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# Briefing for the incoming Associate Minister of Transport

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Transport Accident Investigation Commission  
*Te Komihana Tirotiro Aitua Waka*

January 2013

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## A. About the Commission

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### Origins

The Transport Accident Investigation Commission (the *Commission*) was established by the Transport Accident Investigation Commission Act 1990 (the *TAIC Act*) 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. The Commission was given the power to inquire into rail accidents in 1992, and three years later its mandate was further extended to inquire into marine 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.

### Mandate

The TAIC Act established the Commission as a standing Commission of inquiry with all the powers conferred by the Commissions of Inquiry Act 1908 except in relation to costs. It is also an independent Crown entity under the Crown Entities Act 2004.

The key elements of the Commission's legislative mandate are:

- **Purpose:** The Commission's principle purpose is to determine the circumstances and causes of aviation, rail and maritime accidents and incidents to avoid reoccurrences and not to ascribe blame<sup>1</sup>.
- **Functions:** The Commission's principal function is to investigate aviation, rail and maritime accidents and incidents<sup>2</sup>. To that end, it must in the case of each accident and incident:
  - decide whether to investigate<sup>3</sup>. 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<sup>4</sup>; and
  - publish its findings and recommendations – the Commission has recommendatory powers only.
- **Powers.** The Commission has broad investigative powers under the TAIC Act, including the power of entry and inspection<sup>5</sup>, and the power to seize, remove and protect evidence<sup>6</sup>. It also has wide powers under the Commissions of Inquiry Act, including the power to require a person to produce

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<sup>1</sup> Section 4 of the Transport Accident Investigation Commission Act.

<sup>2</sup> Sections 2 and 8 of the Transport Accident Investigation Commission Act.

<sup>3</sup> Section 13 of the Transport Accident Investigation Commission Act 1990.

<sup>4</sup> Section 14 of the Transport Accident Investigation Commission Act 1990.

<sup>5</sup> Section 12 of the Transport Accident Investigation Commission Act 1990.

<sup>6</sup> Section 12 of the Transport Accident Investigation Commission Act 1990.

any papers, documents, records or things<sup>7</sup> or to summons any person to appear before its Commissioners<sup>8</sup>. These requirements are mandatory.

In deciding whether to open an inquiry the Commission applies a logic guide to ensure proper consideration of factors which might inform a preliminary assessment about whether any particular accident or incident, or the investigation of it, has potential significant implications for transport safety. If the Commission decides not to investigate an accident or incident, it must advise the relevant safety authority<sup>9</sup>. The Minister of Transport may direct the Commission to investigate an accident or incident which the Commission has otherwise decided not to investigate<sup>10</sup>.

## Operating environment

The Commission operates alongside transport safety authorities (the regulators<sup>11</sup>), 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 Occupational Health and Safety Inspectors may also be involved in certain circumstances. On occasion the Police may also pursue a criminal inquiry. They may also investigate road accidents and incidents but unless these involve rail infrastructure or a train there is no overlap with the Commission's mandate.

It is, therefore, possible that upwards of three parties may pursue an investigation for differing purposes following a single-mode transport accident or incident.

## 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.

New Zealand, as an island State with a small population and few near neighbours, relies on access to other accident investigation management systems to ensure sufficient practices and capabilities to handle significant events. Also, as with other jurisdictions, it is recognised that for bigger accident events no one State necessarily has the investigative resources to manage its own response efficiently. Co-operating with international investigatory bodies, therefore, allows the Commission to participate in overseas investigations in which there is a New Zealand interest, and gives the Commission access to international expertise and resources, as well as provides benchmarking and development opportunities. Our investigators may be called upon to assist in other countries, and we in turn may call for help when required. The Commission has assisted with several investigations in the Pacific, as a component of Ministry of Foreign Affairs and Trade-led support.

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7 Section 4C of the Commissions of Inquiry Act 1908.

8 Section 4D of the Commissions of Inquiry Act 1908.

9 Section 10 of the Transport Accident Investigation Commission Act 1990.

10 Section 13 of the Transport Accident Investigation Commission Act 1990.

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

## Corporate structure and strategy

The Wellington-based Commission is totally Crown funded with an annual budget of \$4m. The two-member Commission employs a chief executive. The chief executive employs 10 investigative staff (including the Chief Investigator of Accidents) and 6 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, including finance, information technology, human resources, medical advisory, and research supervision.

The Commission is bedding in the results of a three year capability building programme, which introduced new governance and management policies and practices and a new research strategy, alongside the development of an information technology based Accident Investigation Information Management System and a complementary Electronic Document Records Management System.

The Commission conducts an annual strategic planning exercise which feeds into the development of its next Statement of Intent and helps to manage the Commission's strategic priorities. The September 2011 planning exercise revalidated the Commission's vision statement of "*Safer transport through investigation, learning and influence*" and confirmed an internal planning imperative of "*No repeat accidents, ever*". It also reaffirmed the Commission's strategy to continue lifting the quality of its investigation practices to improve the Commission's acquisition, analysis and use of external data in its work and to increase its engagement with stakeholders by talking to them about what the Commission is doing, the results of its inquiries, and the safety improvements it believes are needed. A key element of this work in the next six months is expected to be the development and publication of the Commission's first "watch list" highlighting both emerging issues of concern to the Commission, as well as safety issues or recommendations which it has highlighted previously but which it believes have had insufficient attention paid to them.

The current Statement of Intent (for 2012-15) is attached at Annex 4.

## B. Current inquiries

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The Commission aims to close about 30 inquiries a year, roughly spread evenly across the modes, with most inquiries being completed in about a year. Some inquiries will take longer because of their complexity or because inquiries with common themes will be combined or because of resource availability due to the naturally uneven rates of opening of inquiries. 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.

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 January 2012 Carterton hot air balloon accident (for which an interim factual report was published in April 2012) and the March 2012 capsizing and sinking of the Easy Rider fishing vessel near Foveaux Strait. 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.

## C. Reporting to Ministers

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The Commission endeavours to keep Ministers advised of significant or emerging issues on a “no surprises” basis while maintaining statutory obligations in respect of its work. The arrangements in place before the election, and which worked well from the Commission’s perspective, were:

- providing briefing notes or telephoned or email advice to Ministerial offices of significant or emerging issues which cannot wait for regular briefing opportunities;
- providing relevant communications to the regulators and the Ministry of a pending inquiry report release, with advice to Ministers coming via the Ministry or directly as appropriate;
- contributing to the Ministry of Transport’s weekly ‘No surprises’ report to Ministers;
- meetings every two months between the (delegated Associate) Minister and the Chief Commissioner, Chief Executive, and Chief Investigator of Accidents;
- providing quarterly and annual reports against the Statement of Intent, and engagement in the development of the Statement of Intent (all via the Ministry).

## D. Matters requiring urgent attention of the incoming Associate Minister

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There are no urgent matters requiring the incoming Associate Minister of Transport’s attention.

## Annex 1

## Commissioners

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Commissioners are appointed by the Governor-General on recommendation of the Minister of Transport for fixed, renewable terms. Up to five Commissioners may be appointed but there are currently two (see below). A third Commissioner is being sought. The Ministry of Transport is managing this process.

- 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.

## Annex 2

## Commission contact

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### Commission details

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## Rail inquiries

Inquiry No.	Occurrence description	Date opened	Estimated report due
11-102	Express Freight Train 842, track occupation irregularity between Staircase and Craigieburn	13 April 2011	March 2013
11-103	Train 6225, worksite occupation irregularity North Junction on the North Island Main Trunk Line between Muri and Paekakariki stations	26 August 2011	April 2013
11-105	Freight Train 228, wrong line running irregularity, Puhunui Station, Auckland	14 November 2011	June 2013
11-106	Hi-Rail 46293 & Passenger Train 3121 near Collision, Paerata and Papakura	28 November 2011	June 2013
12-101	Train 926D, load shift on part of Train 926D, Rolleston	6 April 2012	July 2013
12-102	Power outage at Wellington Train Control Centre affecting Auckland Rail Network	26 April 2012	July 2013
12-103	Train 229, Main Line Derailment, Maewa	3 May 2012	July 2013
12-104	Train 723, Track Occupation Irregularity, Seddon, 1 August 2012	1 August 2012	October 2013
12-105	Passenger Train wrong routed, Wiri Junction, 31 August 2012	4 September 2012	October 2013
13-101	Freight Train 345, Derailment, Mission Bush Branch	14 January 2013	March 2014

## Aviation inquiries

Inquiry No.	Occurrence description	Date opened	Estimated report due
10-008	Two Cessna 152 aircraft ZK-TOD and ZK-JGB Midair collision Feilding aerodrome	26 July 2010	March 2013
11-001	Bell 206L-3 ZK-ISF, Engine power loss and ditching, Bream Bay, Northland	21 January 2011	March 2013
11-002	Air Nelson Q300, Nose wheel collapse on landing, Blenheim	9 February 2011	April 2013
11-003	Robinson R22 helicopter, collision with terrain, Arawhata Valley, Mount Aspiring National Park	28 April 2011	May 2013
11-004	Pa31-350 Chieftain, landing gear malfunction, Nelson aerodrome	11 May 2011	May 2013
11-005	Boeing 747 Engine malfunction on approach to land at Auckland International Airport	23 September 2011	May 2013
11-006	Britten-Norman Trislander, Runway excursion, Pauanui Aerodrome, Coromandel Peninsula	22 October 2011	July 2013
11-007	Boeing 737, Approach incident, Christchurch Airport	31 October 2011	July 2013
12-001	Cameron A-210 Hot-Air Balloon, Basket contacted power lines and caught fire, Carterton	7 January 2012	May 2013
12-002	Airbus A320 bird strike on approach to Wellington airport	21 June 2012	July 2013
12-003	Australian-registered Airbus A320 descended below minimum safe altitude Queenstown, 16 July 2012 (International assist)	17 August 2012	August 2013
10-011	Inquiry into Civil Flying Training Safety	1 July 2010	February 2013

## Marine inquiries

Inquiry No.	Occurrence description	Date opened	Estimated report due
09-210	Bulk carrier Taharoa Express, Cargo shift, Port Taharoa	17 December 2009	June 2013
10-204	Bulk Carrier Hanjin Bombay, Grounding, Tauranga	22 June 2010	April 2013
10-206	Coastal container vessel Spirit of Resolution, grounding, Manukau Bar, Auckland	29 September 2010	June 2013
11-202	Passenger and freight ferry Monte Stello struck underwater object, Tory Channel	4 May 2011	June 2013
11-203	Jet Raider, Catastrophic engine failure, Motihue Channel, Hauraki Gulf	27 August 2011	May 2013
11-204	Container Ship Rena, Grounding, Astrolabe Reef, Tauranga	5 October 2011	June 2013
12-201	Fishing vessel, Easy Rider, Capsize and Foundering Foveaux Strait	16 March 2012	March 2013
12-202	Fishing Vessel Torea, Collision with uncharted rock Ruapuke Island, Foveaux Strait	24 August 2012	July 2013
12-203	Fishing vessel Amaltal Columbia fire onboard, 85 km northeast of Lyttelton	12 September 2012	July 2013

(see separate document)