



## Transport Accident Investigation Commission

OIA No. 386

2 July 2024

[REDACTED]

Email: [REDACTED]

### Decision on information request - AO-2020-002

Thank you for your further email of 10 June 2024 requesting information about TAIC investigation AO-2020-002 (Pacific Airspace Cresco 08-600, ZK-LTK).

Investigation information is protected by the Transport Accident Investigation Commission Act 1990 (TAIC Act). Broad confidentiality requirements apply to this information, in recognition of the broader public interest in safety investigations, consistent with New Zealand's confidentiality obligations under the ICAO Convention Annex 13, paragraph 5.12.

In this case, you are requesting information that is contained in notes and opinions of investigators to this accident. This information is protected under section 14B of the TAIC Act. It is an offence to disclose this information, except for the purposes of the investigation or in the final published Commission report. The Official Information Act 1982 does not apply to this information. Please see the appendix for the relevant provisions.

While I am unable to answer your questions about this case beyond what is contained in the Commission's final report, I can assure you that the Commission's investigations are thorough and consider all lines of inquiry relevant to its safety purpose. The questions you ask would fall within the general approach to safety investigations of this type.

Again, if you have significant new evidence about this inquiry that you would like the Commission to consider, please submit it to us.

If you are unhappy with our response, you may complain to the Ombudsmen.

Yours sincerely

Cathryn Bridge  
**Commission General Counsel**

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# Appendix: Relevant Provisions

## S 14B TAIC Act 1990

### 14B Circumstances of disclosure, and admissibility, of certain investigation records

- (1) A record specified in subsection (2)—
  - (a) may only be disclosed—
    - (i) by the Commission, or other person with the written consent of the Commission, for the purposes of an investigation by the Commission into an accident or incident to which the record relates; or
    - (ii) under section 14Q; and
  - (b) is not admissible in any proceeding.
- (2) A record referred to in subsection (1) is—
  - (a) a statement or submission made to the Commission in the course of an investigation; or
  - (b) a recording of an interview by a person engaged in an investigation by the Commission that is generated in the course of an investigation, or a transcript of such a recording; or
  - (c) a note or opinion of a person engaged in an investigation by the Commission that is generated in the course of an investigation; or
  - (d) information relating to an investigation that is provided in confidence by the Commission to any other person (unless that information is a record specified in section 14C(2)).
- (3) Despite subsection (1), a person who made a statement or submission referred to in subsection (2)(a) or who supplied any statement contained in a record referred to in paragraph (b) or paragraph (c) of subsection (2) may disclose that information contained in the statement or submission to any person.

## S 14L TAIC Act 1990

### 14L Offences relating to disclosure of records

- (1) Every person commits an offence who discloses a record specified in section 14B(2) or section 14C(2) in breach of section 14B or section 14C.
- (2) Every person commits an offence who contravenes section 14J(2).
- (3) Every person who commits an offence against this section is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$10,000;
  - (b) in the case of a body corporate, to a fine not exceeding \$25,000.

## S 14R TAIC Act 1990

### 14R Application of Official Information Act 1982 to record specified in section 14B(2) or section 14C(2)

Nothing in the Official Information Act 1982 applies to a record specified in section 14B(2) or section 14C(2).

## ICAO Convention Annex 13 to the Convention on International Civil Aviation

### *Protection of accident and incident investigation records*

5.12 The State conducting the investigation of an accident or incident shall not make the following records available for purposes other than accident or incident investigation, unless the competent authority designated by that State determines, in accordance with national laws and subject to Appendix 2 and 5.12.5, that their disclosure or use outweighs the likely adverse domestic and international impact such action may have on that or any future investigations:

- a) cockpit voice recordings and airborne image recordings and any transcripts from such recordings; and
- b) records in the custody or control of the accident investigation authority being:

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- 1) all statements taken from persons by the accident investigation authority in the course of their investigation;
- 2) all communications between persons having been involved in the operation of the aircraft;
- 3) medical or private information regarding persons involved in the accident or incident;
- 4) recordings and transcripts of recordings from air traffic control units;
- 5) analysis of and opinions about information, including flight recorder information, made by the accident investigation authority and accredited representatives in relation to the accident or incident; and
- 6) the draft Final Report of an accident or incident investigation.

Appendix 2 of ICAO Convention Annex 13 'Protection of accident and incident investigation records' also provides additional detail about such confidentiality protections.