



**Transport Accident Investigation Commission
Briefing for the Incoming Minister of Transport**

November 2008

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Part A Purpose of this Briefing

- 1 The purpose of this briefing is to advise you of the key near-term and longer-term strategic issues relating to the independent investigation of transport accidents and incidents that the Transport Accident Investigation Commission (the Commission) considers to be of strategic relevance.

- 2 We begin by briefly describing the origins and the key features of the Commission, its operating environment, and the contribution the Commission makes to the New Zealand Transport Strategy (NZTS)(see Part B). We then discuss a recent review of the Commission and the work programme arising out of that review (Part C). In Part D we identify and briefly discuss the key strategic issues now confronting the Commission.

Part B Origins and Key Features of the Commission

Origins

- 3 The Transport Accident Investigation Commission (the Commission) was established in 1990 under the Transport Accident Investigation Act 1990 (the Act). The Act directs the Commission to act independently when performing its statutory functions of investigating the circumstances and causes of transport accidents and incidents (see s8(3)). The Commission is one of 15 Independent Crown Entities defined under section 7 of the Crown Entities Act 2004 (CEA) and listed in part 3 of Schedule 1 of the CEA.

- 4 The Commission was established to achieve greater compliance with the Convention on International Civil Aviation (the Convention). Unless signatory states have filed a notification of difference, they are required to comply with the standards and are expected to comply with recommended practices set out in annexes to the Convention. In Annex 13 (Aircraft Accident and Incident Investigation) there is a standard that air accidents and incidents are to be investigated by an independent investigator focused on preventing further accidents and incidents and not on appointing blame or liability. Prior to 1990 the Office of Air Accidents Investigation within the Ministry of Transport investigated air accidents and incidents. This arrangement was seen as not providing sufficient independence to the investigator.

- 5 The Commission's starting point in preparing this briefing is that the fundamental principles reflected in Annex 13 – 'independent investigations' and 'no-blame investigations' – should underpin New Zealand's arrangements for investigating transport accidents and incidents.

- 6 In 1992 the Commission was given power to inquire into rail accidents, and three years later in 1995 the Commission's mandate was further extended to inquire into marine accidents. As with air accidents, the Commission's marine inquiries support New Zealand's obligations as a signatory to the Convention on the International Maritime Organisation, and the International Convention for the Safety of Life at Sea (SOLAS).
- 7 The Commission does not have the mandate to investigate road traffic accidents.
- 8 The Act gives the Commission the powers of a commission of inquiry per the Commissions of Inquiry Act 1908; in effect, therefore, it is a standing commission of inquiry. The precipitating factor giving rise to this status was the prolonged and expensive public inquiry into the crash of an Air New Zealand DC-10 on Mt Erebus. Together with the confusion created by the prior report of the Office of Air Accidents which reached a different conclusion. The Commission was established as a standing commission of inquiry in the expectation that doing so would obviate the need for similar one-off public inquiries.

The Commission's Current Legislative Mandate

- 9 The key elements of the Commission's current legislative mandate are as follows:
- *Purpose.* The Commission's principle purpose is to determine the circumstances and causes of civil aviation, rail and maritime accidents and incidents to avoid reoccurrences and not to ascribe blame (see s4 of the Act)¹.
 - *Functions.* The Commission's principal function is to investigate civil aviation, rail and maritime accidents and incidents (see s2 and s8). To that end, it must in the case of each accident or incident to:
 - decide whether to investigate – per s13, the Commission must do so if it believes that the accident or incident has significant implications for transport safety or would allow it to make recommendations that would improve transport safety, or it is directed by the Minister to investigate having itself previously decided not to do so;
 - co-ordinate and direct the investigations it initiates (see s14);
 - decide which other parties (if any) should be involved in its investigations (also see s14); and
 - publish its findings and recommendations – the Commission has recommendatory powers only.
 - *Powers.* The Commission has broad investigative powers under the Act including the full powers of a commission of inquiry other than the ability to award costs (see s11), the powers of entry and inspection (see s12), and powers relating to the seizure, removal and protection of evidence (see s12).

¹ N.B. All subsequent references to statutory provisions are to be read as references to the Act.

- 10 The Act gives the Commission the power to decide which accidents and incidents it investigates. In exercising this discretion the Commission applies criteria it has developed to allow it to make a preliminary assessment about whether any particular accident or incident has significant implications for transport safety. If the Commission decides not to investigate an accident or incident, it must advise the relevant safety authority (see s10).
- 11 The Commission is currently reviewing its criteria to ensure compliance with its statute.

The Commission's Operating Environment

- 12 The Commission operates alongside transport safety authorities (the Regulators) that are also charged with investigating transport accidents and incidents. The focus of the safety authorities when investigating accidents and incidents is in part to determine whether there has been compliance with the regulatory regime and, if not, to establish whether sanctions should be applied. The safety authorities may also focus their investigations on establishing the circumstances and causes of accidents and incidents from a safety perspective, although they generally do not do so when the Commission launches an investigation.
- 13 The New Zealand Police investigate road accidents and incidents but unless these also involve rail infrastructure or a train there is no overlap with the Commission's mandate.
- 14 Coroners also have an interest in transport accidents that result in fatalities. As a result, it is possible that upwards of three parties will pursue some sort of an investigation following a single-mode transport accident or incident. The New Zealand Police often investigate on behalf of the Coroner, and in addition Occupational Health and Safety Inspectors may also be involved in certain circumstances.

Our Contribution to The New Zealand Transport Strategy

- 15 The NZTS lays a path towards sustainable transport that is affordable, integrated, safe, and responsive. The NZTS identifies five objectives which are:
- a) Assisting economic development;
 - b) assisting safety and personal security;
 - c) improving access and mobility;
 - d) protecting and promoting public health; and
 - e) ensuring environmental sustainability.
- 16 The Commission contributes to safe and sustainable transport through inquiry into the safety performance of mechanical, operational, and regulatory systems in the aviation, rail and marine transport modes.

- 17 The expected impact of the Commission's work is public confidence in a reliable, safe, and secure transport system. This can be achieved from learning the lessons derived from the inquiries made. The Commission's key focus areas are heavy, large transport machines, or related things, that carry high destructive potential to people and property. The Commission's reports into accidents and incidents tell a story of particular events and circumstances which warn of likely adverse outcomes unless operating, organisational, or environmental systems are modified in some way to reduce the risk of the event happening again, under similar conditions. The safety recommendations the Commission issues are directed at improving the overall safety of the transport system active in the adverse event, and reducing the operating risk of involved transport systems. The lessons are beneficial when transport sector participants are actively engaged in applying the learnings, incorporating the lessons in safety systems and adopting behaviours supportive of safe practice.
- 18 The Commission feeds back the safety state of the transport systems through its reports and safety recommendations.

Our Strategic Direction

- 19 The Commission's strategic direction supports its principal purpose of determining 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 (s4 TAIC Act). The focus is on fulfilling the responsibilities of its mandate on a platform of continuous improvement across four key strategic areas.
- a) **Mandate:** The Commission is the independent crown entity in the transport sector mandated to inquire into circumstances and causes of accidents and serious incidents with the view to avoiding similar incidents in the future, without ascribing blame. Its organisational form is that of a Commission of Inquiry, and consequentially it has operating methods open to it and is bound by procedural rules of inquiry and fair hearing requirements.
 - b) **Expertise:** To be effective in fulfilling its mandate, the Commission must maintain capability as a high performing accident investigation and inquiry entity.
 - c) **Information:** The Commission recognises the value of reliable and factual information supporting its investigative functions and so seeks to strengthen its information platform and analytical capability.
 - d) **Reputation:** Safe-guarding and further developing the Commission's reputation is a cornerstone in ensuring the effectiveness of the work the Commission undertakes. The Commission seeks to be trustworthy, credible, and fearless.
- 20 The Commission evaluated its progress in terms of its strategic direction in 2006/07 and found its resources and performance against these areas highlighted significant infrastructural, procedural, and capability weaknesses. This led to the commissioning of Pricewaterhouse Coopers to conduct a capability review which was completed in November 2007.

Part C Capability and Resource Review

- 21 A pivotal finding of the Pricewaterhouse Coopers review completed in November 2007 was that the Commission's capacity to deliver on its mandate was limited by funding and resources. This allowed us to make a successful case in Budget 2008 for new funding over three years to build our corporate capability. The focus of this development of corporate capability will be primarily in strategic areas 2 and 3 and information and quality assurance systems strengthened to support robust inquiry, and expertise developed in key aspects of inquiry processes.

The Commission has commenced building its corporate capability over a three year programme identified as the Sustainability and Effectiveness Programme. The programme is managed over four key projects:

- a) Developing corporate infrastructure and capability
 - b) Upgrading IT systems
 - c) Introducing a quality assurance framework
 - d) Securing facilities for people and evidence
- 22 Project 4 is completed. Projects 1 & 2 have commenced and will be managed over 2 years. Project 2 will commence mid 2009 and run into 2010.

Part D Looking to the Future

- 23 The Crown Entities Act 2004 requires Crown Entities to proactively focus on their strategic direction far more than they did previously, and to engage with their Ministers when doing so. The Commission has engaged in a strategic planning process looking to the near-term (2009 – 2012) and the longer-term (2010 and beyond).

The Near-Term

- 24 At this time the Commission's judgement is that the key strategic issues confronting it in the near-term go to:
- Implementing the Sustainability and Effectiveness programme; and
 - maintaining normal business operations of inquiry into accidents and serious incidents.
- 25 These issues form the basis of the Commission's work programme identified in its Statement of Intent for 2008 and out years.
- 26 The Commission's approach to these key issues, and to any others that it identifies during its deliberations, will be to maximize the contribution it makes to transport safety (and, to the extent possible, other transport sector objectives) while at the same time continuing to comply with its statutory mandate.

The Longer-Term

- 27 The focus for the Commission in the longer term builds upon strengthening its corporate capability by turning its attention to improvement of its functioning as a commission of inquiry, having addressed its infrastructure.
- 28 Key areas identified by the Commission include:
- Enhancing statutory delivery by clarifying internal roles;
 - strengthening governance;
 - completing its review of criteria to open inquiries;
 - broadening the scope of its inquiries; and
 - building capability to effectively undertake systems inquiries.

THE TRANSPORT ACCIDENT INVESTIGATION COMMISSION
Commissioners as at 31 October 2008

Hon. Bill Jeffries
Chief Commissioner

Pauline Winter
Deputy Chief Commissioner

Bryan Wyness
Commissioner