



Briefing for the incoming Minister of Transport

Transport Accident Investigation Commission
Te Komihana Tirotiro Aitua Waka

19 September 2014

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A. About the Commission

Purpose

The Transport Accident Investigation Commission (the Commission) is a standing commission of inquiry. Its mandate is to undertake independent investigations into certain accidents and incidents in air, rail and maritime transport, and to report its findings and recommendations.

The Commission's enabling legislation is the Transport Accident Investigation Commission Act 1990 (the Act). The Commission was established to achieve greater compliance by New Zealand with the Convention on International Civil Aviation (*ICAO Convention*), particularly Annex 13 which relates to safety focused accident investigations. It was given the power to inquire into rail accidents in 1992, and three years later its mandate was further extended to inquire into maritime accidents to support New Zealand's obligations as a member of the International Maritime Organisation and the International Convention for the Safety of Life at Sea (SOLAS). The International Maritime Organisation developed a Maritime Casualty Investigation Code, which requires maritime accidents and incidents to be investigated by an independent investigative agency for the purpose of preventing further accidents and incidents rather than for apportioning blame or liability.

The Act prescribes the Commission's purpose, which is 'to determine the circumstances and causes of accidents and incidents with a view to avoiding similar occurrences in the future, rather than to ascribe blame to any person'¹.

Functions and powers

As described in Part One of the Transport Sector briefing, the Commission's principal function is to investigate aviation, rail and maritime accidents and incidents². To that end, it must in the case of each accident and incident:

- decide whether to investigate. The Commission must do so if it believes that an accident or incident has significant implications for transport safety or would allow it to make recommendations that would improve transport safety
- co-ordinate and direct the investigations it initiates and decide which other parties (if any) should be involved in its investigations
- consider evidence gathered by investigators, advice from experts, and the submissions of consulted people and organisations; and hold private or public hearings
- publish its findings and recommendations -- the Commission has recommendatory powers only

The Commission has broad investigative powers under the Act, including the power of entry and inspection, and the power to seize, remove and protect evidence. It also has wide powers under the Commissions of Inquiry Act, including the power to require a person to produce any papers, documents, records or things or to summons any person to appear before its Commissioners. The evidence the Commission gathers (including witness interviews) is protected from general disclosure except for the purposes of the investigation. On occasion, the Commission may hold private or public hearings.

¹ Section 4 of the Transport Accident Investigation Commission Act.

² Sections 2 and 8 of the Transport Accident Investigation Commission Act.

Operating environment

The Commission operates alongside transport safety authorities (the regulators³), which may also investigate transport accidents and incidents. Often their focus is to determine whether or not compliance with the regulatory regime has occurred and, if not, to establish whether sanctions should be applied or sought. Their investigation may also have a safety dimension although they will generally not cover this ground when the Commission has opened an inquiry into the same event. The Commission's inquiries often include examining the regulatory environment and its performance or contribution to an occurrence or issue.

Coroners also have an interest in transport accidents that result in fatalities. The New Zealand Police often investigate on behalf of the Coroner, and may also pursue a criminal inquiry. It is, therefore, possible that upwards of three parties may pursue an investigation for differing purposes following a single-mode transport accident or incident. The Commission notes the introduction of the Coroners Amendment Bill and supports the clarification of the roles of Coroners and other authorities that investigate deaths and accidents.

International context

The Commission is part of a global network of transport accident investigation bodies prepared to meet their States' obligations to conduct investigations consistent with international requirements. This includes investigating qualifying accidents or incidents occurring within New Zealand's 12 nautical mile limit, as well as in or above international waters in the case of a New Zealand registered aircraft or ship. The Commission may also support an international agency's investigation of an event with a New Zealand connection.

³ Maritime New Zealand, the Civil Aviation Authority, and the New Zealand Transport Agency.

B. Corporate structure and strategy

Structure

As well as being a standing commission of inquiry, the Commission is an independent Crown entity under the Crown Entities Act 2004. It is totally Crown funded with an annual budget of about \$3.9 million. The Commission currently has two members, who also act as the Commission's board for the purposes of the Crown Entities Act. 2004. Annex 1 has more information about the Commissioners.

The Commission is required under statute to employ a chief executive. The chief executive employs 10 investigative staff (including the Chief Investigator of Accidents) and 7 corporate support staff. Some investigation support is provided free under memorandums of understanding or fee for service contracts by suitably qualified individuals or institutions, including other State resources and international colleague agencies. Likewise, some support requirements are contracted in from individuals or firms, information technology, human resources, medical advisory, and research.

Strategic direction and objectives

The Commission's strategic direction is focused on achieving a specific outcome expressed as a visionary statement: **No repeat accidents—ever!** The Commission seeks to pursue this goal by working to ensure safety issues are properly identified and resolved. The Commission is mindful of its business model as an independent Crown entity, and its obligations to operate effectively and efficiently.

As described in the Commission's Statement of Intent 2014-2018 (Attachment 1), the Commission has set five strategic objectives to ensure it contributes to a safer transport system and meets its statutory obligations. These objectives are to:

- Deliver sound, cost effective Crown entity performance
- Develop and maintain responsive reciprocal stakeholder relationships
- Share inquiry and entity information
- Develop and maintain capable staff
- Properly conduct investigations

C. Current matters

Current inquiries

The Commission aims to close about 20-25 inquiries a year, roughly spread evenly across the modes. The target time to complete an inquiry is approximately eighteen months, but the actual time varies depending on complexity or because inquiries with common themes will be combined. Resource availability due to the naturally uneven rates of opening of inquiries can also extend completion times. Over recent years the Commission has traded down the quantity of (narrower) inquiries in exchange for increased quality of more complex, systemic-focused inquiries and the increased use of hearings by Commissioners, to better meet its legislative purpose. The desirable loading is 30 open domestic cases in order to maintain the desired throughput.

As at 19 September 2014, the Commission had 36 domestic inquiries open: 13 air, 15 rail, and 8 marine. Notable on-going inquiries include the October 2011 grounding of the *Rena* near Tauranga (for which an interim factual report was published in March 2012). The final report for this inquiry is nearing completion. In July 2014, the Commission released an interim report into a passenger train colliding with a stop block at Melling station in Lower Hutt, an incident that generated media interest. Several recommendations were made in the interim report. A final report is due for completion in 2015.

In April 2014, the Commission resolved to review the evidence and new matters arising since publication of a report into the September 2010 accident in which the pilot of a Walter Fletcher aeroplane with eight parachutists on board lost control during take-off from Fox Glacier aerodrome. The original inquiry was the subject of a TV3 3rd Degree television programme. A report of the review is likely to be released in February or March 2015.

Arrangements to advise Ministers of forthcoming inquiry report releases are discussed in the next section. A full list of current inquiries is included at Annex 3.

Funding review

The Commission and the Ministry of Transport are undertaking a funding review of the Commission to assess the sustainability of its funding model. As explained in the Statement of Intent 2014-2018, the Commission expects to manage all routine cost pressures from within its current baseline funding in the short term. [Withheld under section 9(2)(f)(iv) of the Official Information Act 1982]

Workforce planning

The Commission's workforce demographic is weighted towards the older cohort with over half of the staff aged 55 years or more, and succession planning is a matter of priority for the Commission. The effectiveness of the Commission's operating model depends on investigators having the right skills and experience. Investigators tend to be mature professionals because they need to be experienced and credible; and the required skills are expensive to grow and maintain. The Commission prepared a work force plan in 2014/15 to support succession planning and continuing operations.

Watch List

Communications about findings and recommendations is a critical way of influencing the sector to enhance safety. The Commission has developed a Watch List of safety issues that it believes need greater attention. The purpose of the Watch List is to highlight emerging issues of concern to the Commission, as well as safety issues or recommendations that it has highlighted

previously but which it believes have had insufficient attention paid to them. The Commissions plans to publicise the Watch List over the 2014/15 year.

Maintaining investigative standards

The Commission achieves improvement in transport safety only by maintaining investigative standards. The Commission conducts self-assessments of its investigations against international standards. The Commission is also planning a comprehensive project to develop and enhance existing guidelines designed to maintain investigation best practice and proper governance of inquiries.

D. Relationship with Ministers

The Commission maintains a 'no surprises' relationship with the Minister of Transport consistent with its statutory independence. Standard elements of the relationship include the:

- receipt of an annual letter of expectations from the Minister, Statement of Intent and Statement of Performance Expectations preparation, and reporting quadrimesterly (every four months) against the Statement of Performance Expectations and annually (through you to Parliament) against the Statement of Intent and the Statement of Performance Expectations
- meetings of the Chief Commissioner with the Minister or delegated Associated Minister, every two months or as required
- briefings of the Ministers about significant recent or forthcoming activity.

The Chief Investigator of Accidents notifies stakeholders, including your office, by email when an inquiry has been opened. The notice provides a general indication of the nature of the inquiry, but any opening advice is tentative. In most circumstances, the Commission does not contact your office again until the report of the inquiry is released (unless the Commission is consulting with the regulator or Ministry on a matter). Your office receives early advice of the release of a report (including all materials) and is briefed on the release process. Usually the release of a report involves publication on the Commission's website. Where inquiries have generated public interest, the Commission may hold a press conference.

For the most part, the Commission deals with media inquiries about investigations. It is usual for the Minister to maintain an arm's length from the Commission's inquiries, and respond to any media inquiries by noting that an independent body, the Commission, is undertaking the investigation.

The Commission's General Manager, Communications and Investigation Support, will introduce himself to your press secretary to brief him or her on the Commission's functions and processes.

E. Matters requiring urgent attention of the incoming Minister

The principal matter requiring the attention of the incoming Minister of Transport is the appointment of a third Commissioner. As noted in Annex 1, the Ministry of Transport is managing this process and will be consulting with you on the potential candidates.

The Commission's report into the grounding of the container ship *Rena* is expected to be released in late 2014.

Annex 1 Commissioners

Commissioners are appointed by the Governor-General on recommendation of the Minister of Transport for fixed, renewable terms. Under the Transport Accident Investigation Act 1990, up to five Commissioners may be appointed; however, the usual number is three. Currently there are two Commissioners (see below), and a third is being sought. The Ministry of Transport is managing this process, and will be consulting with you on the potential candidates.

- John Marshall QC (Chief Commissioner). John Marshall practises law in Wellington. He was appointed to the Commission in March 2010 and assumed the role of Chief Commissioner from May 2010. His current term will expire in March 2015.
- Helen Cull QC (Deputy Chief Commissioner). Helen Cull practices law in Wellington. She was appointed to the Commission in May 2011, and her current term will expire in May 2016.

Due to illness, Mr Marshall has been unable to attend all Commission meetings over the past couple of months and Ms Cull has occasionally had to sit alone as the Commission pursuant to clause 10, schedule 5 of the Crown Entities Act 2004. Mr Marshall is expected to resume full duties in October 2014.

Annex 2 Commission contact

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Commission details

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Annex 3 Open inquiries as at 19 September 2014

(Sorted by mode then estimated report due; soonest first.)

Aviation

Inquiry No.	Occurrence description	Date opened	Estimated report due
13-009	Royal New Zealand Air Force Boeing 757, landing in weather below minimum standards, Antarctica	7/10/2013	18/12/2014
13-002	Robinson R44, Autorotation precautionary landing, Lake Rotorua	24/02/2013	15/01/2015
13-005	R22 Beta Helicopter, loss of control, New Plymouth	4/04/2013	15/01/2015
13-007	Boeing 737-800 ZK-ZQG, stabiliser trim mechanism damage, Auckland International Airport	21/06/2013	15/01/2015
13-006	AO-2013-006 Airbus A340, Runway excursion, Auckland Airport	20/05/2013	15/01/2015
12-002	Airbus A320, bird strike, on approach to Wellington airport	21/06/2012	12/03/2015
13-003	Robinson R66, in-flight break-up, Kaweka Range	9/03/2013	12/03/2015
13-008	Boeing 737, cabin depressurization, Auckland	30/08/2013	12/03/2015
13-011	ZK-VAH, Runway excursion, Auckland airport	3/11/2013	12/03/2015
13-010	Aerospatiale AS350 B2 ZK-IMJ, collision with second helicopter, Tyndall Glaciers	29/10/2013	14/05/2015
14-003	Pacific Aerospace 750XL, hard landing, Warrenton, Virginia, USA (overseas assist)	14/05/2014	14/05/2015
14-002	Kawasaki Heavy Industries Limited BK117 B-2 Helicopter, double engine power loss, Springston	6/05/2014	19/11/2015
14-001	Boeing 737-3B7 Freighter, right-hand undercarriage collapse during landing roll, Honiara, Solomon Islands (overseas assist)	29/01/2014	30/01/2016
14-004	Piper PA32, impact with terrain, near Poolburn Dam, near Alexandra	05/08/2014	10/02/2016

14-005	Aerospatiale AS350 helicopter, snow landing accident, Mount Alta, 20 km north-west of Wanaka	16/08/2014	10/02/2016
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Rail

Inquiry No.	Occurrence description	Date opened	Estimated report due
12-102	Power outage at Wellington Train Control Centre, affecting Auckland Rail Network	26/04/2012	20/11/2014
13-106	Track occupation irregularity, leading to near collision, Otira, Arthurs Pass	11/06/2013	18/12/2014
12-104	Train 723, Track Occupation Irregularity, Seddon, 1 August 2012	1/08/2012	15/01/2015
13-105	Express Passenger Train 1203, moved from platform while wheelchair bound passenger was alighting, Waikanae Station	11/06/2013	15/01/2015
14-102	Metropolitan passenger Train 5153, derailment, Auckland	3/03/2014	15/01/2015
12-103	Train 229, Main Line Derailment, Maewa	3/05/2012	12/03/2015
12-105	Passenger Train, wrong routed, Wiri Junction, 31 August 2012	4/09/2012	12/03/2015
13-103	Train 5618, collision with the stop block, Melling Station	15/04/2013	12/03/2015
13-104	Ganz-Mavag electric multiple unit passenger train, derailment, Wellington	20/05/2013	12/03/2015
14-103	Matangi passenger train, failed to stop, Melling Station	27/05/2014	12/03/2015
13-101	Freight Train 345, Derailment, Mission Bush Branch	14/01/2013	14/05/2015
13-107	Derailment, Mercer	3/09/2013	14/05/2015
14-101	KiwiRail Overlander, Collision with heavy truck, Huntly	27/02/2014	19/11/2015
14-104	Freight train, collision with excavator, between National Park and Raurimu	17/06/2014	17/12/2015
14-105	Empty passenger train and excavator, near collision, between Featherston and Dalefield	11/08/2014	24/02/2016

Marine

Inquiry No.	Occurrence description	Date opened	Estimated report due
10-206	Coastal container vessel <i>Spirit of Resolution</i> , grounding, Manukau Bar, Auckland	29/09/2010	20/11/2014
11-204	Container Ship <i>Rena</i> , Grounding, Astrolabe Reef, Tauranga	5/10/2011	20/11/2014
14-202	Bulk Log Carrier <i>MV Da Dan Xia</i> , Equipment Failure, Wellington	14/04/2014	15/01/2015
13-203	Interislander passenger and freight ferry <i>Aratere</i> , propeller shaft fracture and loss, Tory Channel	6/11/2013	12/03/2015
11-202	Passenger and freight ferry <i>Monte Stello</i> , struck underwater object, Tory Channel	4/05/2011	14/05/2015
12-203	Fishing vessel <i>Amatal Columbia</i> , fire onboard, 85 km northwest of Lyttelton	12/09/2012	11/06/2015
14-201	<i>MV Dream Weaver</i> , taking on water, Hauraki Gulf	24/02/2014	17/09/2015
14-203	<i>Captain MJ Souza</i> , fatality on-board, Kiribati Islands region	25/08/2014	10/02/2016

Briefing to the Incoming Minister | September 2014

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