

Subsidiary Arrangement (SA) for the transparency of safety oversight of the delivery of Defence Air Traffic Services to civil aviation operations

1. PURPOSE

1.1. This SA is made under the Framework Arrangement and reflects the Government response to ASRR Recommendation 13.

1.2. This SA defines activities to ensure that:

- (a) CASA is satisfied that Defence ATS to civil aviation operations achieves an equivalent level of safety (where possible) to that provided under CASRs, and
- (b) the Director of Aviation Safety is satisfied that Defence is providing ATS that achieves an acceptable level of safety for civil aviation at all times.

1.3. This SA is subordinate to, and must be read in conjunction with, the Framework Arrangement.

1.4. This SA replaces the *Subordinate Agreement to Agreement on the Promotion of Aviation Safety and Airworthiness between Civil Aviation Safety Authority (CASA) and Department of Defence (Defence), Topic Area: Transparency of Safety Oversight of Delivery of Defence Air Traffic Services to Civil Aviation Operations*, dated 16 September 2016.

2. ACRONYMS

ACPA	Airworthiness Coordination and Policy Agency
AFHQ	Air Force Headquarters
ANAA	Air Navigation, Airspace and Aerodromes Branch, Aviation Group
ANSP	Air Navigation Service Provider
ASRR	Aviation Safety Regulation Review of December 2014
ATC	Air Traffic Control
ATM	Air Traffic Management
ATS	Air Traffic Services
AWB	Airworthiness Board (Defence)
CASA	Civil Aviation Safety Authority
CASR	Civil Aviation Safety Regulations 1998
DASA	Defence Aviation Safety Authority
HQ44WG	Headquarters No 44 Wing
OPEVAL	Operational Evaluation

3. DEFINITIONS

Coordinating Authorities means persons nominated as Topic Leaders within the SA

Defence entities means any of DASA, AFHQ and HQ44WG

Framework Arrangement means the *Memorandum of Understanding on the Integration and Coordination of Efforts to Promote Aviation Safety between the Civil Aviation Safety*

Regulating Authorities means CASA and DASA

4. IMPLEMENTATION

4.1. To satisfy CASA that the level of Defence safety oversight and delivery of ATS to civil aircraft is comparable to that provided under CASR Part 172, CASA will:

- (a) actively develop and retain a detailed understanding of Defence safety oversight and delivery of ATS to civil aircraft (being services of the kind and to the standard required of Airservices Australia (or any other authorised ANSP) under CASR Part 172 – *Air Traffic Service Providers*)
- (b) engage with the relevant Defence entities on a continuing basis, including regular participation in Defence’s oversight and regulatory activities specific to ANSP
- (c) observe systems and operational assessments conducted by Defence of Defence ATS operations
- (d) engage in Defence regulatory discussions and forums, where feasible and practicable.

4.2. Defence will:

- (a) provide information to CASA including but not limited to relevant reports, capability assessments, reviews, safety assessments and incident reports, to inform its understanding of Defence’s safety oversight systems and processes for delivery of ATS
- (b) engage with CASA to enable participation by CASA in Defence oversight and regulatory activities.

4.3. The Parties acknowledge:

- (a) the military ATS environment differs from the civil environment and may deliver outcomes that vary from those prescribed under CASR
- (b) Defence ATS practice seeks to achieve an equivalent level of safety to that prescribed under CASR, though Defence practice may deviate in order to achieve operational objectives required by Defence
- (c) Defence will minimise risk to civil aviation so far as is reasonably practicable in order to achieve what is, from CASA’s perspective, an acceptable level of safety
- (d) where Defence cannot achieve what CASA considers an acceptable level of safety for civil aviation, Defence will seek to mitigate the risk through other means such as airspace segregation or denial of access
- (e) the implementation of Project OneSKY will result in closer relationships between CASA and DASA and substantial commonality of systems

- (f) Defence provides its own safety oversight of the provision of Military ATS to civil aviation operations in military controlled airspace.

5. TOPIC LEADERS FOR MATTERS ARISING UNDER THIS SA

5.1. CASA – Manager CNS/ATM

5.2. Defence – Director ACPA

6. TRANSPARENCY ACTIVITIES

6.1. The Parties will engage in the following transparency activities:

- (a) CASA and Defence will nominate operational points of contact
- (b) standing participation by CASA in periodic Defence ATM AWB, with access to relevant AWB documentation; CASA will provide the AWB with a general report including matters of safety interest to CASA
- (c) regular participation by CASA in Defence ATM OPEVALs and other regulatory or surveillance activities where practicable
- (d) Defence attendance during CASA surveillance activities of civil ATC locations, subject to Airservices Australia agreement
- (e) participation by CASA and Defence in regulatory engagements to facilitate information sharing related to civil operations at joint user and military aerodromes and within military administered airspace.

6.2. In addition, CASA will:

- (a) conduct observation of Defence ATC personnel, ATC procedures, systems and infrastructure where agreed and practicable
- (b) advise Defence on any matters of safety interest identified by CASA in the context of CASR Part 172 (noting that Part 172 does not apply to Defence)
- (c) record CASA's participation in Defence OPEVAL and other regulatory activities through CASA's surveillance software, and record any safety matter that CASA identifies as a CASA Observation.

6.3. Defence will acknowledge CASA recommendations and Observations and provide responses to CASA, but Defence is under no obligation to action any recommendations or Observations by CASA.

6.4. CASA retains the prerogative to issue safety advice to civil aircraft operators about any aspects of ANS in military controlled airspace where deviation from CASR Part 172 may generate a risk to civil aviation.

7. DISPUTE RESOLUTION

7.1. Questions or concerns arising from this SA must be managed under clause 10 of the Framework Arrangement and at the lowest appropriate level.

8. PROVISIONS FOR PERIODIC EVALUATION AND TERMINATION OF THE SA

- 8.1. The SA should be reviewed biennially by Defence and CASA.
- 8.2. The SA may be amended at any time by Defence or CASA on recommendation of the Coordinating Authorities.
- 8.3. A Regulating Authority may terminate this SA by notice in writing to the other Regulating Authority.

<p>Shane Carmody Chief Executive Officer and Director of Aviation Safety Civil Aviation Safety Authority</p>  <p>..... 12/5/2020</p>	<p>Jason Agius Air Commodore Director-General, DASA Department of Defence</p> <p>..... 01/6/ 2020</p>
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