



PNG AIC Office, Level one, NAQIA Haus, 6 Mile  
PO Box 1709  
BOROKO 111  
National Capital District  
Papua New Guinea

Telephone : (675) 327 9000  
Facsimile : (675) 323 2139  
Email : [abouraga@aic.gov.pg](mailto:abouraga@aic.gov.pg)

Our Ref: AIC 23-R10/22-2002

## **Safety recommendation: AIC 23-R10/22-2002**

**Addressed to: NiuSky Pacific Limited**

**Date issued: 19 April 2023**

**Investigation link: AIC 22-2002**

**Action status: Issued**

### **Safety deficiency description**

On 26 August 2022, at about 08:26 local (22:26 UTC<sup>1</sup>) a Viking Canada DHC6-300 Twin Otter aircraft, registered P2-KSI (KSI) owned and operated by Hevilift (PNG) Aviation Limited and a Cessna 208 Caravan aircraft, registered P2-MEW (MEW) owned and operated by Mission Aviation Fellowship (MAF) PNG Limited encountered a loss of separation when they passed each other at Mt. Hagen Airport, Western Highlands Province, Papua New Guinea. MEW was cleared for takeoff into the path of KSI that was cleared to land after MEW received its takeoff clearance.

The landing aircraft, KSI received a TCAS Alert of close proximity. The aircraft passed each other at a proximity of about 300 ft vertical and about 200 m lateral distance apart.

The day of the serious incident, 26 August 2022, was a public holiday in PNG.

At 12:49 pm on 26 August 2022, the Hevilift Safety & Quality Manager notified CASA PNG of the serious incident, as a *TCAS ATC Incident*.

However, CASA did not inform the AIC until 30 August at 9:09 am via email.

Furthermore, NiuSky Pacific Limited did not inform the AIC until 10:31 am on 31 August.

The MAF pilot reported the serious incident to the Flight Operations Manager, but the MAF notification of the serious incident to CASA and the AIC was delayed because 26 August was a public holiday.

The investigation noted that NiuSky Pacific did not comply with the legislated notification requirements and the notification was not submitted to CASA by the Controller and the submission of the notification was delayed until 31 August due to internal procedures and staffing over the public holiday long weekend. NiuSky Pacific is reminded that in accordance with *Section 60 of the Civil Aviation Act 2000 (as amended)* and *Civil Aviation Rule Part 12.55 (b) which states:*

<sup>1</sup> The 24-hour clock, in Coordinated Universal Time (UTC), is used in this report to describe the local time as specific events occurred. Local time in the area of the serious incident, Papua New Guinea (Pacific/Port Moresby Time) is UTC +10 hours.

A person who is involved in an incident that is a serious incident or an immediate hazard to the safety of aircraft operations must notify the Authority of the incident as soon as practicable, therefore the responsibility to notify rests with the controller.

The AIC understands that NiuSky Pacific's internal procedures may require the controller to notify ATC management of an accident or serious incident for the NiuSky to make an internal assessment and notify CASA. However, if the NiuSky fails to notify CASA **as soon as practicable** with a minimum of delay and by the most suitable and quickest means possible, the controller is responsible under the *Civil Aviation Act*.

## **Overview of ICAO Annex 13 Standards and PNG legislated requirements for notification of accidents and serious incidents.**

*ICAO Annex 13 Attachment C* lists examples of Serious Incidents which includes:

Near collisions requiring an avoidance manoeuvre to avoid a collision or an unsafe situation or when an avoidance action would have been appropriate.

*PNG Civil Aviation Rule Part 12, 12.55 Notification of incident* states:

- (a) A holder of a certificate issued in accordance with the following Parts must notify the authority as soon as practicable of any associated incident if the certificate holder is involved in the incident and the incident is a serious incident or an immediate hazard to the safety of aircraft operations: —
  - (1) Parts 119, 129 and 137 – aircraft incident or dangerous goods incident;
- (b) A person who is involved in an incident that is a serious incident or an immediate hazard to the safety of aircraft operations must notify the Authority of the incident as soon as practicable, if the person –
  - (1) operates, maintains, services, or does any other act in respect of any aircraft, aeronautical product, or aviation related service; and
  - (2) is not employed by, or associated with, the certificate holder referred to in paragraph (a).
- (c) A pilot-in-command of an aircraft that is involved in an airspace incident or a bird incident shall notify the Authority of the incident as soon as practicable.

*PNG CAR Part 1 Definitions* states:

**As soon as practicable** means with a minimum of delay and by the most suitable and quickest means possible.

*Section 60 of the Civil Aviation Act 2000 (as amended)* is quite clear and states:

The pilot-in-command of an aircraft that is involved in an accident or incident shall notify the accident or incident to CASA as soon as practicable.

*Civil Aviation Advisory Circular 12-1, Section 7 Classification of Incidents* states:

**Airspace incident:** means an incident involving deviation from, or shortcomings of, the procedures or rules for—

- (1) Avoiding collisions between aircraft; or
- (2) Avoiding collisions between aircraft and other obstacles when an aircraft is being provided with an Air Traffic Service:

*Civil Aviation Advisory Circular 12-1, Section 8* also clarifies the meaning of as soon as practicable and states:

Rule 12.55 requires an incident that is a serious incident or an immediate hazard to the safety of aircraft operations, or that is an airspace incident, be notified to the Authority as soon as practicable. For this purpose, notification should be submitted by the fastest means possible, such as by telephoning, FAX, email or, where it is available, submission of an eReport into the Authority's AQD system.

The object of occurrence information is to improve the level of flight safety from the lessons learned during subsequent follow-up action on submitted information. Also, in promptly alerting those organisations associated with the operation, servicing, and manufacture of the same type of aircraft, equipment, or facilities, on which information has been submitted, safety is enhanced.

*PNG Civil Aviation Act 2000 (as amended) Section 62 Duty of authority to notify accidents and incidents to the Commission, states:*

(1) As soon as practicable after an accident or incident is notified under Section 60, the Authority shall notify the Commission that the Authority has been notified of the accident or incident where it is of any of the following kinds:–

(a) an accident involving aircraft;

(b) a serious incident in accordance with the provisions of the Convention.

On 10 July 2018, the then Minister for Civil Aviation, Hon. Alfred Manase, MP wrote to the Director of the PNG Civil Aviation Safety Authority Mr. Wilson Sagati, OBE and raised concerns about the aviation industry failing to comply with legislated requirements to notify CASA PNG and the AIC of accidents and serious incidents in a timely manner. He stated:

The AIC informed me that on some occasions they had not been notified and had learnt of the incidents on social media or the news media. They advised that this was also likely the case with notifications to CASA.

The AIC has informed me that operators including Air Niugini are failing to comply with the notification requirements of the Section 60 of the Civil Aviation Act 2000 (as amended) and the Civil Aviation Rules Part 12.

Delays in notifying the Authority and the AIC result from these airlines requiring their pilots to notify the company so the company can review (vet) pilots' notifications and make an assessment as to whether the company considers it to be an accident or serious incident.

As you are well aware Section 60 of the Civil Aviation Act 2000 (as amended) is quite clear and states:

The pilot-in-command of an aircraft that is involved in an accident or incident shall notify the accident or incident to CASA as soon as practicable.

Civil Aviation Rules Part 12.55 also requires the notification as soon as practicable.

The Minister concluded his letter stating:

This must be rectified and I ask that CASA issue an urgent directive to PNG aircraft operators and airlines, NAC and PNGASL to notify the Authority and the AIC "without delay and by the fastest means possible" following an accident or incident. Operators' manuals that state otherwise should be amended as soon as possible.

## **Recommendation number AIC 23-R10/22-2002 to NiuSky Pacific Limited**

The PNG Accident Investigation Commission (AIC) recommends that NiuSky Pacific Limited should ensure their relevant documents, manuals and operational procedures are amended to comply with the requirements of *Section 60 of the Civil Aviation Act 2000 (as amended)* and the *Civil Aviation Rules Part 12*.

Specifically, as related to the requirements of *Civil Aviation Rules Part 12.55 (b)* an Air Traffic Controller being:

- (b) A person who is involved in an incident that is a serious incident or an immediate hazard to the safety of aircraft operations must notify the Authority of the incident as soon as practicable, if the person –
  - 1. operates, maintains, services, or does any other act in respect of any aircraft, aeronautical product, or aviation related service.

Furthermore, because flight operations are conducted on public holidays and on weekends NiuSky Pacific Limited should ensure that a qualified officer is on duty to assist an Air Traffic Controller involved in a serious incident to take prompt action to meet the notification requirements to notify CASA *with a minimum of delay and by the most suitable and quickest means possible*.

### **Action requested**

The AIC requests that NiuSky Pacific Limited note recommendation *AIC 23-R10/22-2002* and provide a response to the AIC within 90 days of the issue date and explain (including with evidence) how NiuSky Pacific Limited has addressed the safety deficiency identified in the safety recommendation.



**Capt. A Bouraga MBE**

*Chief Commissioner*

19 April 2023

## **NiuSky Pacific Limited response to Safety Recommendation AIC 23-R10/22-2002**

On 3 July 2023, NiuSky Pacific Limited responded via email providing their preventative actions to address the safety deficiency identified in the AIC *Safety Recommendation AIC 23-R10/22-2002*, which were contained in an attached letter dated 29 June 2023.

The letter stated that NSPL had accepted AIC *Safety Recommendation AIC 23-R10/22-2002* without objection and that their preventative actions included excerpts of NiuSky Pacific's *MATS*:

1. NiuSky Pacific's *Manual of Air Traffic Services (MATS)* dated 12 August 2021 Admin-8 – 1paragraph 8. Notification of Accident, Incidents and Unusual Aviation Activities supports and amplifies *CAR Part 12* and AIC 23-R10/22-202 in paragraphs **8.1.1 The Civil Aviation Rules Part 12 requires that all accidents occurring to a Papua New Guinean based aircraft or to any other aircraft in Papua New Guinea territory, be notified immediately to the authority.**
2. Further, *MATS General 8.2 Incidents Likely to Received Publicity* and paragraph 8.3 Notification highlighted in paragraph **8.3.1.2 In addition CASA PNG and AIC shall be information of all INI.**

On 4 July 2023, the AIC acknowledged receipt of NSPL's response to *Safety Recommendation AIC 23-R10/22-2002* and requested a copy of the NiuSky Pacific's *Manual of Air Traffic Services (MATS)* dated 12 August 2021.

The NSPL responded on the same day stating that NSPL has been gradually morphing the old *MATS* into a new updated version. This has been done commensurate with the rate of system change. While in the process they are moving *MATS*, Admin, PEL etc into a new *Air Traffic Service Traffic (ATS) Administrative Manual*. Presently, all operational aspects are contained in the new *MATS Version 2* and regards to the administrative aspects, NSPL is still referring to the old sections until all updates are inserted into the new manual.

NSPL advised that once the process is completed, they will forward all electronic copies of the full updated *MATS* including the additional *ATS Administration Manual*.

## **PNG Accident Investigation Commission assessment of NiuSky Pacific Limited (NSPL) response**

The AIC assessed the NSPL response and notes the proposed preventative actions address the safety deficiencies identified in *Safety Recommendation AIC 23-R10/22-2002*.

The AIC assigned this response as *satisfactory intent* rating.

The AIC recorded the **Status of the AIC Recommendation: MONITOR**



**Capt. A Bouraga, MBE**

*Acting Chief Commissioner*

19 July 2023

### **NiuSky Pacific Limited response to Safety Recommendation AIC 23-R10/22-2002**

On 15 November 2023, NSPL provided electronic copies of their amended *Manual of Air Traffic Services (MATS) Version 2* and *Air Traffic Services (ATS) Administration Manual Version 1* to the AIC. Both manuals were effective as of 2 May 2023 and the *ATS Administration Manual Chapter 1-110* included procedures on *Notification of Accidents, Incidents and Unusual Aviation Activities*.

### **PNG Accident Investigation Commission assessment of NSPL response**

The AIC reviewed NSPL's *ATS Administration Manual Chapter 1-110* and noted that the safety action addresses the safety deficiency identified in *Safety Recommendation AIC 23-R10-22-2002*.

The AIC assigned the response a *fully satisfactory* rating.

The AIC recorded the **Status of the AIC Recommendation: CLOSED**

A handwritten signature in blue ink, appearing to read 'A Bouraga', with a horizontal line extending to the right and a small flourish at the end.

**Capt. A Bouraga, MBE**

*Acting Chief Commissioner*

30 November 2023