

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
200-204 MANCHESTER STREET**

DATE OF HEARING: 26 JANUARY 2012

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 200-204 Manchester Street before and after the earthquake of 4 September 2010 and the Boxing Day aftershock. I note that the Council records list the property as 204 Manchester Street.

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 204 Manchester 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) Council involvement with the building subsequent to the lifting of the state of emergency on 16 September 2010.

- (c) The Council's response in relation to 204 Manchester Street following the Boxing Day aftershock.
- (d) Information about any cordons/barricades around 204 Manchester Street following the 4 September 2010 earthquake.
- (e) Whether 204 Manchester Street was assessed as 'earthquake-prone' for the purposes of section 122 of the Building Act 2004.
- (f) The effect of any strengthening undertaken.
- (g) The application of the Council's earthquake prone policies of 2006 and 2010 to the building.

EVENTS BETWEEN 4 SEPTEMBER 2010 EARTHQUAKE AND 22 FEBRUARY 2011 EARTHQUAKE

6. On 5 September 2010, a Level 1 rapid assessment was carried out and the building received a green placard (**BUI.MAN200.0004.135**).
7. On 10 September 2010, a Level 1 rapid assessment was carried out and a green placard remained on the building (**BUI.MAN200.0004.137**).
8. I understand that Holmes Consulting Group assessed the building and recorded their findings in notes dated 8 September 2010 (**BUI.MAN200.0004.136**). However, these notes were not received by the Council's "EPA & IE Units" until the 19 October 2010, as indicated by the date received stamp on the Council's copy of the notes.
9. It seems unlikely that the Holmes Consulting Group notes were prepared as part of the Council's Civil Defence response during the state of emergency in September 2010. The Holmes Consulting Group notes are not on a Civil Defence rapid assessment form and the notes do not include all details that are required to be completed for a rapid assessment form.

10. On that basis, the Council is not aware of who instructed Holmes Consulting Group. However, as the form states that a copy is to be provided to Daryl Fraser from the Iconic Bar, and his business card is copied on the top of the page, it is possible that he commissioned the assessment. As stated at section 3.3 of the Council's "Report into Building Safety Evaluation Processes in the Central Business District Following the 4th September 2010 Earthquake", it was not unusual for building owners (or tenants) to arrange their own structural assessments during the state of emergency.
11. The Council's files also include a proposal for structural strengthening and alterations to the building prepared by Lewis and Barrow Limited, dated 22 November 2010 (**BUI.MAN200.0004.138**). However, I understand that on 30 November 2010 the Council received a telephone call requesting that the application be put on hold as the project might not proceed (**Annexure "A"**). On 1 June 2011, Ben Goldsmith from Lewis and Barrow Limited, formally withdrew the building consent application (**Annexure "B"**).
12. On 26 December 2010, a Level 2 rapid assessment was carried out and the building received a red placard (**BUI.MAN200.0004.152**). The assessment form noted that the "*E gable wall badly damaged... W wall damage esp. apex. Loose bricks. Could fall in or outwards*".
13. On 27 December 2010, a Level 1 rapid assessment was carried out and the red placard remained (**BUI.MAN200.0004.156**). The Council issued a section 124(1)(c) Building Act Notice dated 27 December 2010 (**BUI.MAN200.0004.159**).
14. I understand that the section 124(1)(c) notice was affixed to the barricade/fencing surrounding the building. A photograph which shows the Building Act notice affixed to the barricade/fencing can be located at **BUI.MAN200.0004.160**. A copy of the notice, along with a cover letter dated 27 December 2010, was posted to the building owner, Symphony Projects Limited (**BUI.MAN200.0004.157**).
15. The Building Act notice stated that the building had been damaged, that there was structural damage and that "*the east gable wall has been badly damaged*". The Building Act notice contained a deadline of 31 January 2011 to carry out work on the building to remove the danger.

16. I understand that the Building Act notice was prepared with the information from the rapid assessment forms and Council staff copied the information from the forms into a section 124 notice template. However, the Building Act notice only refers to the damage to the east gable wall and does not specifically reference the damage to the west wall. This is likely to be a transcribing error.
17. In any event, the Building Act notices refer in general terms to damage to the building, and the danger that is required to be removed. It was not standard practice for the Council to supply the rapid assessment forms to the owners or to the owner's engineers. The Council would expect the owner's engineer to carry out a full assessment of the building, before signing the CPEng Certification Form.
18. The cover letter accompanying the Building Act notice advised the building owner to contact the Council's Building Recovery Office to discuss any building assessments and the particulars in the Building Act notice before undertaking any steps to remedy the danger and the letter recommended that the building owner contact their insurer. As a CPEng report would have been required to certify that the danger had been removed, the Council's letter also recommended the building owner seek structural engineering advice from a qualified structural engineer as to how to remove the danger.
19. On 30 December 2010, Chris Gordon, a Senior Engineer from Lewis and Barrow Limited, emailed the Council referring to the red sticker and damage to the east gable wall parapet (**BUI.MAN200.0004.162**). The email stated that remedial works had been undertaken to provide adequate support to the damaged areas, and attached a certification dated 30 December 2010 (**BUI.MAN200.0004.163**). It is noted in the email of 30 December that Chris Gordon *"is not CPEng however I do have a BE Civil, NZCE am GIPENZ and have 16 years' experience in design and supervision with Lewis and Barrow Limited. I have significant experience with seismic design"*. As the Council only accepted certifications from chartered professional engineers, this certificate could not be accepted.
20. A request for service on the building file dated 31 December 2010 states that Chris Gordon called the Council asking for John Mitchell and advising that he had sent the last piece of paperwork through to have the red sticker removed

(BUI.MAN200.0005.26). It appears that John Mitchell later discussed the issue of Mr Gordon's certification being insufficient, as later on 31 December 2010 Mr Gordon sent an email to the CD Rescue email address attaching a CPEng certification for the building from Simon Gifford, an engineer from Lewis & Barrow Limited (**Annexure "C"**). The email stated "*Hi John, as discussed the attached is a CCC form signed by a CPEng.*" The CPeng form and notes discuss the east gable wall and parapet but also note other damage found by Lewis & Barrow during the investigation to do with the gable end wall. This shows that Lewis & Barrow did their own independent inspection of the entire building, as required.

21. On that basis, the Council relied on the CPEng certification that sufficient measures had been taken to secure the building and that the building was safe.
22. A Council Boxing Day Earthquake - File Closure (green) form, dated 3 January 2011, states that a structural report was received and that the owners were to be contacted to remove the section 124 notice, and red placard, and cordons were to be removed (**BUI.MAN200.0004.167**).
23. I understand that the Iconic Bar may have been operating on 31 December 2010. However, the Council Boxing Day Earthquake – File Closure (green) form states that the Council's Customer Service Request records were updated on 3 January 2011. This does not mean that John Mitchell received, reviewed and communicated his acceptance of the structural report from Lewis & Barrow on 3 January 2011. The Council was operating with limited staff over the New Year period, and it was common for there to be delays in entering the assessments into the Council systems. It is possible that the building file was closed by John Mitchell on 31 December 2010 and that the owner was advised prior to 3 January 2011 that the red placard could be removed.
24. It appears that on 9 February 2011 the building was reinspected by Mark Ryburn, an engineer contracted to the Council from Opus (**BUI.MAN200.0004.168**). It is unclear why this re-inspection took place as re-inspections generally only took place for buildings that still had section 124 notices.
25. It is possible that this building was inspected because there was still a record in the system of the issue of a Building Act notice, even though by the time of the

re-inspection, the necessary remedial works had been completed and the red sticker had been removed. In any event, I understand that Mr Higgs did not view the form and make a decision on the building, (notwithstanding the post-it attached to the reinspection form which states "*Neville, please review and make a decision*"). Mr Higgs has commented upon this issue in an email to Mark Zarifeh which is recorded at BUI.MAN200.0008.1.

26. The next document in the Council's records is a CCC Engineer – Earthquake Sign off and Closure Form (green), which was completed at 8.10am on February 22 2011 (**BUI.MAN200.0004.171**). The form states that "*The building has been certified for occupancy by Simon Gifford, CPEng, noting the next door building 198 Manchester has been certified by Beca as OK structurally*".

Cordons

27. The Level 1 rapid assessment carried out on 10 September 2010, noted that a 40 metre barricade was needed. However, I understand that the Council does not have a record of a 40 metre barricade being erected around this building after the 10 September 2010 assessment.
28. The Level 1 Rapid Assessment form completed on 27 December 2010 states "barricades in place now" following the Boxing Day aftershock. Photographs dated 28 and 31 December 2010 show the cordon in place at Iconic Bar (**BUI.MAN200.0004.161-162** and **BUI.MAN200.0005.27-39**). There is also a map prepared and distributed on 4 February 2011 (**BUI.MAN200.0005.21**). I understand that the data used to create the map may have been collated a few days before 4 February 2011. The map and the photographs show that notwithstanding the note on the Council Boxing Day Earthquake - File Closure (green) form, dated 3 January 2011, that the cordons could be removed around 204 Manchester Street, it appears a limited cordon did remain on the Gloucester Street side of the building. The Council does not have any record of why this limited cordon stayed in place.
29. In his re-inspection dated 9 February 2011, Mark Ryburn noted that protection fencing was required to cover rear parapet on Gloucester Street. There is no record of the protection fencing being reviewed following this re-inspection.

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

- 30.** The building was deemed to be Earthquake Prone in terms of section 66 of the Building Act 1991. However, in 1993 the building was strengthened to 67% of the Building Code requirements and further strengthening was undertaken in 2004. I understand that the documentation relating to the 1993 and 2004 work is available on the Royal Commission Secure Website from **BUI.MAN200.0004.9**.
- 31.** Therefore, the building was not considered to be Earthquake Prone after these alterations for the purposes of the Building Act 2004, and would not have been considered to be Earthquake Prone in terms of the Council's Earthquake Prone Policy, when it was introduced in 2006.

DATED *13th Day of* January 2012



Stephen James McCarthy

"A"



IntraRFS

Previous Results

[New Search](#) | [Event Information](#) | [ABA Extra Information](#) | [AR Information](#) | [Suspension Information](#) | [RFS Notes](#) | [Land Parcel Information](#) | [Information Out Of Date!](#)

RFS Main Data

RFS Group	ABA	RFS Number	10107876	Receiving Officer	Kirsten Boyd
RFS Type	C09 - PIM/BC Comm/Ind 10,000-50,000			Handling Officer	Phil Carr
RFS Sub-Type				Authorising Officer	DEVELOPMENT TEAM 1 EPA
Date Received	22/11/2010			Function Field	CIV - Civic Offices 2nd Floor
RFS Status	S - Suspended			External Reference	401/134
RFS Details	ADDITION OF NEW STRUCTURAL FLOOR AND ROOF BRACES ENCLOSE MAIN STAIRWELL FOR FIRE REASONS ** do not process and further until advised ***				

Address Details

Location	204 MANCHESTER ST
Suburb	CITY
Location Description	
Land Parcel(s)	LOT 1 DP 408636
Prupi	898840
Ward	Property located in Hagley-Ferrymead Ward
Location of Property Information	Property File off-site. Phone 941 8999 to request file (ex Civic)

First Contact Person Details

Name	SYMPHONY PROJECTS LIMITED
Person ID Number	3337065
Phone (Hm)	
Phone (Mb)	
Phone(Wk)	
Mailing Address for this RFS	PO BOX 5560 WELLESLEY STREET AUCKLAND 1141

ABA Extra Details

BC Value	\$40,000.00	Description of Work	structural floor and roof bracing
PIM Granted Date	02/12/2010	PIM Issued Date	02/12/2010
BC Granted Date		BC Issued Date	
Interim CCC Granted Date		Interim CCC Issued Date	
CCC Granted Date		CCC Issued Date	
Indefinite Life		Combined BC + PIM	C
Contact Name	lewis and barrow ltd	Contact Phone	366 4320

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Suspension Information

Suspend Start Date	Suspend End Date	Reason Suspended
30/11/2010		Client request hold. May not proceed. Phill Carr

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RFS Notes Information

Note Type	STD	Summary	Text
Standard	16/03/2011	building is badly damaged	see webmap

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Land Parcel Information

Legal Descriptions	LOT 1 DP 408636
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RFS Event Details

Event Code	Stage No	Action Code	Event Status	Actual Officer	Planned Officer	Event Date/Time

Event Details: suspended - 2010/11/30 - 10:51 Client request hold. May not proceed. Phill Carr

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All data displayed is a copy of the GEMS data at most 24 hours out of date unless specified below:

IMPORTANT - Analysis details last updated 14/02/2006

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Version: 1.0.0.4 **Release:** 11 Sep 2008

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" B "

E-mail Message

From: Carr, Phil [EX:/O=NZGOVT/OU=CHRISTCHURCH CITY COUNCIL/CN=RECIPIENTS/CN=PHIL.CARR]
To: Galbraith, Marilyn [EX:/O=NZGOVT/OU=CHRISTCHURCH CITY COUNCIL/CN=RECIPIENTS/CN=Marilyn.Galbraith]
Cc:
Sent: 1/06/2011 at 2:23 pm
Received: 1/06/2011 at 2:23 pm
Subject: FW: Building Consent ABA10107876 - 201 Manchester Street

Attachments: Cancellation Form.pdf

Hi Marilyn

Can you action this cancellation please or forward to whomever is doing this.

Cheers

Phill

From: Ben Goldsmith [mailto:ben@lewisandbarrow.co.nz]
Sent: Wednesday, 1 June 2011 1:02 pm
To: Carr, Phil
Subject: Re: Building Consent ABA10107876 - 201 Manchester Street

Hi Phill

Sorry this has taken so long we are snowed under with E.Q. work at the moment.

Attached is the cancellation form for building consent ABA 10107876. I have filled it out on behalf of the owner. All outstanding fees and any refunds are to be referred to the people/person/company who paid the original building consent payment. I hope this makes sense and that I have filled out the form correctly, please let me know this is the case.

Regards Ben.G.

On Tue, May 3, 2011 at 2:27 PM, Carr, Phil wrote:

Hi Ben

Just following up on consents I have on hold.

This one was suspended 30 Nov on the understanding that it might not proceed. As a consequence of the earthquake it would be logical to assume that this consent can be cancelled.

Can you please provide formal request for this to be done.

Regards

Phill Carr
Senior Building Consent Officer

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Christchurch City Council
<http://www.ccc.govt.nz>

EPA Unit / I&E Unit

Withdrawal Request of a Project Information Memorandum (PIM) and / or Building Consent Application

1. The Building

For Office Use

Date Received:

Project Number: ABA 10107876
 Street address of building: 204 Manchester Street
 Legal description of land where building is located: Lot No: 4 DP: 403636
 Other:

2. The Owner (as defined by the Building Act 2004)

On behalf of the owner.

Full Name(s): Ben Goldsmith (Lewis and Barrow Ltd) Agent
 Contact Person: Ben Goldsmith
 Address: Street No/Name: 300 Carlyle St
 Suburb: Eddentia Sutherland
 City: Christchurch Post Code:
 Postal: Same as above
 Box / Street Name: 13782
 Suburb / Lobby: Airside
 City: Christchurch Post Code: 3141
 Phone numbers: Daytime: 366 4320 Mobile:
 After hours: Fax:
 Email: ben@lewisandbarrow.co.nz

If the ownership has changed since the application was made, new evidence of ownership will need to be provided (i.e. Certificate of Title).

Please withdraw my project information memorandum (PIM) / building consent application in regard to the above property as it is not my intention to proceed with the building work. I agree to pay any outstanding fees from the processing the application to date, plus costs associated with the withdrawal of the application.

owner will pay in these fees and all refunds to go to them.

Signed: Ben Goldsmith Dated: 1/1/2011

Signature of: Ben Goldsmith

(please print name - this must be the owner):

Please note:

All documents submitted as part of the application will be archived and refund of any fees will be made to the original payer.

3. Privacy Act

All the relevant information on this form is required to be provided under the Building Act and Resource Management Act for the Environmental Policy and Approvals Unit to process your application. Under these Acts this information has to be made available to members of the public including business organisations. The information contained in this application may be made available to other units of the Council. You have the right to access the personal information held about you by the Council which can be readily retrieved. You can also request that the Council correct any personal information it holds about you.

4. Information

GENERAL INFORMATION:

1. The owner of a building may withdraw an application for a building consent at any time prior to commencement of the work and a project information memorandum (PIM) application may be withdrawn prior to it's issue.
2. Depending on the timing of the request, there may be either a refund or a charge for additional fees, as costs to date will be charged. The council will respond to this request with a confirmation including details of any refund or fees to pay (and where to pay these).
3. General information can be found on our website at <http://www.ccc.govt.nz/homeliving/buildingplanning/index.aspx>.

5. Lodging a Request

Application can be lodged via the following methods:

- Electronically: send request form via email to buildingconsentapplication@ccc.govt.nz.
- Post: send your request form to: Christchurch City Council For enquiries phone (03) 941 8999.
Building Approvals Office
PO Box 73013
Christchurch 8154
- Hand delivered to either Civic Offices or Lyttelton Service Centre where assistance is available.

Location	Street Address	Phone	Email
Civic Offices	53 Hereford Street, Christchurch 8011	941-8999	info@ccc.govt.nz
Lyttelton Service Centre	35 London Street, Lyttelton 8082	941-8999 0800 800 169	info@ccc.govt.nz

6. Council Use Only

Are the building works required to satisfy enforcement action?
(If yes, escalate to Team Leader for further action.)

No / Yes *(delete one)*

	PAID	COST	CREDIT / CHARGE
PIM / Development Check			
Accept / Issue			
Process			
Grant and Issue Code Compliance Certificate		Nil	
Building Research Levy		Nil	
Building Levy		Nil	
Compliance Schedule		Nil	
Inspections			
SEW Sewer Opening		Nil	
STW Stormwater Opening		Nil	
VCI Vehicle Crossing Inspection		Nil	
WAL Water Supply Headworks		Nil	
WON Water Connection			
WST Treatment Plant Upgrade		Nil	
WRU Waste Water Reticulation		Nil	
CIC Community Infrastructure		Nil	
RCC/S Reserve Contribution		Nil	
Other fees			
TOTAL			Credit / Charge <i>(delete one)</i>
Authorising Officer:			Date:

" C "

Daines, Nadine

From: Chris Gordon [chrisg@lewisandbarrow.co.nz]
Sent: Friday, 31 December 2010 12:37 pm
To: CDRescue
Subject: TRIM: 200 manchester St. Attn: John Mitchell
Attachments: doc20101231123955.pdf

TRIM Record Number: 11/8

John

As discussed the attached is a CCC form signed by a CPEng, Simon Gifford from our office.
Please contact me if you have any queries. I'm out on site so please use my mobile, 0274572990.

Regards

Chris

Chris Gordon
Engineer

LEWIS & BARROW LTD

Consulting Civil and Structural Engineers

DDI: 03 372 4338

Ph: 03 366 4320

Fax: 03 365 7069

www.lewisandbarrow.co.nz

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Statement by Chartered Professional Engineer in respect of the building at:

(Building Address) 200 Manchester Street, Christchurch

(Business Name) Iconic bar

I, Simon Gifford, am a Chartered Professional Engineer (No 217130,) with relevant experience in the structural design of buildings for earthquake actions.

I have been engaged to provide advice to the owner on the interim securing / strengthening of the above building following the earthquake of 4 September 2010.

I am aware of all the measures taken to secure or strengthen the building (the work) which were carried out by (*Name and contact address of contractor*).

Nathan Cook Builders.

Personnel under my control have inspected the work on completion and I am satisfied on reasonable grounds that:

- a. *Structural integrity and performance.* Where the structural integrity and/or structural performance of the building (or part of the building) was materially affected by the Darfield earthquake or any aftershocks to date, interim securing measures have been taken to restore the structural integrity and performance of the building to at least the condition that existed prior to the earthquake of 4 September 2010.
- b. *Potentially dangerous features.* Potentially dangerous features on the building such as unreinforced masonry chimneys, parapets and walls have been removed or secured so that their integrity and level of structural performance is consistent with that generally achieved in other parts of the building, and so reduces the danger to people's safety and of damage to other property.
- c. *Threat from nearby buildings.*
Personnel under my control have identified *all* potentially dangerous features such as unreinforced masonry chimneys, parapets and walls *on all adjacent or nearby buildings* that have potentially dangerous features which threaten the subject building or its occupants.

Buildings identified in the above category are:

- i. 198 Manchester St

The owner of the subject building has been advised that approval for resumption of occupancy and use will be subject to Council approval to remove the red or yellow safety notices from the buildings listed above.

Signed  Chartered Professional Engineer

Date .31 December 2010