



## Fifth Quarterly Report: April – June 2020

### Purpose

1. The purpose of this report is to provide a high-level summary of activities of the Royal Commission of Inquiry into the Attack on Christchurch Mosques over its fifth quarter of activities from April to June 2020. The Royal Commission is required to examine:
  - what relevant State sector agencies knew prior to 15 March 2019, about the activities of the individual charged with offences in relation to the 15 March 2019 attacks on the Masjid an-Nur and the Linwood Islamic Centre in Christchurch;
  - what actions (if any) relevant State sector agencies took considering that knowledge;
  - whether there were any additional measures that relevant State sector agencies could have taken to prevent the attack; and
  - what additional measures should be taken by relevant State sector agencies to prevent such attacks in the future.

### Royal Commission Workstreams

2. The Royal Commission is conducting a private process due to the nature of the classified and sensitive information the inquiry is dealing with. Prior to the individual pleading guilty, the requirement for the private process was also driven by a need to protect the fair trial rights of the individual.
3. The Royal Commission has completed the implementation of the due diligence process this quarter and is continuing to revise our draft report in light of responses received through this process.
4. There were seven major workstreams during the fifth quarter of the Royal Commission's operations:
  - engagement with the whānau of the 51 shuhada, survivors and witnesses of the attack;
  - engagement with our Muslim Community Reference Group and communities;
  - engagement with subject matter experts in New Zealand and overseas;
  - evidence collation and analysis;
  - continuing our natural justice and due diligence processes;
  - revising the Royal Commission's draft report following our due diligence processes;
  - planning activities to wind down the Royal Commission; and
  - communications.

### Engagement with whānau of the 51 shuhada, survivors and witnesses of the terrorist attack

5. We use the description, 'affected whānau, survivors and witnesses' to refer to whānau of the 51 shuhada, survivors and witnesses of the terror attack. A hui (meeting) with the affected whānau, survivors and witnesses was held near the end of this quarter. The hui provided an opportunity for affected whānau, survivors and witnesses to provide further and final insights they may have to the Royal Commission, ask any questions and be provided with an update on the progress of the inquiry.

### Engagement with our Muslim Community Reference Group and communities

6. The Royal Commission continued to engage regularly with the Muslim Community Reference Group through sending email updates and responding to issues and questions that arose from members. This engagement is expected to continue until the Royal Commission delivers its report to the Governor-General.
7. The Royal Commission also held zoom hui with Muslim Community Reference Group members on an individual basis. This has provided members of the Muslim Community Reference Group an opportunity to provide further insights and raise any questions with the Royal Commission as the final hui planned for April 2020 was cancelled due to the Covid-19 pandemic.
8. Further hui were held with the Islamic Women's Council of New Zealand, and the Religious Communities Leadership Forum. By the end of this quarter we had completed our engagement with communities.

### Engagement with subject experts in New Zealand and overseas

9. The Royal Commission met with Sir Peter Gluckman, Distinguished Professor at the University of Auckland and Director of Koi Tū, Centre for Informed Futures.
10. The Royal Commission also met by video conference with the Norway Evaluation Committee chaired by Dr. Anja Dalgaard-Nielsen. The Committee were reviewing a number of aspects of Norway's preparedness and response following a terrorist attack on a Norwegian masjid in August 2019. The discussions allowed for a useful exchange of views on respective counter-terrorism efforts, community engagement and presentation of reports. This also included insights on the implementation of the recommendations of the 22 July Commission which was established following the 2011 Oslo terrorist attack.

### Evidence collation and analysis

11. During this quarter the Royal Commission nearly completed collecting and analysing all information and evidence gathered to date. Further interviews were completed this quarter.

## Continuing our due diligence processes

12. The Royal Commission is continuing our due diligence process this quarter relating to: natural justice under the Inquiries Act 2013, fact checking, seeking consent for the use of quotes and a review of classified material by State sector agencies and relevant individuals.
13. The natural justice process involves the Royal Commission giving those against whom adverse findings may be made the opportunity to respond. The Royal Commission considers any feedback that it receives during this process, but the contents of the final report are for the Royal Commission to determine.
14. The Royal Commission gained access to secure facilities on a limited basis in Alert Level Three to complete sending out to relevant individuals and State sector agencies material relating to those parts of its draft report that include classified material. This has impacted the timeframes for completing the due diligence processes.
15. Implementation of the full set of due diligence processes continued in this quarter and is expected to be completed in the next quarter. In summary:
  - 52 letters and material have been sent to relevant State sector agencies for review; and
  - 210 letters and material have been sent to a mixture of individuals, community groups or organisations for review.
16. The following feedback has been received:
  - 48 of the 52 responses required from State sector agencies have been received; and
  - 196 of the 210 responses from individuals and community groups and organisations have been received.
17. The Royal Commission has received comments from some relevant State sector agencies regarding the inclusion of classified material in its draft report. The Royal Commission has the power to include information in its report that has been classified under the government's Protected Security Requirements, if it considers it in the public interest to do so. The Royal Commission is considering the necessity of holding a hearing under section 70 of the Evidence Act 2006 on some of the issues raised.
18. In addition, the Royal Commission has commenced a process to identify, and either remove or sanitise 'sensitive' information in our draft report. Clause 10(4) of our Terms of Reference directs that the Royal Commission must not disclose any sensitive information as defined in section 202 of the Intelligence and Security Act 2017.<sup>1</sup> Certain information has been identified as 'sensitive' and we have proposed a way forward to relevant State sector agencies including, for example, alternative text as treatment. This process is not yet complete. The Royal Commission is also considering the necessity of holding a hearing under the Inquiries Act 2013 to further determine these matters.

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<sup>1</sup> The definition includes information that could prejudice the national security of New Zealand if disclosed.

## Revising and finalising the Royal Commission's draft report following our due diligence processes

19. A major workstream this quarter has been revising the draft report following feedback received from State sector agencies, and other individuals and organisations as part of our due diligence processes. This process ensures that the Royal Commission fulfils our legal obligations and produces a complete and authoritative final report.
20. The complexities of sequencing any changes to our draft report has emerged as we take account of comments received. By way of example one person and six State sector agencies might have received the same seven paragraphs for review with differing levels of feedback:
  - one of the State sector agencies has no comments;
  - two of the State sector agencies have comments proposing changes to three of the same paragraphs for factual accuracy and two other different paragraphs concerning classification issues;
  - three of the State sector agencies have comments on all paragraphs which differ relating to classification and natural justice issues;
  - one of the State sector agencies considers that three paragraphs include some sentences with 'sensitive' information, asking for sentences in two paragraphs to be deleted and one sentence in the other paragraph to be sanitised and have provided us with proposed text; and
  - the person considers the quote selected doesn't fully encapsulate the points they were trying to convey and wishes to change it, and they disagree with the draft adverse statement made in one paragraph including that there is not enough evidence provided to demonstrate that point.
21. Another example is that, based on conflicting responses, we are proposing to amend a paragraph in a way that introduces a different adverse statement about one or more State sector agency.
22. These examples demonstrate that whatever changes we might make on one paragraph may then have flow-on effects for text that is the subject of natural justice comments from others, or the subject of classification or sensitive information comments, potentially requiring additional communications to ensure compliance with the natural justice obligations we have. The Royal Commission is carefully navigating this complex task, noting it requires significant time, and it is likely in some instances there will be a need for further interaction with relevant State sector agencies and/or individuals.

## Planning for the wind down of the Royal Commission

23. The Royal Commission continued preparing and planning activities that will need to be undertaken to wind down the Royal Commission. A key part of this work involves preparing for transfer of information and evidence gathered by the inquiry to the Department of Internal Affairs and then Archives New Zealand, who will manage storage, security and access to our information and evidence, in keeping with our directions, following the conclusion of the Royal Commission.

## Communications

24. The Royal Commission published two public updates in this quarter, responded to a number of media enquiries from New Zealand and overseas outlets, and responded to correspondence received.

## Other matters

### *Interview with the individual*

25. The Royal Commission conducted an interview with the individual who committed the attack on Masjid An-Nur and Linwood Islamic Centre on 15 March 2019. The Royal Commission's decision to conduct the interview was driven by the need to observe natural justice and the ultimate goal of providing answers to New Zealand communities through an authoritative and complete report.
26. The individual was convicted of the terrorist attack on the masjid in March 2020. This means there is no trial. The Royal Commission's report will be the main vehicle for the community to get answers to their questions about the individual and the attack. Clause 3 (a) of our Terms of Reference require the Royal Commission to report on the individual's activities before the attack including:
- relevant information from his time in Australia;
  - his arrival and residence in New Zealand;
  - his travel within New Zealand and internationally;
  - how he obtained a gun licence, weapons, and ammunition;
  - his use of social media and other online media; and
  - his connection with others, whether in New Zealand or internationally.

27. In a recent update, the Chair of the Royal Commission, Sir William Young said:

*While the Royal Commission had undertaken extensive investigations with the benefit of material provided by the New Zealand Police and other agencies, there were some areas of uncertainty. In addition, the Terms of Reference and the Inquiries Act 2013 require the Royal Commission to observe the principles of natural justice in respect of any person who may be the subject of adverse comment in the Royal Commission's report. That includes the individual.*

28. The individual and his lawyers are also subject to confidentiality orders that prohibit them from discussing the contents of the interview.

### *Impact of Covid-19 pandemic and other processes on the Royal Commission's process*

29. During the quarter, the country moved from Alert Level Four to Alert Level One. At Alert Level Four, the Royal Commission completed as many tasks as possible, given the significant restrictions everyone was operating under. We used zoom (live video conferencing) to undertake a range of hui including with subject matter experts in New Zealand and overseas, with relevant State sector agencies or employees, community organisations and Muslim Community Reference Group members.

30. A very significant impact of Alert Level Four on our work was our inability to access our sensitive compartmented information facilities (SCIFs) in Christchurch, Wellington or Auckland as the work of the Royal Commission was not deemed 'essential work'. This meant that we could not undertake any work on the classified portions of our draft report (approx. 350 pages of text), or access any of the classified evidence underpinning it for the duration of Alert Level Four, or complete our due diligence process for that part of our draft report.
31. When the country moved to Alert Level Three, the Royal Commission was allowed very limited access to the Wellington SCIF only (with appropriate social distancing measures in place), with no access to our SCIFs in Christchurch and Auckland. Not being able to access in particular our Christchurch SCIF during this period continued to impact significantly on the Royal Commission – as a number of staff reside in Christchurch. When the country moved to Alert Level Two, we were able to access and bring more members of our secretariat into the Wellington, Auckland and Christchurch SCIFs. However, there was still a limit on the number of individuals who could be in a SCIF at any one time, due to social distancing measures, which prevented our secretariat from returning to full capacity. It was only at Alert Level One that the Royal Commission gained full access to the Wellington, Christchurch and Auckland SCIFs.
32. Similarly, relevant State sector agencies that we needed to engage with in respect of classified material were also operating under lockdown constraints. For example, intelligence and security agencies did not allow their employees to come into the workplace other than for essential work. As responding to the Royal Commission was not deemed essential work, employees could not attend their agency's premises in order to engage in the Royal Commission's processes and they were not able to access classified material from home. Further a number of key State sector agencies had re-prioritised their work efforts to focus on Covid-19 pandemic matters, which the Royal Commission acknowledges was and continues to be necessary.
33. Once the country had moved to Alert Level One, both the Royal Commission and the State sector agencies with which we were engaging, experienced the inevitable delay caused by needing to re-familiarise ourselves with the extensive quantum of detailed material and regain the momentum that had been built prior to lockdown. In the case of the State sector agencies, responding to our requests also had to be prioritised with other backlogged work. The Royal Commission were mindful of the impact that lockdown had on the State sector agencies and accommodated any requests for extensions to due dates for responses. We also adapted our timelines in recognition of the post-lockdown difficulties those State sector agencies are facing.

### *Further time required in order to deliver our report*

34. There remains a number of tasks for the Royal Commission to finalise our report including:
- undertake final interviews and complete evidence analysis;
  - initiate and complete our due diligence process with less than 10 individuals;
  - receive and analyse outstanding responses to our due diligence and sensitive information processes from State sector agencies and 24 outstanding responses from individuals and community groups or organisations;
  - undertake further discussions with relevant State sector agencies, community groups or organisations and/or individuals in relation to natural justice, classification or sensitive information comments including holding a hearing under section 70 of the Evidence Act 2006 and/or the Inquiries Act 2013 if necessary;
  - undertake a second and final due diligence process including seeking consent for use of quotations and natural justice;
  - finalise the content of our report in light of comments received and as a result of any hearings held;
  - develop and issue our final section 15 orders which will clarify the status of current orders and may - after the Royal Commission concludes its work - restrict for a time period or permanently prohibit publication and/or restrict public access to some of our records; and
  - prepare our report to publication standards and deliver to the Governor-General.
35. Taking into account the impact of the Covid-19 pandemic on the Royal Commission's operations, the complexity of taking account of comments received through our due diligence process and the number of tasks yet to be finalised, it is unlikely, as at the end of the quarter, that the Royal Commission will be able to meet its deadline of 31 July 2020. At the end of the quarter, the Commissioners were considering the contents of a letter to the Minister of Internal Affairs seeking an extension to the delivery date.

### *Financial summary*

36. Secretariat full-time equivalent (FTE) numbers continued to reduce from the previous quarter with 15.78 FTEs by the end of June 2020.
37. One application for financial assistance was approved this quarter.
38. No capital expenditure occurred this quarter.

Table: 1: Financial precis of life to date Royal Commission expenditure (as at 30 June 2020)

Output	LTD <sup>2</sup> Actual	LTD Budget	LTD Variance	Total Approved Budget
Operating Expenses	8.792	8.947	0.156	8.947
Legal and Financial Assistance	0.752	1.086	0.334	1.086
Commissioner fees	1.230	1.278	0.048	1.278
Capital expenditure	0.240	0.600	0.360	0.600

### Next quarter – expected activity

39. During the next quarter the Royal Commission expects to:

- conduct hearings under section 70 of the Evidence Act 2006 and/or the Inquiries Act 2013 if necessary, in relation to natural justice, classification or sensitive information material;
- complete collection and analysis of all information and evidence including material provided in final interviews to be held by mid-September 2020 to be undertaken;
- undertake a second and final due diligence process including seeking consent for use of quotations and natural justice;
- finalise the report content for publication and presentation to the Governor-General; and
- continue the necessary activities to wind down the Royal Commission.

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<sup>2</sup> LTD = Life to date