

# section 3.1 |



## appendix 1

### Context and process

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# 3.1 Establishment of the Commission

## Introduction

This section outlines the process involved in setting up the Royal Commission. Reference has already been made to the political environment in which the Commission was established (see “New Zealand: political framework” in “New Zealand context” above). This section refers primarily to the process of implementing Government’s decision to establish the Commission, as announced in the Speech from the Throne at the Opening of Parliament on 21 December 1999.

This section draws on *Setting up and running commissions of inquiry*, a document prepared by the Department of Internal Affairs (DIA) and released in March 2001.

## Establishing the Commission

Following the announcement in the Speech from the Throne, preparations for a Royal Commission began.

In March 2000, the Minister for the Environment was appointed the Minister in charge of the inquiry, Ministry for the Environment (MfE) oversaw the drafting of

the ‘Terms of reference’ (the Warrant) and DIA were responsible for the administrative role of setting up the Commission.

Cabinet allocated a provisional budget of \$4.8 million on 17 April 2000, later extended to \$6.2 million on 7 August 2000.

Government announced a voluntary moratorium on all applications to field test or release genetically modified organisms, for the period 14 June 2000 to 31 August 2001.

## The Warrant

A working party, led by MfE, prepared the Warrant. It included officials from the Department of the Prime Minister and Cabinet, Ministry of Research, Science and Technology, Ministry of Health, Treasury, Department of Conservation, Ministry of Fisheries, Te Puni Kokiri (Ministry of Maori Development), Environmental Risk Management Authority, Ministry of Foreign Affairs and Trade, State Services Commission, Ministry of Agriculture and Forestry and DIA.

The Warrant required the Commission to report on the strategic options available, now and in the future, and any changes considered desirable to current legislative, regulatory, policy or institutional arrangements with regard to genetic modification, genetically modified organisms and products. The Warrant also referred to 14 ‘relevant matters’ on which the Commission was authorised to receive representations.

Excluded from the Commission’s terms of reference were “the generation of organisms or products using modern standard breeding techniques” including cloning, mutagenesis, protoplast fusions, controlled pollination, hybridisation, hybridomas and monoclonal antibodies.

The Warrant included definitions of ‘genetic modification’ (also referred to as genetic engineering), ‘genetically modified organism’, ‘organism’ and ‘product’.

The Commission was sealed, approved by Order-in-Council on 8 May 2000, and published in the *New Zealand Gazette* on 11 May 2000. A copy is included in this volume, in English and Maori (see “Operational detail: Terms of reference”).

## Appointments

### Commissioners

As with all commissions of inquiry, the number and selection of Commissioners is at the discretion of the Minister in charge of the inquiry.

Since the processes of a commission of inquiry usually raise legal issues, it is customary to appoint a Judge (retired or sitting) or a lawyer to the position of Chair. While there is no statutory limit to the number of Commissioners for an inquiry, the Minister selected four people who represented a good balance of experience, skills and outlook.

The Minister invited The Right Honourable Sir Thomas Eichelbaum, a former Chief Justice of New Zealand, to chair the Commission. The Right Reverend Richard Randerson, Dr Jean Fleming and Dr Jacqueline Allan were also invited to join the Commission.

Full biographical details of the Commissioners are contained later in this volume (see “Operational detail: Commission members”).

## Counsel Assisting

It is usual for commissions of inquiry in association with Crown Law, to appoint practising lawyers as counsel assisting the commission to:

- advise the Commission on its role and how to interpret its Warrant
- liaise with Interested Persons and their lawyers on matters of process
- ensure that all the relevant evidence and information is brought before the Commission
- ensure hearings are conducted in a fair and balanced manner
- advise the Commission on legal issues throughout the inquiry.

This role was shared by Brendan Brown QC, John Upton QC, and Grant Pearson.

## Liaison Officer

As the Commissions of Inquiry Act 1908 does not authorise a commission to enter into contracts and employ staff, DIA takes this role.

To meet this obligation, a DIA Liaison Officer is appointed to each Commission at the outset to ensure the Commission has the financial resources required to carry out its mandate, coordinate the budget process, ensure the Commission’s operational processes are supported by DIA’s corporate processes and supply advice on human resourcing. The Liaison Officer is also responsible for ensuring an inquiry meets its policy, government and operational requirements.

## Secretariat

All Commission staff are employed by DIA as the Commissions of Inquiry Act 1908 (The Act) does not provide for the employment of staff to provide technical

and administrative support to the Commission, a Chief Executive Officer, an Information Officer, a Policy Adviser, a Media Officer, and an Administration Officer were appointed.

Additional staff including researchers, analysts, writers, editors, translators, advisers and transcribers were contracted to the Secretariat as and when required.

## Commission location

The Commission Secretariat was based on level 8 of Dalmuir House, 114 The Terrace, Wellington. Level 11 of the same building was modified to accommodate the hearing room for the Formal Hearings of Interested Persons.

## Planning the inquiry

On 12 May 2000 the Commissioners held their first meeting, to determine their roles and obligations under the Warrant.

## Background papers

Following planning meetings, the Commissioners identified the need for background information on the aspects of genetic modification referred to in the Warrant to assist them to best develop a strategy for meeting the terms of reference. Papers on the following topics were commissioned, some of which were peer reviewed:

- Current uses
- Legal aspects
- Ethical issues
- Public perceptions
- Maori aspects
- Environmental aspects
- Economics
- Human health aspects
- The international aspects of genetic modification.

Copies of the background papers were placed on the Commission website and a complete list, with indication of peer review and detail on the authors, is located later in this volume (see “Operational detail: Background papers and authors”).

## Consultation programme

The Commission developed a consultation programme that involved:

Planning hui	
Rotorua	21 July 2000
Public Scoping Meetings	
Wellington	7–9 August 2000
Application Hearings for Interested Persons status	
Wellington	10–11 August, 5 September 2000
Public written submissions	
Nationwide	7 August 2000–1 December 2000
Public Meetings (15)	
Nationwide	18 September–16 November 2000
Formal Hearings	
Wellington, Auckland, Christchurch	16 October 2000–15 March 2001
Maori consultation workshops (28)	
Nationwide	24 October 2000–13 March 2001
Regional and National Hui (11)	
Nationwide	4 November 2000–8 April 2001
Youth Forum	
Wellington	5 March 2001
Public opinion telephone survey	
Nationwide	22 March 2001–8 April 2001

These consultation methods were designed to meet the Commission’s terms of reference and its obligations under the Act. As with all inquiries, the procedures adopted are the prerogative of each commission. Details regarding each process are contained within this volume.

## Web site

To meet the Commission’s objective of transparency in its processes, and facilitate communication with the public, a website was developed. This went live on 28 July 2000.

During the inquiry, information was published on the website including: copies of the Warrant in English and Maori; biographical and contact details; application, registration and submissions forms; transcripts of Formal Hearings, Public

Meetings, Hui and Youth Forum; copies of Interested Person and Public submissions; news releases; background papers; and consultation schedules.

The website will be maintained at <http://www.gmcommission.govt.nz> until at least June 2002.