSB: Team Leader – Research Investigations and Analysis

CASA: Manager Safety Education - Safety Analysis and Education.

### **Training**

**ATSB:** Manager – Personnel Services

**CASA:** Manager Learning and Development - Safety Analysis and Education.