



**Canterbury Earthquakes Royal Commission  
Te Kohimana Ruwhenua o Wataha**

**UNDER THE COMMISSIONS OF INQUIRY ACT 1908**

**IN THE MATTER OF THE CANTERBURY EARTHQUAKES ROYAL COMMISSION**

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**PRACTICE NOTE NO. 1:  
PROCEDURAL RULES FOR SPECIFIED HEARINGS  
28 October 2011**

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Unit 15, Barry Hogan Place, Addington, Christchurch  
P O Box 14053 Christchurch mail Centre 8544  
Freephone (NZ only) 0800 337 468  
[www.royalcommission.govt.nz](http://www.royalcommission.govt.nz)

## PROCEDURAL RULES FOR SPECIFIED HEARINGS

### Specified Hearings

1. The procedural rules set out below will apply to the following hearings. These are the hearings the Royal Commission has identified as the ones which are most likely to involve disputed facts and the potential for findings that might be considered adverse to the reputation or interest of individuals or organisations:
  - a. The PGC Building: hearing commencing 28 November 2011.
  - b. The Hotel Grand Chancellor and the Forsyth Barr Building: hearings in the week commencing 5 December 2011.
  - c. Other buildings that failed causing death: hearings in the weeks commencing 12 December 2011, 23 January 2012 and 30 January 2012.
  - d. The CTV Building: hearing tentatively scheduled to commence on 5 March 2012.
  - e. Building assessments after the Canterbury earthquakes: hearing commencing 19 March 2012.

### Hearings Status

2. For each of these hearings, categories of “affected parties”, “interested persons” and “witnesses/submitters” will be established by the Royal Commission (‘status’). Affected parties and interested persons are entitled to appear and be heard at the relevant hearing, either personally or by counsel, although the rights of affected parties are more extensive than the rights of interested persons.
3. Affected parties are those whose actions might be called into question or who otherwise have a substantial interest in the subject matter of the hearing.
4. Interested persons are those who have satisfied the Commission they have a particular interest in the hearing over and above that of the general public. That interest may require that they participate in some aspects of the hearing, but not others.
5. Witnesses/submitters are persons who are likely to have evidence or information of relevance to the hearing. This status does not give a right to appear and be heard at the hearing, but it does give a right to be represented by counsel if the Royal Commission requests or requires that the witness/submitter appear and be heard at the hearing.
6. Prior to the start of each of the hearings the Royal Commission will advise its decision on who has been granted status. If any person or organisation believes it ought to have been granted status for a hearing and has not been, or has been granted a status other than that which it believes is appropriate, it must advise the Royal Commission of this forthwith, setting out its reasons. The Royal Commission will then issue a final ruling.

### *Rights of Affected Parties*

7. Affected parties are entitled to be represented by counsel at the relevant hearing, to identify additional documents they wish to include in the record and to be heard on why these documents are relevant and to suggest to counsel assisting further witnesses that ought to be called. Affected parties have the right to question any witness at the hearing on matters relevant to that party and within the Terms of Reference, subject always to the overall discretion of the Royal Commission to control the form and duration of all questioning. An affected party also has the right to present closing submissions on any issues affecting it, if the Royal Commission directs that closing submissions are required following any of the hearings, in accordance with the procedure set out below.

### *Rights of interested persons*

8. An interested person may be entitled to appear as a witness, and be represented by counsel, with counsel entitled to lead the evidence of that witness. Any additional rights are at the discretion of the Royal Commission. An application for leave will be entertained orally at the hearing.

### *Bereaved families*

9. Bereaved families will have the status of an affected party in relation to the specified hearings.

### **Secure section of website**

10. A secure section of the Royal Commission's website [Canterbury.royalcommission.govt.nz](http://Canterbury.royalcommission.govt.nz) will be established and, subject to an appropriate confidentiality undertaking, both affected and interested parties will be entitled to access this section of the site.

### *Confidentiality undertaking*

11. Any affected party or interested person wishing to access documents on the secure section of the site is first required to give an undertaking that the information obtained is received in confidence, is to be used only for the purpose of the hearings and is to be treated as confidential until such time as it becomes public in the course of the hearing.
12. All documents, evidence and other material relevant to any of the hearings will be placed on the secure section of the website prior to the hearing.

### **Notice of required evidence**

13. Prior to the commencement of each of the hearings any individual or organisation from which the Royal Commission requires evidence will be advised of:
  - a. The issues the Royal Commission wishes any written statement of evidence to address; and
  - b. The date by which that statement of evidence is to be received by the Royal Commission.

14. Following the receipt of any briefs of evidence counsel assisting will decide which (if any) witnesses are to be called to give oral evidence and which evidence (if any) can be read into the record without the need to call the witness. In the event that any affected party or interested person wishes to have a witness called who counsel assisting does not propose to call, an application must be made within two working days following advice of the decision of counsel assisting, supported by reasons. The Royal Commission will then rule on the application.

### **Reply evidence**

15. Reply evidence in response to evidence filed requires the leave of the Royal Commission and an application filed no later than three days prior to the commencement of the hearing to which the evidence relates.
16. All applications will be considered by the Commission principally on the basis of whether the evidence in respect of which a right of reply is sought may adversely affect the interests of the party seeking leave.

### **Advice of intended questions**

17. All counsel are required to advise counsel assisting by no later than three days prior to the hearing of a list of topics they wish to address with any witness. All questioning remains at the discretion of the Commission.
18. Prior to the hearing counsel assisting will advise the identified witnesses for the hearing of:
  - a. The issues they are likely to be questioned on at the hearing;
  - b. Any potential areas of criticism that are likely to arise.

### **Order of witnesses**

19. The expected order of witnesses and the hearing schedule will be made available on the secure of the website prior to the hearing and will be updated if any changes occur. To the extent practicable, witnesses who are likely to make adverse or critical comment about an individual or organisation will be called to give evidence prior to the affected individual or organisation so that the affected party can reply to that evidence. In most instances institutional and expert witnesses will also be called later in the hearing so they are in a position to comment on any relevant evidence of fact.

### **Submissions**

20. In the event that the Royal Commission requests closing submissions following a hearing affected parties have the right to make closing submissions on any issue relevant to them, at a date that will be advised by the Royal Commission following the hearing. Any submissions are to be in writing and are to be provided in the first instance to the Commission. Any submissions will then be placed on the secure website. If the Royal Commission considers any submission should be presented in an open hearing, appropriate arrangements will be made and advised.

**Modification of hearing rules**

21. The Royal Commission reserves its right to modify any of these hearing rules from time to time for the purpose of ensuring a more efficient and fair hearing process.

Dated: 28 October 2011

**Canterbury Earthquake Royal Commission**

