



UNDER

THE COMMISSIONS OF INQUIRY ACT 1908

IN THE MATTER OF

**ROYAL COMMISSION OF INQUIRY INTO BUILDING
FAILURE CAUSED BY CANTERBURY EARTHQUAKES**

**KOMIHANA A TE KARAUNA HEI TIROTIRO I NGĀ
WHARE I HORO I NGĀ RŪWHENUA O WAITAHA**

**STATEMENT OF EVIDENCE OF STEPHEN JAMES MCCARTHY IN RELATION TO
605-613 COLOMBO STREET**

DATE OF HEARING: WEEK BEGINNING 30 JANUARY 2012

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INTRODUCTION

1. My name is Stephen James McCarthy. I am the Environmental Policy and Approvals Manager of the Christchurch City Council. I have worked for the Council since 1 May 2006. During the State of Emergency following the earthquake of 4 September 2010, I was one of the Building Evaluation Managers in the Christchurch City Emergency Operations Centre.
2. I have 36 years of experience working for local government, including 16 years in building control. I have a Degree in Applied Science and a Post Graduate Diploma in Management from Massey University and a Royal Society Diploma in Environmental Health from Wellington Polytechnic.
3. I have been asked to provide evidence to the Royal Commission relating to specific aspects of the Council's involvement with 605-613 Colombo Street before and after the earthquake of 4 September 2010 and the Boxing Day aftershock. 605-613 Colombo Street is a Group 4 listed heritage building.

DOCUMENTS PROVIDED TO THE ROYAL COMMISSION

4. The documents relating to this building that have been provided to the Royal Commission are:
 - (a) the Building Permit/Building Consent file for 605-613 Colombo Street; and
 - (b) post earthquake files.

SCOPE OF EVIDENCE

5. My evidence will address the following matters:
 - (a) The Civil Defence Emergency Management Response in relation to the building after the 4 September 2010 earthquake.
 - (b) The Council's response in relation to 605-613 Colombo Street following the Boxing Day aftershock.

- (c) Information about any cordons/barricades around 605-613 Colombo Street following the 4 September Earthquake and Boxing Day aftershock.
- (d) The statement made at part 2(e) of Matthew Bushnell's evidence in relation to 242 Tuam Street.
- (e) Whether 605-613 Colombo Street was assessed as earthquake prone for the purposes of section 122 of the Building Act 2004.
- (f) The effect of any strengthening work undertaken.
- (g) The application of the Council's earthquake prone building policies of 2006 and 2010 to the building, if any.

EVENTS AFTER THE 4 SEPTEMBER 2010 EARTHQUAKE

- 6. At 1.50pm on 5 September 2010, a Level 1 Rapid Assessment was carried out for 605-613 Colombo Street (**BUI.COL603-613.0001.16**). The buildings received a green placard. The Level 1 Rapid Assessment on 5 September 2010 did not recommend a Level 2 assessment or a detailed engineering evaluation.
- 7. I understand that the building was subsequently assessed by engineers working for the owner's insurer. The Council has no record of any information being provided to it in relation to these assessments.

EVENTS AFTER THE BOXING DAY AFTERSHOCK

- 8. The Council carried out a further Level 1 Rapid Assessment of 605 Colombo Street at 5.53 pm on 26 December 2010, following the Boxing Day aftershock. The building was issued with a red placard (**BUI.COL603-613.0001.17**).
- 9. A section 124(1)(c) Building Act 2004 notice was served on the owner of the building on 28 December 2010. The section 124(1)(c) Building Act 2004 notice required work to be carried out by 31 January 2011 (**BUI.COL603-613.0001.20** and **BUI.COL603-613.0001.22**).

10. A Council Worksmart Details Form shows that on 7 January 2011 a telephone call was received from the owner of the building (BUI.COL603-613.0001.24). The record of the telephone call states, "please inspect building. Owner has called in saying that a wall has gaps over 40mm after the 4.9 shock". The location is described as Kiwi Disposal. The Customer Service Request was referred to Civil Defence Rescue. It is unclear from a review of the Council's files what action was taken in response to the Customer Service Request.
11. On 17 January 2011, the owner of the building contacted the Council requesting information about the process for making the building safe and the Council advised by email:-

"following our phone conversation I just wanted to lay out the process for fixing your building and making it safe to occupy. In order to do so you must first have an engineer assess your building. He will write a report stating what work needs to be done. That should then be sent into the Council for review. Once it has been reviewed we will advise you that you can proceed with the work or we request more information from your engineer. You will need to contact Building Consents (Karen Fitzpatrick 941 8459) before you start work on your building. Once the work has been completed your engineer should have a final walk through of the building and have his report sent into the Council stating that the building is safe to occupy" (BUI.COL603-613.0001.25).
12. On 21 January 2011, the Council's case manager for the building (John Barry) spoke to the owner. The owner advised that he had engaged an engineer and was waiting for the engineer's report. He also advised that insurance assessors were assessing the building. The owner said that he would send the engineer's report to Mr Barry as soon as it was received (BUI.COL603-613.0001.26).
13. I understand that the building owner's representatives met with Council officers to discuss the building (and other buildings in the block) on 1 February 2011. I further understand this meeting is described in other evidence to be provided by Mr Sean Ward.
14. An engineer's re-inspection of the building was subsequently carried out by Paul Campbell, an engineer on contract from Opus. The form includes a handwritten date of 2 February 2011. A question mark has been entered beside the notation as to whether protective fencing was required

(BUI.COL603-613.0001.27).

15. Mr Barry's notes in relation to the building record further contact with the owner on 15 and 16 February 2011. On 15 February, the owner advised Mr Barry that he was still waiting to hear from the insurer and engineer. He advised that he would email the contact details for these parties so that Mr Barry could contact them. It appears from the notes that the details were forwarded on 16 February 2011 and that an email was received from Mr Bushnell on the same date. These emails do not appear to be on file. However, Mr Barry notes that *"as it stands we still haven't received anything solid on this building"* (BUI.COL603-613.0001.26).
16. There is no information on the file relating to any further contact from the owner, or the owner's engineer, builder, or lawyer. No engineer's report was received and no application was made for resource consent to demolish the building.
17. Mr Matthew Bushnell refers in his evidence to a meeting on 17 February 2011 between himself, Marton Sinclair and Council officers (BUI.COL605-613.0004.4). There is no Council record of a meeting being held on that date in relation to this building.

CORDONS/ BARRICADES AROUND THE BUILDING

18. Council records indicate that no barricades or cordons were placed in front of the building after the inspection on 26 December 2010. As noted above, the Level 1 Rapid Assessment form did not state that barricades were required.
19. Mr Barry's case manager notes of 20 January 2011 record that there was no barrier over the entrance to the building but that it "could be there as [the] building is in danger from adjacent building (603 tea net)". Mr Barry was not an engineer and is merely recording an observation based on a walk around of the precinct that he was responsible for, rather than making an engineering assessment. The owner advised Mr Barry the following day that he had engaged his own engineers around this time who were reviewing the state of the building (BUI.COL603-613.0001.26).
20. As noted above, the engineering reinspection form dated 2 February 2011 had a question mark beside the notations about whether protective fencing was

required.

THE STATEMENT MADE BY MR BUSHNELL IN RELATION TO 242 TUAM STREET

21. Mr Matthew Bushnell states at part 2(e) of his evidence to the Royal Commission that: -

“concerns raised in October with a CCC planner about possible danger to members of the public from a loose section of parapet at 242 Tuam Street were met with the response “why are you telling me about this? It is not my area of responsibility.

When I pointed out that the Council’s phone system was inoperative and I had no other direct dial numbers I was again told that it was not this persons area of responsibility and they could do nothing about my concerns. A heated exchange followed but I am unaware of any actions initiated to protect public safety as a result of this conversation” (BUI.COL605-613.0004.4).

22. 242 Tuam Street is not an address recorded in the Council’s WebMap system. However, I believe Mr Bushnell is referring to the former McKenzie and Willis site on the corner of Tuam Street and High Street. This is referred to in the Council’s records as 236-238 Tuam Street (and the address on the other side of the intersection is 248 Tuam Street).
23. I do not believe that I am the “planner” referred to in Mr Bushnell’s evidence. However, I had a number of conversations with Mr Bushnell in relation to this building and work he was carrying out on it. My recollection is that a cordon was established to deal with a loose parapet as a result of these discussions and Mr Bushnell was able to carry out repair work to the building.
24. I understand that evidence is to be provided by another Council witness in relation to Mr Bushnell’s comment that the Council’s phone system was inoperative.

APPLICATION OF RELEVANT LEGISLATION AND THE COUNCIL'S EARTHQUAKE PRONE POLICY

- 25.** In terms of the Building Act 1991, the building was built from unreinforced masonry and so was deemed to be Earthquake Prone.
- 26.** From the commencement of the Earthquake Prone Buildings Policy 2006, if an application for a building consent for a significant alteration was received, the strength of the building structure would have been assessed and dealt with in accordance with section 1.7 of the Policy. However, no building consent applications were received.
- 27.** The building was a heritage listed Category 4 building. This meant a resource consent would be needed before any alterations to the building or demolition of the building could occur including those alterations that might be required for earthquake strengthening. The Earthquake Prone Buildings Policy 2006 provided that heritage buildings were to be assessed in the same way as other earthquake prone buildings. The Policy also required that in relation to heritage buildings, intrinsic heritage values of these buildings, places and objects must be protected and not adversely affected by structural improvement measures.
- 28.** When considering heritage buildings under the Policy account was required to be taken of:
 - (a)** The importance of recognising any special traditional and cultural aspects of the intended use of a building.
 - (b)** The need to facilitate the preservation of significant cultural, historical, or heritage value.
 - (c)** The circumstances of each owner and each building, including whether the building has undergone any previous strengthening work.

29. The 2006 Policy was not triggered in relation to this building because no building consent applications were made after the introduction of the Policy.

DATED 20 December 2011



Stephen James McCarthy