

# Terms of Reference

## Review of the Safety and Functionality of HMNZS Canterbury

### 1 Authorisation

- 1.1 The Secretary of Defence and the Chief of the Defence Force have commissioned this review on the Minister of Defence's instructions.

### 2 Purpose and Objectives

- 2.1 The purpose of these Terms of Reference is to specify the scope of a review of the acquisition and introduction into service of the multi-role vessel (MRV) *HMNZS Canterbury* (the *Canterbury*).
- 2.2 The Review will identify any concerns relevant to the operation of the ship or to its design or performance, and will report on whether it is capable of performing the functions for which it was acquired and any remedial action that may be needed to address any shortcomings.
- 2.3 The Review may provide lessons for future acquisition projects, or the introduction into service of equipment.
- 2.4 The specific objectives of the Review are to:
- ◆ review all stages of the process of acquisition of the *Canterbury* (except the conduct of the tender, see clause 6 for exclusions) and its introduction into service;
  - ◆ report any lessons for the future; and
  - ◆ Recommend remedial steps (if any) that should be taken in relation to the function or operation of the *Canterbury*.

### 3 Context

- 3.1 Based on the findings of the 2000 *Sealift Review* and the 2002 *Maritime Forces Review*, the Government directed that an MRV be acquired, at a cost of up to US\$100 million, based on a known commercial design and acquired in a timely manner. The MRV needed to be able to undertake a number of roles in the region, including a limited tactical sealift capacity built around the deployment of a company of soldiers and their equipment, maritime patrol, military support operations, peace support operations humanitarian relief operations, and development assistance in the South Pacific.

- 3.2 In July 2004, the Government entered into a fixed price contract with Tenix Defence Pty Ltd of Australia (Tenix) for the construction of, inter alia, the *Canterbury*. The acquisition also included two landing craft, limited spare parts, and training and support services.
- 3.3 The *Canterbury* is based on an existing commercial design and reference vessel, the *Ben My Chree*. The *Canterbury* was constructed in the Netherlands by a Tenix sub-contractor, *Merwede*, and its landing craft built to a *Nevesbu* design by a *Merwede* subcontractor, with finishing work being undertaken in Melbourne by Tenix.
- 3.4 Since taking delivery of the *Canterbury* in May 2007, there have been two significant incidents involving the vessel resulting in Courts of Inquiry being established. The first incident involved the loss of a rigid hull inflatable boat (RHIB) at sea on 10 July 2007, and the second incident the death of a member of the crew on 5 October 2007 during a manoeuvre at sea to deploy a RHIB.
- 3.5 The NZDF, as the operator of the vessel, and the Ministry of Defence, as procurer of the vessel, are now seeking to have an independent review of whether the *Canterbury* is capable of performing the functions for which it was acquired and is safe when operated correctly, and to report any findings and recommended actions to the Minister of Defence.

#### **4 Scope of Review**

- 4.1 The Reviewer will:
  - a Report to the Secretary of Defence and the Chief of the Defence Force on:
    - i Whether the *Canterbury* is capable of performing the functions for which it was acquired if operated by an experienced and trained crew;
    - ii Any lessons that can be learnt from the acquisition and introduction into service and operation of the *Canterbury*;
    - iii Any remedial steps, other than those already underway, that may be required in relation to the *Canterbury's* operation and functionality; and
    - iv Any other matters relating to the above that the Reviewer considers relevant.
  - b Specifically address the following questions:
    - i Is the *Canterbury* capable of performing the functions for which it was acquired?

- ii Are there any features of the *Canterbury* that suggest that it is unsafe to operate as intended?
  - iii Is the *Canterbury* appropriately certified? If not, what other certification should have been obtained
  - iv Which, if any, of the processes of acquisition (not including the tender process, but including specifications, design/build, or certification of the *Canterbury*) contributed to the Reviewer's conclusions?
  - v Did any aspect of the introduction into operation (including training, operational support systems and practices) contribute to the Reviewer's conclusions?
  - vi Were the decisions around the design and acceptance of the RHIB alcove and RHIB deployment mechanisms appropriate?
- 4.2 In addition to the issues listed in paragraph 4.1 above, the Reviewer will advise of any concerns and issues arising from findings of the Courts of Inquiry into:
- a The loss of the *Canterbury's* port RHIB on 10 July 2007; and
  - b The death of AHSO Byron Solomon on 5 October 2007.

## **5 Manner of Conducting the Review**

- 5.1 The Reviewer will identify and consider all relevant material in relation to this review, and interview relevant people.
- 5.2 The Reviewer is free to develop his or her own process for completing the review, provided that the process observes principles of natural justice.
- 5.3 The Reviewer may engage any specialist (for example, legal, maritime, naval architectural) assistance he or she requires, provided that independence of the review is maintained. In particular, no persons, including NZDF personnel and MoD staff, who contributed directly to the acquisition, introduction into service or operation of the *Canterbury* may be engaged to provide such assistance to the review. The Secretary of Defence and the Chief of the Defence Force will ensure the Reviewer has the full cooperation of the Ministry and the New Zealand Defence Force.
- 5.4 The Secretary of Defence and the Chief of Defence Force will ensure the Reviewer has access to:
- All relevant documents and information as the Reviewer considers necessary for the purposes of conducting the review, and will facilitate the collection and aggregation of information as required.

- Staff of the Ministry of Defence and personnel of the New Zealand Defence Force for the purposes of obtaining relevant information.
- 5.5 To avoid doubt, the Official Information Act 1982 applies to all information obtained by the Reviewer.
- 5.6 The relevant provisions of the Project Protector contract between Tenix and the Crown will continue to apply to confidential information.
- 5.7 If there are any disputes about whether information should be provided to the Reviewer, whether because of reasons of security, commercial confidentiality or any other reason, the Minister of Defence will decide whether the information is disclosed, and any conditions on its disclosure to the Reviewer.

## **6 Exclusions**

- 6.1 The Review will not cover
- Government defence policy;
  - Decisions taken to purchase a MRV, as described in paragraph 3.1 above; or
  - The tender process by which the contract with Tenix was entered into.

## **7 Timing**

- 7.1 The Review will be completed by 31 July 2008.
- 7.2 The Reviewer will ensure that participants in the review are given a copy of the draft report for written comment, with no less than 10 working days provided for comment.
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