

14 February 2012

International Freight Transport Services Inquiry  
Attention: Geoff Lewis  
New Zealand Productivity Commission  
PO Box 8036  
**Wellington 6143**

Dear Geoff

Thank you for the opportunity to make a submission on the Commission's Draft Report.

As you know, the Ministry of Transport (the Ministry) is focussed on increasing the efficiency of freight transport in New Zealand to support the government's objectives of improving New Zealand's economic growth and productivity.

We congratulate the Commission on producing a quality and comprehensive Draft Report on International Freight Transport Services in the short time available to it. We consider that the Commission's Draft Report broadly reflects the points we made in our submission of 14 September 2011 on the Issues Paper.

The Ministry's main concern with the Draft Report is the approach taken on rail transport issues. Otherwise, we have one general comment, and a series of comments about omissions, errors and points of clarification.

### **General comment**

In our view, the Commission is proposing a series of improvements to the current overall framework in New Zealand for international freight transport services; it is not proposing a revision of that framework.

The Ministry suggests that the Commission should give its proposals a priority ranking to reflect those which have the most potential to improve accessibility and efficiency in international freight transport services. It should also outline the basis for its assessment of the potential of these proposals.

### **Rail transport issues in Chapters 8 and 9**

It is important the Commission's analysis and findings fully reflect the fundamental changes to the governance of KiwiRail achieved over the last three years. This was subject to extensive analysis by the relevant government agencies and external specialists.

Further, given the focus of the Inquiry, it is also important that a proper distinction is made between the freight and passenger components of the business.

**Subsidies:** The Draft Report makes a number of references to government subsidies (pp xxvii, 18, 102, 119, 169, 205.). Each such reference in the Draft Report should identify precisely what subsidies are being referred to. Some may refer to earlier rail regimes. For example, operational funding contributions ceased in 2009.

**Governance framework for KiwiRail:** The Ministry disagrees with the comments in the Draft Report (page 153) that KiwiRail's governance should be specified only in the State-Owned Enterprises Act 1986. In our view, because of KiwiRail's mixture of commercial and non-commercial objectives, this Act would not in itself provide an adequate governance framework.

In addition, the Ministry also considers that recommendation 10.5 (the use of Section 7 in the State-Owned Enterprises Act to provide direct payments for non-commercial activities) is problematic. It requires the request to be tabled in the House and hence be subject to debate. The Ministry understands that Section 7 has never (or rarely) been used.

Further, the Commission's recommendation doesn't properly reflect how KiwiRail's financial and regulatory accountabilities work in practice. And if the objective is for KiwiRail to behave as efficiently as possible, it is not clear why public disclosure should be preferred over protection of the confidentiality of KiwiRail's commercial affairs.

**Investment justification:** Regarding recommendation 9.1 (the publication of full cost benefit analysis on all government investments in rail infrastructure), the Ministry questions how such emphasis on transparency would encourage economic efficiency in these circumstances. It appears to overlook that, as for State-Owned Enterprises, KiwiRail's strategic projects are for the Board to consider and approve or otherwise. The detailed material in the Turnaround Plan remains confidential and in the Ministry's view should remain so. This Plan was subject to extensive financial, economic and engineering due diligence conducted or commissioned by The Treasury in conjunction with the Ministry of Transport on behalf of the Crown.

## **Chapter 2 – Commission's framework**

Along with the 'distinctive features of freight economics' on page 16 (with which we agree), it would also be useful to include distinctive geographical and economic features of New Zealand freight transport task. These might include longer distances from overseas markets, very small volumes by international standards, and a relatively high proportion of primary or semi-processed exports. These inherent features no doubt have a bearing on our ad valorem freight costs (as discussed in Section 4) e.g. relative to Australia, and on the potential gains from implementation of the Commission's recommendations.

## **Coastal Shipping in Chapters 3 and 5**

The references in these chapters to maritime cabotage being 'removed' are incorrect. In our view section 198 of the Maritime Transport Act 1994 only provides partial access to international shipping to carry coastal cargo, and does not provide an 'open coast' regime. The description in Chapter 13, in particular that international shipping may only carry coastal cargo as part of an international voyage, is more accurate.

## **Chapter 7 – Customs, Security and Biosecurity**

The Ministry disagrees that the Aviation Security Service and Maritime New Zealand should be listed as "border agencies" in Table 7.1 on page 88. The purpose of these agencies is not border security, albeit some of their activities occur at border locations. The following descriptions of these agencies are more appropriate:

- The Aviation Security Service's focus is on ensuring the security of aircraft departing internationally to conform with international obligations, and of domestic jet aircraft of 90plus seats capacity.
- Maritime New Zealand is responsible for ensuring the marine environment is safe, secure and clean for all its users. It implements and monitors the International Ship and Port Facility Security Code, and risk profiles visiting ships in support of the core border agencies.

## **Chapter 8 – Investment, Innovation and Dynamic Efficiency**

In the discussion about central government guidance on national priorities under the Resource Management Act (pages 110-111 and recommendation 8.2), in our assessment, if the additional complexity of a National Policy Statement is warranted, then consideration should be given to covering all nationally significant infrastructure including transport infrastructure.

Regarding recommendation 8.3, we can see no reason for the different treatment of airport companies – which can be network utility operators – and port companies – which cannot. Consideration of extending the eligibility for requiring authority status is currently being considered as part of the Resource Management II review. The Commission may wish to follow up with the Ministry for the Environment on these matters.

The Ministry agrees with finding F8.10 that recent reforms to the Resource Management Act have led to improvements in the timeliness of the consent process and process-cost reductions; however the impact that this has had on compliance costs is of concern. Any unwarranted additional project costs impact on the efficiency of the project, and limit funds available for other projects.

## **Chapter 9 – Investment Coordination and Planning**

The Ministry considers that the Land Transport Management Framework provides for integrated planning across all transport modes, not just land transport (see page 117). As per the Government Policy Statement on Land Transport Funding, the New Zealand Transport Agency also has a responsibility to consider issues that cut across transport modes.

The Draft Report should clarify the Commission's view on the 'port rationalisation' issue (page 121). The issue is a key matter of debate within the freight transport sector, and we suggest that the Commission should develop an explicit Finding on the matter.

## **Chapter 10 – Governance and Ownership**

The discussion in section 10.1 on governance implies that most port owners give greater emphasis to the 'control' interest than to the 'financial' interest in ports. The report should acknowledge that there are different practices across the port industry. Some port owners give more emphasis to the financial interest than to the control interest, regardless of any private sector shareholding.

## **Chapter 11 – Regulation of International Sea Freight Competition**

There may be an error in Recommendation 11.2 on non-rate making agreements. The Ministry understands that confidential individual service contracts relate to rate making agreements, not to non-rate making agreements.

## **Appendix B – Air Services Agreements**

The Ministry has two points of clarification. First, New Zealand and Japan held air services negotiations in mid-February 2012 (page 251 refers). Second, dedicated freighter services are able to operate for a limited time as non-scheduled charters under s.87ZE of the Civil Aviation Act, outside of any capacity or route restrictions in an air services agreement.

The Ministry is happy to discuss the matters in this submission further if this would be helpful to the Productivity Commission. Please contact Mark Batt, Manager Maritime and Freight, in the first instance. Mark can be contacted at [m.batt@transport.govt.nz](mailto:m.batt@transport.govt.nz), or (04) 439 9007.

Yours sincerely

Bruce Johnson  
General Manager Aviation and Maritime