



## Australian Government

### Department of Infrastructure, Regional Development and Cities

File Reference: COR 2016 001157, COR 2016 001158  
DIRDC Reference: EC18-001505  
ATSB Reference: CC2019/019  
Contact: Melissa Cashman,  
Director Aviation Safety Policy and Governance  
Ph. 02 6274 6741

Coroner Audrey Jamieson  
Victorian Coroner's Court  
65 Kavanagh Street  
SOUTHBANK VIC 3006

Dear Coroner Jamieson

### Investigation into the death of Ian Cook & Quoc Huong Vu

We write in relation to the recommendations you made following the inquest into the deaths of Ian Cook and Quoc Huong Vu. Firstly, we would like to extend our deepest sympathies to the families and friends of both Mr Cook and Mr Vu.

Our responses to the recommendations are as set out below.

#### Recommendation 1

*The Australian Transport Safety Bureau (ATSB) undertake an investigation to determine the proportion of weight shift microlight trikes involved in accidents and incidents compared to other recreational aircraft.*

In aviation, the jurisdiction for the ATSB to investigate covers the whole industry. To maximise the safety outcomes that can be achieved from the deployment of the ATSB's personnel, and consistent with the Minister's Statement of Expectations<sup>1</sup>, the ATSB focusses on safety matters affecting the travelling public, generally occurring with regular public transport and charter operations.

The ATSB's publically stated position is that *'safety matters affecting the sport and recreation sector are the responsibility of self-administering bodies'*.<sup>2</sup> However, the ATSB recognises that there is an increasing expectation from some industry advocates and coroners, that the ATSB become more involved with investigations in the sport and recreation sector. As stated in the ATSB's Corporate Plan, the ATSB may become involved in investigating matters affecting sports and recreation section *'where there is significant third party risk and a high likelihood of identifying contributing factors that are not generally well-understood'*<sup>3</sup> and, consistent with the Government's response to the Aviation Safety Regulation Review (2014), on an exceptional basis.<sup>4</sup>

<sup>1</sup> Section 3, *Statement of Expectations for the Commission of the Australian Transport Safety Bureau for the period 1 July 2017 to 30 June 2019, 2017* ('Minister's Statement of Expectations').

<sup>2</sup> Australian Transport Safety Bureau, Corporate Plan 2018–2019, p.9 ('ATSB's Corporate Plan').

<sup>3</sup> Ibid.

<sup>4</sup> Australian Government, *The Aviation Safety Regulation Review Report: Government Response*, December 2014, p.9.

This recommendation cannot be addressed by the ATSB because the ATSB does not have sufficient data to undertake an investigation to determine the proportion of weight shift microlight trikes involved in accidents and incidents compared to other recreational aircraft. The ATSB has data only with respect to reported accidents<sup>5</sup> involving microlight trikes and other sport and recreation aircraft. The data available to the ATSB does not include the total number of registered sport and recreation aircrafts (including weight shift microlights trikes).

However, the ATSB publishes annual aviation occurrence statistics which provide a comparison for accidents and fatal accidents for trikes with other aircraft types, including as a rate per hours flown. The latest aviation occurrence statistics<sup>6</sup>, uses information over the ten-year period from 2008-2017 to provide an insight into the current and possible future trends in aviation safety. In particular, see Figure 3 and Table 1, as well as the 'Occurrence by aircraft type' chapter, of the Aviation Occurrence Statistics 2008-2017.

#### Recommendation 2

*The ATSB provide the results of their investigation to determine the Civil Aviation Safety Authority so that they may consider the viability of stronger recency requirements for pilots operating weight shift microlight trikes.*

The ATSB's function to improve transport safety extends to cooperating with the Civil Aviation Safety Authority (CASA) on such matters. The ATSB's statistical analysis in the Aviation Occurrence Statistics 2008-2017 is available to CASA and the public.

This recommendation is unable to be implemented because, flowing from the above response to recommendation 1, there has been no determination of the proportion of weight shift microlight trikes involved in accidents and incidents compared to other recreational aircraft.

#### Recommendation 3

*The Secretary of the Department of Infrastructure, Regional Development and Cities consider implementing measures to ensure increased available resources for organisations delegated the ATSB's legislative responsibility to investigate civil aviation incidents.*

Certain sport and light aircraft associations can voluntarily seek recognition as self-administering organisations (SAO) by CASA. SAOs oversee the activities of their members and provide assurances to CASA that the activities conducted are safe. This may include investigating incidents or accidents involving their members. CASA provides a small amount of funding to these organisations to assist in their oversight role.

However, there is no legislative basis for the ATSB to delegate its responsibility to investigate civil aviation incidents; therefore, it is not possible to implement this recommendation. Notwithstanding this, if a SAO conducts an investigation into an incident or accident the ATSB may take into account the findings of the SAO in undertaking their own investigation.

#### Recommendation 4

*The Secretary of the Department of Infrastructure, Regional Development and Cities consider implementing measures to ensure the ATSB directly investigates all civil aviation incidents resulting in a fatality.*

The ATSB was established under the *Transport Safety Investigation Act 2003* as an independent entity that reports directly to the Minister for Infrastructure, Regional Development and Cities. Accordingly, decisions on whether to investigate incidents resulting in a fatality are made by the ATSB; therefore, this recommendation is not able to be implemented.

---

<sup>5</sup> 'Incidents' involving microlight trikes are not required to be reported to the ATSB under the *Transport Safety Investigation Regulations 2003*.

<sup>6</sup> The Australian Transport Safety, Bureau Aviation Occurrence Statistics 2008-2017, available at <http://www.atsb.gov.au/publications/2018/ar-2018-030/> (Aviation Occurrence Statistics 2008-2017).

Consistent with the Australian Government's expectations of the ATSB, as articulated in its Statement of Expectations, the ATSB gives priority to transport safety investigations that have the potential to deliver the best safety outcomes for the travelling public.

Currently, all fatal aviation accidents must be reported to the ATSB and the ATSB reviews each report to determine whether to conduct a full investigation. In making that determination, the likely safety outcomes to be obtained from the investigation are considered. In the interests of efficient use of resources, the ATSB focuses its responses on incidents where the cause of the incident is not apparent, or where additional safety value is likely to be obtained.

Yours sincerely



Pip Spence PSM  
Deputy Secretary, Transport



Greg Hood  
Chief Commissioner, ATSB

25 January 2019