

COMMISSION RESUMES ON 1 FEBRUARY 2012 AT 9.32 AM**JUSTICE COOPER:**

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The Royal Commission's work over the next two days involves enquiring into the collapse of buildings at 603 and 605–613 Colombo Street. As a result of the collapse of those buildings four pedestrians were killed by falling masonry. They were Graham and Joan Weild, Gabi Ingel and Ofer Levy who were visitors from Israel.

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Others were tragically killed in Red Bus 702 that was travelling along Colombo Street at that time. They were Jeff Sanft, Philip Coppeard, Joseph and Lucy Routledge, Earl and Beverley Stick and young Jayden Andrews-Howland.

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The driver of the bus, Andrew Craig, died in hospital two days after the earthquake due to the injuries he sustained.

The Commissioners express our deepest sympathy to the families of all those who died and acknowledge the presence of many close family members here today.

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MR ZARIFEH:

As Your Honour has indicated, the hearing today and tomorrow is to look into the building failure of the building that was known as the Austral Buildings and it comprised of 603 Colombo Street which was a two-storey row unreinforced masonry building at the end of the row on the north-west corner of Colombo and Mollett Streets. The portion of the Austral Building next door to that immediately to the north – 605–613 Colombo Street – which was in between 603 and 615 which was the building at the end, so on the corner of Colombo and Tuam and in fact I think there's a photo that we brought up that will show the location and the building generally. That's an aerial view and Your Honour can see Colombo Street running down to the right of the aerial view and Mollett Street is immediately south of what is marked as 603 and 605–613 is

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shown immediately to the north and then 615 which was on the corner of Colombo and Tuam.

JUSTICE COOPER:

5 Just tell me about 603A.

MR ZARIFEH:

603A I'm not completely sure but I think that might be an upstairs. We will find out.

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JUSTICE COOPER:

We have seen that pattern in the past with the street numbering system.

MR ZARIFEH:

15 Yes Sir and I am going to get that confirmed when Mr Dallison gives evidence shortly and there's some other shots that show the building as a whole from Colombo Street. They were treated separately in terms of the Council assessments so I am going to deal with them separately in my opening. That's a view, an older shot, if you're looking towards 605. 613 is the lighter
20 coloured building in the middle. Kiwi Disposals was one of the tenants you can make out operated two buildings and then there was a restaurant to the left of that. And 603 is on the corner. One can see Mollett Street and Longhorn Leather was at 601A which is on the other corner of Tuam and Mollett. You can just see that other side.

25 That's another shot after the September earthquake when there was some barricading up in front of 603 on the corner. That extended across Mollett Street access was prevented in Mollett Street and one can see that there's a pedestrian access on the east side of the larger fence in front of 603 and there was no cordon barricade up in front of 605–613 at any stage it appears.

30 There was some propping that you can see in that photo under the verandah of 605–603 [*sic*] and there may have been some tape on that propping but no barricade as such preventing –

JUSTICE COOPER:

605–613

MR ZARIFEH:

Yes Sir. The barricading is just on the corner of building 603. The Austral
5 Building as a whole was classified as a Heritage Building. Following the
September earthquake 603 was damaged and was yellow placarded on the
5th of September and then red placarded on the 26th of December following
the Boxing Day aftershock and Building Act Notices were served on the
owners requiring a CPEng report to be provided to the Council and for make-
10 safe work to be completed on the building by the 31st of January 2011.
Protection fencing was in place shortly after the September earthquake and
was subsequently extended and, as I have indicated, the whole of Mollett
Street was blocked off. There appears to have been a recommendation on
the Council records to have it re-assessed after the Boxing Day aftershock.
15 The owner of 603 through their lawyer who was in effect managing the
property, Mr Dallison, engaged Marton Sinclair, structural engineer, and he
inspected 603 in September and concluded that it was unsafe to occupy. He
also liaised with the Council in 2001 particularly at a meeting on 1 February
that we'll hear about more. No make-safe work was completed on the
20 building and the main issue seen by Council inspections with the building was
the southern façade. So that's the Mollett Street façade of 603. No make-
safe work was completed and instead a decision was really made that the
building would have to be demolished. The building as a whole in that block
had separate ownership which in itself posed difficulties getting people to
25 agree on what course of action to take in relation to repair or demolition, and
of course the heritage status of the building required under the Council
regulations and rules a notified consent. As Your Honour has indicated, at the
time of the 22nd of February earthquake there were four people killed or
believed to be as a result of the collapse of 603, but we can't be entirely sure
30 that 605 to 613 which also collapsed, the façade collapsed onto the street,
could have contributed as well, but at the time of the 22 February earthquake
Graham and Joan Weild appear to have been walking on the west side of
Colombo Street near the intersection of Mollett Street. They were killed after

the façade of 603 and as I've indicated 605 to 613, immediately adjacent, collapsed out onto the street. Their bodies were found under rubble in front of and adjacent to 603 on Colombo Street, and Gabi Ingel and Ofer Levy were also pedestrians in that area. Their bodies were also found close by in that same rubble. The likely issues in relation to 603, and they're similar to the other part of the building, in common is application for council's earthquake prone policy to the building. Secondly the assessment of the building following the September earthquake, in particular the Colombo façade. The adequacy of protection of fencing at the Colombo Street frontage. The follow-up of Building Act notices and the processes required to have the building demolished, that will be I anticipate touched on. In relation to 605 to 613, that was green placarded on the 5th of September. This would appear consistent with a brief engineers' inspection on behalf of the owner on the 14th of September. The owners' engineer inspected the building again on the 27th and 29th of October and noted more damage and recommended propping of the front veranda in Colombo Street which was done. After the Boxing Day aftershock there was much more significant damage including that the front façade was leaning out, so the Colombo Street façade was leaning out some 40 millimetres. The building was red placarded after a Council assessment which was led by a CPEng Engineer, Mr Raper. A Building Act notice was subsequently served on the owner on the 28th of December. Consultation between the owner and its engineers resulted in a decision to demolish the building. As I've indicated the building had a heritage classification and the process of resource consent would have taken some months. As I've said it would appear that there was not at any stage any barricading or cordon in front of 605 to 613 on Colombo Street. At the time of the February earthquake Andrew Craig was driving a red bus number 702 north along Colombo Street approximately adjacent to 605 Colombo Street. As a result of the earthquake a large amount of masonry and bricks fell from the building onto the left side of the bus. This was witnessed by Kenneth Edwards who was driving a Leopard bus immediately behind the 702 bus. The Leopard bus he was driving was partially crushed by falling bricks and masonry which had brought both buses to an immediate stop. Mr Edwards sustained moderate

injuries but went to the assistance of occupants of the other bus. Mr Craig the driver of the red bus was subsequently transported to Christchurch Hospital, but as indicated died two days later due to the injuries that he sustained during the earthquake. Passengers on the bus who were killed, as Your Honour has mentioned, were Jayden Andrews-Howland, Jeff Sanft, Phil Coppeard, Joseph and Lucy Routledge and Earl and Beverley Stick.

The issues that I anticipate the Commission will have to deal with in relation to this building failure are application of the Council's earthquake prone policy to the building. Importantly the issue of cordons or barricades and the failure to provide protection fencing in front of the building to ensure safety of the public. And as well another issue that I anticipate will come is the issue of timelines for make safe work or demolition particularly given a building's heritage classification.

As to witnesses, the first witness that I intend calling is Ann Brower who was on the Red Bus and who survived the earthquake, and she will read a statement to the Commission of her experience. We have a written statement from Mr Edwards which I will read after that and then the hearing's programme sets out the witnesses which will not necessarily be in that exact order but we'll try and stick to that and some witnesses Sir give evidence in common with both and obviously they will be dealt with as they give evidence but we'll deal with 603 and some of the issues that relate to that initially with Marton Sinclair the engineer and John Dallison the lawyer acting for the owners, Mark Ryburn and Paul Campbell from Opus who were involved in brief inspections of the building, then Peter McLeod a loss adjustor involved with 605 to 613. Robin Cheng the owner's representative of the company that owned the building will give evidence. Your Honour will see there are a number of council witnesses who are listed, four in fact, Mr Higgins, Mr Ward, Miss Billante and further down Mr Dally. They will give evidence hopefully this afternoon and some of that evidence relates to some of the issues that Mr Bushnell and Mr Sinclair, who were at a meeting with Mr Ward was attending on behalf of the Council on the 1st of February relating to the Austral building that we're dealing with but also to a building on the other side that they had

concerns with. It was a three-storey unreinforced masonry building that did collapse in the earthquake but fortunately did not result in any casualties.

JUSTICE COOPER:

5 What was its address?

MR ZARIFEH:

It's 626 I think I'm correct in saying.

10 **JUSTICE COOPER:**

So was that on the corner of –

MR ZARIFEH:

Corner of Tuam and Colombo, opposite the 615.

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JUSTICE COOPER:

South-east corner?

MR ZARIFEH:

20 Yes Sir, and Matthew Bushnell who I mentioned was a builder who had been instructed by the owners of 605 to 613 and was at that meeting. Michael Fletcher a structural engineer instructed in relation to 605. Tony Raper I mentioned was an engineer working after Boxing Day and conducted a level 1 assessment with a Council inspector, and then finally Mr McCarthy from the
25 Council and Mr Smith who has looked at the failure of both buildings.

Sir I move to the first witness, Ann Brower.

0950

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MR ZARIFEH CALLS:**ANN LACEY BROWER (AFFIRMED)**

Q. Ms Brower is your full name Ann Lacey Brower?

5 A. Correct.

Q. And you've got a statement that you've prepared and signed in front of you.

A. Yes.

10 Q. Can I ask you to read that to the Commission please starting at paragraph 2?

WITNESS READS STATEMENT FROM PARAGRAPH 2

15 A. "My name is Ann Brower and I'm originally from North Carolina. I came here to New Zealand about seven years ago on a Fulbright Scholarship in Political Science and I now am a senior lecturer in public policy at Lincoln University. My speciality by the way is regulations and why they sometimes succeed but why they often fail spectacularly to achieve their goal. So there is some irony in the fact that regulatory failure came very close to killing me and killed everyone who was closest to me at the earthquake. So just after lunch on the 22nd I got onto the Red Bus going

20 to the University of Canterbury. I got on in Sumner. There were a few people on the bus but I don't honestly recall who was, who was on the bus. I have a vague memory of some but I rode that bus so often that I don't know. I do know that I sat on the driver's side of the bus just behind the disabled seat. So that was on the right-hand side of the bus

25 about four rows back from the front. I have a recollection of an elderly couple who might have been sitting opposite me."

But, again, having just sworn, I'm not entirely sure where, where they were sitting I was reading a magazine so I do apologise for that.

Q. That's all right.

30 WITNESS CONTINUES READING STATEMENT

A. "I do know there were other people on the bus but it wasn't full obviously. So when we got to Colombo Street we were about to the turnoff to where we turn into Lichfield Street to go into the Bus

Exchange. The bus stopped very quickly and started shaking very violently and I looked around and I could see bricks falling on the other side of the street and I thought, oh, that's interesting, and then I could hear bricks falling onto the bus and thought it was a bit more serious and I don't really remember exactly what happened after that. I think I squished down or something but I know that I passed out for quite some time and I don't know for how long and when I, when I woke up I was pinned, the roof of the bus was on my hip, my left hip and I could see out the window though and the window next to me was intact. So I was all squished down and I think the seat in front of me was on top of my leg and my knee was all wrenched and, and when I woke up I felt like there was more and more weight coming onto me just in, in increments and I wasn't entirely sure how much more of that I could take and so, yes, I started screaming and then some of the people who, actually I found out later the reason that I, it felt like there was more weight coming onto me was actually because they were taking weight off of me and so there was more blood flow going to, to my broken leg. So the people from, who were digging the bus out came down to tell me that they were coming and that please could I stop screaming because it was a bit disturbing to the people on top. So I saw a man out my right-hand window wearing a fluorescent vest. I thought he was a fireman but he wasn't and he told me that they were, they were coming for me and then very soon after that a man named Rob somehow appeared. He somehow crawled into the bus in front of me and just talked to me and told me stories and during that time I could hear them continuing to, to clear the, the rubble. It was really loud. There was a lot of banging because the pieces were quite big and they had to smash them and it was a smash and clear and smash and clear and Rob when, when he got onto the bus, I couldn't see much because I had lost my glasses, but I could see the, the look on his face and he, he went quite white and I could see that I shouldn't, shouldn't look around me and I remembered saying to him and to the guy outside the bus look I'm, I'm, I'm okay, I'm going to make it through, please get, get the others first and we were on

the bus for a time that could have been 15 minutes, could have been 20. I'm not entirely sure but Rob was telling me stories about fishing and other things to, to keep me calm and prevent me from screaming and then they somehow pulled the roof of the bus off because that was the only way they could get into to me and, because I remember it all of a sudden becoming much more light, and so they pulled the roof of the bus off and I was still, of course, very focussed on Rob but I could hear what was going on around me even though I tried not to and I heard someone say to someone else, again I thought they were firemen but they weren't, "Get her first. He's gone," and that was the first I, I was hoping that the people on the bus were still alive but that was the first I knew that not all of them had made it and so like I said the roof of the bus had been resting on my right, no, sorry, my left hip and so I was smushed in between the roof and the wall and, and the seat, the seat in front of me and that impact of the roof and the seat and the wall had, it broke my pelvis and a little bit of my spine and my leg and my hand and the break in my leg was such, it's called compound, so it was such that the tibia had broken through the skin. That's what a compound fracture is I learned and so then Rob was still there right in front of me and someone else, some other man appeared. I think he was wearing a fluorescent vest as well and he asked me to wiggle my fingers and toes and I think I told him off. I'd been doing that for 20 minutes now because that was the first thing I did when I woke up, was try to wiggle and he, there was someone else at my feet and he was taking the wires, getting me untangled because my legs were all entangled in the wires of, of the bus I suppose and so the man who had asked me to wiggle appendages then lifted me up while the other man at my feet wrenched the seat in front of me off of me. So it was sort of a two-person job and there were other people there too but I don't, I don't know what they were doing. So then they, they picked me up and that part I don't actually remember but I do know that I moved. I don't remember moving but I passed out several times from the pain but I do remember lying down in the, in the light. So they sort of laid me down in the street

and there were lots more people around and they splinted my leg which again I passed out when they did that but I do remember that there was someone who seemed to have some medical training who was telling them what to do with the, the splinting and then the next thing I knew I was in the back of a, a four wheel drive truck and truck, um, and, ah, I asked, and then there was someone else there with me. Rob was gone and there was a guy named Gary was there and he, um, I asked him if I was in an ambulance and he said, "No you're in the back of a...", and he was very specific about make, model, year everything about what kind of car it was and, um, and he said, "We're taking you to the hospital and that's the best place for you", and, um, there were about three other men in the back of the truck with me and, um, one of them was holding my leg up like this and my other arm like this and, um, I have looked at my hospital records and they say that I arrived at the hospital at 1.50 so all of this took, ah, 59 minutes and I have no idea how much of that I was passed out for or awake, um, and later on that night, um, it was dark but I don't know how late it was, um, I went into surgery for my, where they repaired my broken tibia and the, um, severed tendon in my finger, um, and then two days later I had another surgery for the skin graft to cover over where the tibia had punctured the skin, um, and so in addition to the broken pelvis I would also add actually spine to this statement, um, so pelvis, sacrum, leg, another bone in my hand. I had a bit of a bump on my head and, um, the cut on my finger that severed the tendon. Okay so after I was lifted out into the street and then into the truck Rob went back to the bus to grab my bag because he had seen that I had things with me a handbag and, um, it was an orange backpack actually not a handbag sorry, um, and he returned that orange backpack to me in the hospital a few days later, um, and the pack was covered in blood but, um, the computer in it still worked and I don't know where it was I don't, I – it couldn't have been at my feet, maybe it was on my lap so that, to allow someone to sit next to me in case someone wanted to. A few days later after both of those surgeries, um, a man named Doug came to see me in the hospital on the Friday, um, and

Doug had been the man who had asked me to wiggle everything and, um, he had told me that actually a few years before he had been the foreman on the, the crew that built the red buses so he had some knowledge of the construction of the buses and he told me that I had
5 been in a pocket on the bus so, um, like I said the roof of the bus was on my hip whereas the rest so it collapsed like that over me whereas the rest of the bus collapsed differently and, ah, and he told me that although they had tried their best to get the others out, and they did, they did get the others out and they had tried their best to do what they
10 could to, to save them, um, they, they hadn't been able to and, um, and over the ensuing weeks in hospital many other people, men, they were all men, who had been there came to see me in the hospital and they all, they all said the same thing, they had tried their best and they, they really wanted to but they couldn't, um, and so I stayed in the hospital
15 until April. I was in public hospital for two weeks and then Burwood hospital for about five and a half weeks and then, so I got out of hospital around April 15th and then I spent another eight weeks on crutches and I got off crutches and started to walk again around the beginning of June, um, I was off of work for all of that time and I started back to work one
20 day a week at the beginning of July and then have gradually increased my hours to work full-time yeah, thank you.

Q. Thank you very much.

CROSS-EXAMINATION: MR ELLIOTT, MR LAING AND MR MCLELLAN – NIL

25 **RE-EXAMINATION: MR ZARIFEH - NIL**

QUESTIONS FROM COMMISSIONER FENWICK – NIL

QUESTIONS FROM JUSTICE COOPER:

- Q. Ms Brower thank you for telling us about that. Can I just ask presumably you were on the right-hand side of the bus as it was travelling north have I got that right?
- A. Yes. So the inside sort of on the yellow line, behind, directly behind the driver.
- 5 Q. Right. And can you recall were there other people on that side of the bus as well or can't you?
- A. Um, I don't think there was anyone sitting directly in front of me.
- Q. Yes.
- 10 A. Because it was the disabled seats straight in front of me, um, I can't, I since I've just affirmed to tell the entire truth –
- Q. Yes.
- A. – I can't honestly affirm 100%.
- Q. Right.
- 15 A. Yes, but I think yes.
- Q. I was just –
- A. I think there were people directly behind me sort of maybe one or two seats back but again I was reading a magazine so I wasn't, wasn't paying much attention sorry.
- 20 Q. I was intrigued by your comment about the, being in a pocket on the bus,. The sense conveyed is that you were in some part of the bus that was especially strong is that it?
- A. Well, um, I do know that, um, not to be too graphic but in, in the hospital I had a, um, about three or four centimetre wide bruise on my back that
- 25 ran from my right hip to my, no sorry left hip to my right shoulder.
- Q. Yes.
- A. That must have been a strut from the top of the bus.
- Q. So it was some way in which the impact occurred and how the bus was affected by it which meant that you were the sole survivor?
- 30 A. Yeah, and in this picture here.
- Q. Yes.
- A. It looks, they've already torn the roof off.
- Q. Yes.

- A. Um, because when I was on it there was, there was a roof over me but see you can see in the back how it collapsed straight down but over me it, it collapsed differently and so like I said they tore the roof off but I have seen a photo somewhere where before they tore the roof off, it wasn't in the note book of evidence –
- 5 Q. Yes.
- A. – That I've looked through but there is somewhere on YouTube or somewhere or you know maybe in the Australian tabloids or somewhere I have seen a photo where the roof of the bus was, was still on.
- 10 Q. Yes I think we may have one somewhere. But probably not, is the picture that you recall a reasonably close photograph or is it...?
- A. Oh, I don't, I don't know that I remember.
- Q. No.
- A. But most of the photos of the bus the roof is off.
- 15 Q. Yes.
- A. But –
- Q. Yes.
- A. – that certainly wasn't the case when I was pinned by the roof. And I do know I mean according to the, the people who, who dug me out they had to, to wrench the roof off. Once they got all the stuff off they said that the masonry was about a metre high on top of the bus or well on top or on the side or however you want to say it.
- 20 Q. Yes.
- A. On the wrong side of the bus certainly.
- 25 Q. All right well Ms Brower thank you very much for coming along and telling us about what must have been a very frightening experience.
- A. Thank you.

WITNESS EXCUSED

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MARK ZARIFEH:

- 5 As I indicated, Your Honour, there's a written statement from Kenneth Edwards who was the driver of the white bus and I will read that to the Commission now.

BRIEF OF EVIDENCE OF KENNETH EDWARDS READ BY MR ZARIFEH

- 10 Kenneth Stephen Edwards states: I reside in Christchurch and I am employed as a bus driver for Leopard Limited. I have been in that employment since November 2010. Prior to that I was employed by Red Bus Company. At the time of the earthquake on 22 February 2011 I was driving a Leopard Bus. I was travelling north on Colombo Street in Central
- 15 Christchurch approaching the intersection of Tuam Street. At this time there was only one male passenger on board sitting in the very front left passenger seat. A Red Bus Company bus, numbered 702, was directly in front of me travelling in the same direction. There were no other vehicles between my vehicle and the Red Bus vehicle and I was travelling in close proximity.
- 20 When the earthquake hit, bricks and masonry fell from the buildings to the left and crushed the left side of both my bus and the Red Bus, bringing them both to an immediate stop. I sustained injuries in the form of heavy bruising to my left hand, torso, hip and leg area. I was subsequently advised by medical staff that I may have also suffered whiplash which resulted in a back and neck
- 25 complaint. At the time I was mobile and ignored any pain. I noticed that my lone passenger was bleeding profusely from the head area. There was confusion outside the bus and numerous people were out on the street. My passenger exited the bus by climbing over masonry and through what was left of the exit and disappeared from sight. I have no knowledge of what
- 30 happened to him in the days that followed. I then got out of the bus through the same exit point and walked between my bus and the bus in front to the driver's side. I walked down the outside of the bus and was aware that there was a male passenger on the driver's side of the bus towards the rear and a

female passenger on the driver's side of the bus towards the front. Both were injured. The female was still conscious. I walked around the front of the bus and recognised Andrew Craig as the driver of the now crushed Red Bus. I had known Andrew Craig for approximately six years as we both drove for the Red Bus Company. The masonry and brick work had peeled through the roof at the front of the bus and crushed the remaining left-hand side of the vehicle. The front doors were open. Andrew Craig was in the front passenger entry/exit half on his left side and half on his back under a large amount of brick and rubble. I do not think that he would have had time to open the doors or move from his seat. Therefore he was on the floor and the doors were open as a result of falling masonry. Mr Craig was unconscious but breathing. Another male person had entered the bus and was inside the bus at the foot end with Mr Craig holding him. I entered the bus and held Mr Craig's head steady. There were people all over the place and some began removing rubble from on top and around Mr Craig. A lone uniformed police officer arrived approximately 15 minutes after the quake and gave instructions on recovering Mr Craig from the scene. The police officer then disappeared but I later saw him nearby talking with others.

Approximately five to 10 minutes later a young male person who identified himself as a doctor arrived and asked me to move out of the way so he could examine Mr Craig. The doctor then gave instructions to move Mr Craig from the bus once the rubble was clear. Approximately five people were involved to lift him carefully from the bus to a clear area near the intersection of Tuam Street. Approximately five minutes later a member of the public arrived with a van or four-wheel drive and Mr Craig was carefully placed inside under the doctor's instructions. The van left in the direction of the hospital. That was the last time I saw Mr Craig. I then returned to Mr Craig's bus and entered to assist the removal of debris around the male and female passengers. I was aware there were other people on the bus that were crushed under debris on the left-hand side of the bus. Police arrived at this time and after they had viewed the extent of the damage I was told to leave the deceased in place and concentrate on removing the living. A crowbar was located to assist in the removal of shredded bus panels to obtain access to the two passengers. I

then exited the bus to the outside where I called others to help remove debris and the male passenger was subsequently removed to the outside of the bus. I believe that this person was deceased. This person was loaded into a van or four-wheel drive and was driven away from the scene. I then assisted to
5 remove the female from the outside of the bus. She too was transported from the scene in the same manner. I understand that she survived. She suffered torn ligaments in her leg and I think she survived. There was still much confusion and someone eventually told me to go to a Leopard bus on St Asaph Street which took me back to the Leopard bus station.

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MR ZARIFEH:

Sir, moving now to deal with 603 in the main to start with but, as I have indicated, some of that will touch on matters relating to the other adjacent tenancy and I will call firstly John Dallison who, as I have indicated, is a
15 solicitor and was acting for the owners.

MR ZARIFEH CALLS**JOHN DALLISON (SWORN)**

- 5 Q. Mr Dallison, is your full name John Victor Dallison?
- A. Yes.
- Q. And you are a solicitor residing here in Christchurch?
- A. Correct.
- Q. You have prepared a statement containing the relevant evidence for the
10 Commission. Is that right. I don't think you've signed it? It goes into
three pages.
- A. That is correct. I have prepared it but I have not signed it.

WITNESS READS STATEMENT COMMENCING FROM PARAGRAPH 1

- 15 A. My full name is John Victor Dallison. I am a partner of the firm Dallison
Stone, Solicitors in Christchurch. I am the legal representative of the
building owners – The Yee Brothers Syndicate. The Yee Brothers
Syndicate comprises Simon Yee, Leo Yee, Donald Yee, Ewan Yee and
Sun Nam Yee. The members of the Yee Brother Syndicate are in their
20 senior years and have little to do with the day-to-day supervision of their
buildings or the various tenancies. My firm is the first point of contact in
relation to each tenancy and collects rental from each tenant.

EXAMINATION CONTINUES: MR ZARIFEH

- 25 Q. Mr Dallison if I can just interrupt and make it clear that you are dealing
with 603 when you are talking at the moment?
- A. Yes I am. Might I just comment on the question raised about 603, 603A.
As far as I am aware there is no 603A. It's a two-storey building and
there's internal access to the second level.
- 30 Q. So perhaps that's historical from the Council record that was shown but
as at 22 February it was just 603?
- A. Correct.
- Q. But there was an upstairs?

A. Yes there was. It was all part of the same tenancy.

JUSTICE COOPER:

5 Q. Some of those numbers seem to reflect a stage when there may have been two functioning tenancies and the length of the tenancies was such that they became separate properties for rating purposes?

A. I would be surprised if that was the case. As I said, the stairway to the first level was internal and it wasn't obvious to have a second or separate entrance.

10 Q. And it was always that way?

A. I've only been into the building on one or two occasions back in 2005, 2006 at which time there was going to be a change of tenant and there was some tidying up of the tenancy at that stage.

Q. Anyway for our purposes it's one building functioning as such?

15 A. Yes.

WITNESS CONTINUES READING STATEMENT AT PARAGRAPH 6

A. An historical search of the Title to 603 Colombo Street records the Syndicate became registered as proprietors of the property on 5 April 1973. In addition the Syndicate owns a number of other properties,
20 including 601, 601A Colombo Street which is on the south side of Mollett Street, 622, 624 Colombo Street and 626 Colombo Street, 178 Colombo Street which are on the opposite side of the road.

EXAMINATION CONTINUES: MR ZARIFEH

Q. Is that the building I mentioned before that's on the corner?

25 A. Yes it is. That's 626 Colombo, 178 Tuam and it's immediately adjacent to 622, 624.

Q. So we can see it in front of you. 626 is marked on the south-east corner of Colombo and Tuam?

A. Correct, and that's the building I will refer to later.

30

JUSTICE COOPER:

Q. What's the light-coloured area shown to the north of the figure 626. Is that just a different roof line is it?

A. I think it's just a different roof line.

5 Q. That's still 626 going right up to the corner?

A. Yes it is. Immediately south of that is the 624 and then south to that again is 622. They are two separate tenancies and then it's 626/178 Tuam Street which is a three-storey building.

Q. With a pitched roof?

10 A. Correct and there was also a further building attached to that on Tuam Street.

WITNESS CONTINUES READING STATEMENT

1020

15

A. "The summary chronology is on 4th of September 2010 there was the earthquake. On 6th September 2010 I instructed Elliot Sinclair and Partners, engineers, to complete a report in relation to the damaged building. 20th of September 2010 I received the report from
 20 Elliot Sinclair and Partners and on 20th September 2010 I forwarded a copy of the report completed by Elliot Sinclair and Partners to Cunningham Lindsey, the loss adjusters engaged by the insurers. Numerous discussions and attendances on Matthew Bushnell, who was representing Benson Chen Holdings Limited, the owner of 605" – there's
 25 an error there, that should refer to 613 Colombo Street, not 603 – "and Marton Sinclair the engineer. On 1st February 2011 there was a meeting with the Christchurch City Council staff. The matters discussed included estimated cost of earthquake strengthening. Buchanan and Fletcher, the engineers engaged by Benson Chen Holdings Limited,
 30 would recommend demolition. Likely timeframe to obtain a resource consent for demolition. Extension of time until end of February 2011 in relation to," – again that's an error it should refer to the section 124 notice under the Building Act 2004. "15th February 2011 I instructed

Buchanan and Fletcher via Matthew Bushnell to proceed with an application for resource consent to demolish 603 Colombo Street in conjunction with 605 to 613 Colombo Street and 615 Colombo Street. 22nd of February 2011, partial collapse of building due to earthquake.

5 The report by Elliot Sinclair dated 20 September 2010 identifies 603 Colombo Street as the southern-most unit of a two-storey block building known as the Austral Building. The whole complex is likely to be classed a heritage building by the Council. Any work will have to be considered as a whole as the units are structurally interconnected.

10 The unit was potentially unsafe and it should remain unoccupied until further investigation. Any work will require building consent which is likely to trigger the need for structural upgrade to 67% of the current code. Design consent and construction work will take several months. The observations were it was uneconomic to upgrade the building.

15 Buchanan and Fletcher, the engineers engaged by Benson Chen Holdings would recommend demolition. The Council was informed of the parties' intention to demolish and that an application for resource consent for demolition would be filed. In response to the information, the request for information contained in the Commission's letter dated

20 11 October 2011 I am instructed to reply as follows – no structural strengthening work was carried out on the building prior to 4 September 2010 earthquake. On behalf of the owners I requested an inspection/assessment of the building by Elliot Sinclair and Partners on 6 September 2010. The report by Elliot Sinclair and Partners was

25 received on 20 September 2010 and is attached to document WIT.SIN.0001.1. The report identified the unit was potentially unsafe and it should remain unoccupied. The Council's letter dated 15 October 2010 was a request for the owners to obtain a CPEng report to certify the building was not dangerous as that term is defined in the

30 Building Act 2004. At that time there was no intention to reoccupy the building until a joint decision regarding the future of the Austral Building had been made. A CPEng report was not obtained.”

Q. I'll just get that letter brought up while you're talking about it – 0038.16.
Is that the letter you're talking about?

A. That is correct.

Q. Thank you. I think you were at 3(b).

5 **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. “The Council’s recommendation to provide temporary support to the south wall was not carried out. At that time Mollett Street had been closed and was cordoned off thereby preventing access.

10 With the Council’s letter dated 20 October 2010 was a notice under section 124(1)(c) of the Building Act 2004 requiring temporary support to the south wall. The notice recorded, “If the building is a listed heritage building then Council approval must be obtained for the work whether or not a building consent is required.” The notice stated the work was to be carried out by 31 January 2011. The work was not
15 carried out by that date. During the period leading up to 31 January 2011 it became apparent that demolition was likely. There were a number of discussions with Council employees prior to the meeting on 1 February 2011 when the matter was discussed in detail. With the Council’s letter dated 28 December 2011 was a further notice,” – I see
20 there’s a duplication of the word ‘notice’, another error, – “under section 124(1)(c) of the Building Act 2004. That notice differed from the earlier notice in that item 2 in the particulars merely states, ‘Council’s records show that the southern wall is cracking.’ There is no reference to providing temporary support to the south wall. The same conditions
25 to reduce or remove the danger applied. The comments in 4(a) above apply.

At the meeting with Council staff on 1 February 2011 the proposed demolition of the Austral Building was discussed. The procedure to obtain consent for demolition was discussed in detail. It was agreed it
30 would be more cost effective to have one engineer assess the whole of the Austral Building instead of each individual owner engaging their own engineer. I have obtained instructions from the owners, having first obtained details of the likely cost to engage Buchanan and Fletcher, the

engineers engaged by Benson Chen Holdings. On 15 February 2011 I instructed Buchanan and Fletcher via Matthew Bushnell to complete and engineering assessment as part of an application for resource consent to undertake demolition of the building in conjunction with the balance of the Austral Building. I am unaware how advanced Buchanan and Fletcher was with its inspection and report on 22 February 2011.“

5

Q. Thank you. I just want to clarify some matters. Firstly you referred to, you said, “The Council’s letter of 15 October referred to,” or it might have been 20 October referring to the heritage listing and resource consent.

10

A. It’s a standard form letter which notes that –

Q. I’ll just get you to look at the 20 October letter which is up there now I think on the screen.

A. That’s the covering letter.

15

Q. Is that the bottom paragraph on that first page that you're talking about?

A. No I'm referring to the notice that would have accompanied that letter.

Q. Okay so that’s .20.

A. If you go to the notice under the section that’s headed, “To reduce or remove the danger you must,” and then paragraph (f) which is in bold print, “If the building is a listed heritage building then Council approval must be obtained for the work whether or not a building consent is required.”

20

Q. Thank you. So just dealing with the chronology of events. It would appear that soon after the September earthquake the, you had Mr Sinclair go in there and inspect and he advised you the building was unsafe. It was yellow placarded, we’ll hear from the Council.

25

A. Yes.

Q. So it was unoccupied and a cordon was blocking off Mollett Street soon after the earthquake?

30

A. And the front of the building as well.

Q. And the front of the building on Colombo Street.

A. Correct.

Q. So in terms of public access to the building or, or the owners, was there any?

A. There was no access to the public, the owners, the tenant.

Q. So other than engineer for specific purpose?

5 A. That's my understanding, yes.

1030

Q. Do I take it from what you said that that's the reason there was no repair work done because you were assessing it and deciding what to do?

10 A. There was a period of assessment and as that process was going through it became more apparent that demolition was the likely result.

Q. Okay and you've probably seen on the file some of the Council material. There's at least one if not two Council notes of conversations with you as the owners' representative, Council following up trying to find out what's happening with the building and we've had no response to our, the letters that you've referred to and no engineer's certificate and asking why?

15 A. There were conversations and my recollection is there were more conversations than what has been recorded on the Council file.

Q. Right.

20 A. I suspect that maybe because the Council's attention was more focused on the building on the opposite side of the road which was 626 Colombo/178 Tuam.

Q. Why was that?

A. That was –

25 Q. Why was –

A. – perceived as a greater danger particularly to the public. It was identified that the Colombo Street façade was separating and thereby posed a significant risk so usually conversations with Council staff would cover three, use three in simple terms, 601, 601A as one building, 603 which is the subject building as a separate one and thirdly the 622, 624, 626, 178 Colombo Street even though that comprised three separate buildings over there.

30

- Q. Right. And so you're saying that you were involved in each of those three buildings?
- A. Correct.
- Q. And so –
- 5 A. They were all common ownership.
- Q. Right and whenever you discussed at this period of time with the Council were you talking about each of them?
- A. I believe that's correct yes.
- Q. Okay, and 603?
- 10 A. Yes.
- Q. We're dealing with, when was a decision made to, that that would be demolished?
- A. January 2011 it became apparent that the cost of repair was prohibitive and thereby, or therefore uneconomic and at that time I received an indication via Matthew Bushnell that the engineers engaged by Benson Chen Holdings which were Buchanan and Fletcher would be recommending demolition.
- 15 Q. Okay. So you represented the owners of 601, 601A?
- A. Correct.
- 20 Q. And as you say 603?
- A. Correct.
- Q. Did you have anything to do with 605 to 613 or not?
- A. No.
- Q. No.
- 25 A. No.
- Q. And it was different owners from the Yees that owned 603?
- A. That's correct but there is also 615 at the south corner.
- Q. I was going to ask you that yes.
- A. That's one of the members of the Yee brothers syndicate.
- 30 Q. Right.
- A. But I do not have the same level of involvement.
- Q. Okay. Because with the 603 they, you said they were elderly and they essentially left you to deal with most matters in relation to the property?

- A. They are very much in their senior years. They've owned the property almost 40 years. I think the eldest if not in his 90s must be very close to it and there are five members of the syndicate some of whom have a more active role in decisions than others and also there's a second tier
- 5 passes down to the next generation with some of those members.
- Q. Right, and the 166 on the south-east –
- A. Yes.
- Q. – corner of Tuam and Colombo, how did you have involvement in that or did you?
- 10 A. It's the same owners.
- Q. Right.
- A. The Yee brothers syndicate.
- Q. Okay. All right, now you mentioned a meeting on 1 February?
- A. Yes.
- 15 Q. You attended, was Mr Sinclair at that meeting?
- A. Yes he was.
- Q. And was, what property was he there in relation to?
- A. Three buildings were discussed, the, the standard, there was a brief reference to 601, 601A where I confirmed the owners' intention to
- 20 demolish. The next building to be discussed was 603, 605 to 613.
- Q. Right.
- A. Because Matthew Bushnell was present and he had nothing to do with the third building to be discussed which was over the road 622, 24, 26 in Tuam Street.
- 25 Q. Okay, but you were interested in the one across the road obviously as well?
- A. Yes.
- Q. Yep, so what was said about 603?
- A. Matthew Bushnell stated that the engineer engaged by the owner of
- 30 next door, 605 to 613 would be recommending demolition. Marton Sinclair commented that the costs of repair were prohibitive and after listening to various comments by the heritage team of the Council

who were present there was more of a focus on the procedure for demolition.

Q. Okay and what was that procedure as far as you recall in general terms, what was it going to be?

5 A. There would have to be a full engineering assessment completed which would then be subject to peer review after which the application would be publicly notified and a decision some months away.

Q. All right so I was going to ask you, was a timeframe given by the Council?

10 A. Several months.

Q. And was there any discussion about that timeframe and whether there was any room for movement on that?

A. At that time a 124 notice under the Building Act had been served and it had expired the previous day but there had been reference to that in
15 telephone discussions prior to that meeting and I recall at the meeting there was talk of the period of time within which to comply being extended on a progressive basis. Firstly the Council wished to see some solid progress as in an engineering report by the end of February.

Q. Okay so when you say Building Act notice, which property are you
20 referring to?

A. 603.

Q. Okay, were you aware whether there'd been anything like that for 605 or were you not part of that?

A. Not part of it, no knowledge.

25 Q. And in relation to 626?

A. Yes.

Q. You said that was of concern?

A. Yes.

Q. But you, was that discussed as well?

30 A. There was a lot of discussion about 626.

Q. Okay, you said that was three storey?

A. Correct.

Q. So higher than the Austral buildings which were two?

A. Yes.

Q. And you said that that was the façade appeared to be leaning out?

A. Yes.

Q. And so was there discussion of what should happen to that building?

5 A. Yes there was. There was a significant amount of discussion about that building.

Q. Okay.

A. There's a difference between the two buildings. They've got different heritage classifications. The one on the opposite side of the road is pre-
10 1900 so it's therefore archaeological whereas Austral building isn't so the, although they have similar, similar issues they are different in application.

Q. Right, so in terms of procedure to deal with the building 626, to demolish it was that more involved?'

15 A. Yes it was.

Q. Right and what, just in general terms from your understanding, what further steps were involved?

A. The meeting was left on the basis Eliot Sinclair and Partners would prepare a full assessment. Soon after the meeting I received detailed terms of engagement from that firm. I obtained instructions from the
20 owner and then instructed Eliot Sinclair to proceed with that. Now that included an estimate of what their costs would be and I can comment that the amount paid was pretty much the full amount so it's reasonable to assume that they were at an advanced stage with their inspection and
25 report at the time of 22nd February.

Q. Okay, so you were involved in 626 as you say, Eliot –

A. Yes.

Q. – Sinclair –

A. Yes.

30 Q. – had been in and were involved then?

A. Yes they were very much.

Q. Mr Bushnell was involved with 605 to 613?

A. Yes.

Q. And you and Mr Sinclair were involved with 603?

A. Correct.

CROSS-EXAMINATION: MR ELLIOTT

5 Q. Mr Dallison I'm just going to ask you to look at some photographs please?

A. Yes.

WITNESS REFERRED TO PHOTOGRAPHS

Q. Firstly BUI.COL.603.0038.28.

A. Yes.

10 Q. Just so people can get a sense of the area that we're talking, about am I right in saying that 603 is that building on the corner directly in the centre of the photograph there?

A. Yes it is. It's got Email Games on the Mollett Street frontage and Tea Net Internet café on the Colombo Street frontage.

15 Q. So far as you're aware was that the state of the cordon as at February 2011?

A. I can't be sure of that. Um, there was certainly a cordon around it but having reviewed the file I see there was a recommendation on the Council's file after Boxing Day to extend the cordon so whether or not that was pre that recommendation or post or whether there was any change I do not know.

20 Q. And photograph BUICOL6030038.29. Am I right in saying that shows the pedestrian access heading north?

A. That's immediately outside 601 and 601A Colombo Street which is at the south side of Mollett Street and you can see towards the left, the Mollett Street road sign which is affixed to 603.

1040

JUSTICE COOPER:

Q. Could you just go back to the previous photograph?

30 A. It's 0038.28.

Q. It appears to be in the same configuration as in the next photograph doesn't it?

A. Yes Your Honour.

Q. The barricade.

A. Yes.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

5 Q. And Your Honour this next photo shows, a photograph shows the other end I think which is BUICOL6030038.13. So Mr Dallison are we looking there at the front of 603?

A. Yes, correct.

10 Q. And it appears that the cordon ends just over the boundary between 603 and 605. Is that right?

A. That appears to be the situation, yes.

Q. So is it the Tea Net Internet cafe was the tenant of 603?

A. The sole tenant of 603.

Q. Were they occupying ground and –

15 A. Yes they were. I don't know if they occupied the upstairs but it was certainly part of their tenancy.

Q. I appreciate that you may not know that this answer, you may have access to this information, you don't know the height of the building do you?

20 A. No I do not.

Q. And finally during the meeting, I'm sorry, well the meeting on 1 February 2011?

A. Yes.

Q. Who was present at that meeting?

25 A. Matthew Bushnell was representing the interests of Benson Chen Holdings which owned 605 to 613. I was present representing the owners of 603, the owners of 601, 601A and the owners over the road at 622, 624, 626 Colombo and 178 Tuam Street. Marton Sinclair was there as the structural engineer who had been engaged on behalf of the
30 owners for whom I was acting and there were also a number of Council employees representing different sections within the Council.

Q. Can you tell us who they were?

A. No I cannot.

Q. Did any Council employee raise any question about the adequacy of the cordon that we've seen?

A. I have no recollection of that, no.

5 Q. In any of your discussions with Council officers did anyone raise that issue?

A. I cannot recall because when I left that meeting the greater emphasis with myself was on the Colombo, Tuam on the opposite side of the road so perhaps I didn't take appropriate note, I don't know, but I have no
10 specific recollection of that.

CROSS-EXAMINATION: MR LAING

Q. Good morning Mr Dallison, I would just like to ask you a few more questions about the meeting of the 1st of February. It was clear when you went to that meeting that as 603 was a heritage building, a resource
15 consent would be required for demolition?

A. That was discussed and confirmed at the meeting.

Q. Yes, but that clearly was one of the reasons for having the meeting wasn't it?

A. One of the reasons yes.

20 Q. And do I take it that you had been aware of the necessity for a resource consent for demolition some time before that meeting or was that something which simply came up more recently?

A. We'd already made that assumption and I believed it was referred to in Marton Sinclair's early report.

25 Q. Yes, so what was the date of that report, is it the date of the one in –

A. September.

Q. – September?

A. Yes.

Q. You wish to have that up on the screen to look at it? Perhaps I could
30 ask you another question?

A. Yes.

JUSTICE COOPER ADDRESSES MR LAING

Didn't you ask for a document to be displayed Mr Laing.

CROSS-EXAMINATION CONTINUES: MR LAING

5 Q. Can you read that, do you have a (overtalking 10:46:00) number for that document do you?

A. This is the initial report by Eliot Sinclair dated 20th of September. It's attached to the statement by Marton Sinclair which is document –

MR ZARIFEH ADDRESSES JUSTICE COOPER

10 (inaudible 10:46:19) .5

JUSTICE COOPER ADDRESSES MR LAING

.5, so we will have a look at that. Do you want us to read this letter Mr Laing?

15 MR LAING ADDRESSES JUSTICE COOPER:

No Sir, my question is really much simpler.

CROSS-EXAMINATION CONTINUES: MR LAING

20 Q. But Mr Dallison, whether or not Mr Sinclair referred to that, was it your understanding in September that a resource consent would be required for any demolition of the building?

A. At that stage we weren't focused solely on demolition. It was an early stage we hadn't obtained assessments as to cost. Insurer's were a significant part of the process as well. We were under the clear view that a resource consent would be required for repair and upgrade of the building or alternatively demolition.

25

Q. Yes, so at that stage no decisions had been made, it was –

A. That's correct.

Q. – it was really an evolving process.

A. Yes it was.

30 Q. And it think your evidence was that a decision to demolish was made in January 2011?

A. That's as more information was becoming available.

Q. Yes, and so the meeting on the 1st of January –

A. 1st of February.

Q. 1st of February, I'm sorry, was really to pursue that with the Council?

5 A. Correct.

Q. And at that meeting the question of the notification of any resource consent was discussed?

A. Yes it was.

10 Q. Now I was wondering, have you read the evidence of Mr Ward, which will be –

A. I will have at some stage.

Q. Yes, can I ask you – can I have up WITWAR.0001.5? Can you see paragraph 20 there?

A. Yes I can.

15 Q. Is it large enough? I'll read you the relevant part Mr Dallison and then I'll ask you some questions about it. "Mr Sinclair and Mr Bushnell also refer to the discussion around the timeframe for processing a resource consent for demolition of the Austral Building and 626 Colombo Street. I did advise at the meeting it may take up to six months to obtain a resource consent for demolition. However I also advised that this was an estimate only and would depend whether the application was to be notified. I advised in general terms that notification was a strong possibility based on my experience with similar applications." Is that a fair summary of what was said to you?

20

25 A. I thought it was stated in stronger terms about the need for notification. It's – "I advised in general terms that notification was a strong possibility". I came away with the clear impression that it was mandatory, there was no ability to avoid that.

Q. Yes, but you don't recall the precise words that Mr Ward used, do you?

30 A. No I do not.

Q. If I can just go back to the discussion at the meeting about 626 Colombo Street?

A. Yes.

Q. And that was clearly a concern because of the state of that building wasn't it?

A. Yes, yes it was.

1050

5 A. Yes, yes it was.

Q. And do you recall what the outcome of that meeting was. Was there a cordon placed around 626?

A. I believe there was. There was also some temporary propping work completed I believe during January.

10 Q. And was that work designed by Mr Sinclair?

A. Yes I believe it was.

Q. Yes. Going back to the cordon in front of 603.

A. Yes.

15 Q. And you've seen the photographs of that. Did Mr Sinclair at any stage tell you that the cordon was inadequate?

A. No, not that I recall.

Q. So there was no report from Mr Sinclair saying that the cordon was inadequate and you didn't have any conversation to your memory about that?

20 A. No but my instruction was limited to the building and if he felt it was something that was worth commenting on I imagine he might have done so but that's really a question that needs to be put to Mr Sinclair.

Q. Yes well I'm just asking you for your recollection.

A. Mmm, mmm.

25 Q. And you have no recollection of that happening?

A. No I do not.

Q. There was certainly no report from Mr Sinclair about that?

A. Not that I'm aware of.

CROSS-EXAMINATION: MR MCLELLAN – NIL

30 **QUESTIONS FROM THE COURT: COMMISSIONER FENWICK – NIL**

QUESTIONS FROM THE COURT: JUSTICE COOPER

Q. Just in relation to the cordon were the Yee Brothers or you involved in any way in decision making about the cordon in front of 603?

5 A. No, no, but at the time it went up I believe the whole of that central city area was still cordoned off.

Q. Yes, but then it remained when Colombo Street was opened to traffic. There was a cordon there?

A. I believe as soon as that part of the city re-opened, yes, the cordon was in place.

10 Q. That's what happened but you weren't involved in any discussions with anyone about that?

A. No.

Q. And gave no instruction to Mr Sinclair about it?

A. No.

15 **WITNESS EXCUSED**

MR ZARIFEH CALLS**MARTON DAVID SINCLAIR (SWORN)**

Q. Mr Sinclair is your full name Marton David Sinclair?

A. It is.

5 Q. And you are a director of Elliot Sinclair and Partners, structural engineers, surveyors and planners?

A. That's correct.

Q. And you're a chartered professional engineering in both civil and geotechnical engineering?

10 A. That's correct.

Q. And I think you're a member of the Institute of Professional Engineers, (IPENZ) and a Fellow of the New Zealand Institute of Surveyors?

A. That's correct.

15 Q. And you're also a member of the New Zealand Geotechnical Society, a technical group of IPENZ?

A. That's correct.

Q. Thank you. You've got a statement that you've prepared dated 22 November 2011?

A. That's correct.

20 Q. Can I ask you to read that please and might stop during it to refer to photographs or documents that you refer to and perhaps start at paragraph 2 because I've dealt with 1.

WITNESS READS STATEMENT FROM PARAGRAPH 2

25 A. "I have practised predominantly in the Christchurch region for the past 35 years in the fields of civil and geotechnical engineering including structural engineering for low-rise buildings and complex residential structures on the Port Hills.

30 Building Description. The buildings at 603 to 615 Colombo Street were a block of seven contiguous units fronting onto Colombo Street and extending between Tuam Street and Mollett Street. They were known as the Austral Buildings and were two-storey, unreinforced masonry construction with ornate façades and a heavy masonry parapet. The buildings were obviously built as one block with unreinforced masonry

walls perpendicular to Colombo Street separating each unit. The central five units being 605 to 613 were owned by Benson Chen Holdings Limited. The façade of these units appeared to have been extensively renovated in the past and appeared superficially different from the two
5 end units at 603 and 615 Colombo Street. The complete block of units was demolished after the 22nd of February 2011 earthquake.

The southern unit on the corner of Mollett Street and Colombo Street was owned by S, L, D, E and N Yee and had not had renovation work on the façade. The northern unit at 613 Colombo Street was owned by
10 S Yee and had not had renovation work done on the façade but there was an indication that there may have been some earthquake strengthening undertaken some years ago judging by the rods and plates visible on the exterior of the building. I understand that only the buildings at 603 and 605 to 613 Colombo Street are the subject of this
15 enquiry.

Instructions. Our firm was instructed to inspect the buildings at 603 Colombo Street on the 6th of September 2010 by John Dallison of Dallison Stone, lawyers, on behalf of the owners. We were not instructed on the buildings at 605 to 613 Colombo Street and had no
20 involvement in inspections or investigations of these buildings. Our instructions on the building at 615 Colombo Street were not clearly defined. This building was apparently not damaged and no report or investigation was undertaken after the 4th of September earthquake. We did undertake a brief visual inspection and took photographs of the
25 exterior whilst in the locality.

The post-earthquake report on the building at 603 Colombo Street was prepared on the 20th of September 2010 after preliminary inspections on the 16th and 19th September. The report concluded that the building would need strengthening and that it was unsafe to occupy. The report
30 also noted that the whole of the units from 603 to 615 Colombo Street would need to be considered as a single entity for the purposes of demolition or strengthening. The report noted –“

Q. I'll just get it brought up on the screen while you're talking. It's WIT.SIN0001.5.

A. Mmm.

Q. Is that the report that you subsequently prepared?

5 A. That is the report.

Q. Paragraph 9.

WITNESS CONTINUES READING STATEMENT FROM PARAGRAPH 9

10 A. "The report noted that we were not instructed on the Benson Chen Holdings Building at 605 to 613 Colombo Street and that I anticipated some difficulty in dealing with the buildings as a whole because of the three separate ownerships."

JUSTICE COOPER:

Q. Can I just ask you to go back to paragraph 5, the previous page.

15 A. Mhm.

Q. Where you say the northern unit at 613 Colombo Street was owned by S Yee. Am I right in thinking that should be 615?

A. Yes I believe that's a, a typo there. It should be 615.

Q. So that clears that up.

20 A. Yes.

Q. Thank you. Paragraph 10.

EXAMINATION CONTINUES: MR ZARIFEH

WITNESS CONTINUES READING STATEMENT FROM PARAGRAPH 10

25 A. "Subsequent Inspections. Exterior inspections of the building at 603 Colombo Street were undertaken after the Boxing Day earthquake but no obvious additional cracking was found. My recollection is that the original wire fence barriers were still in place and that the Acrow props were still under the veranda of 605 to 613 Colombo Street at this time. After the Boxing Day earthquake I was called on to inspect the building
30 at 626 Colombo Street on the south-east corner of Colombo and Tuam Streets. This building is directly opposite the Austral Buildings."

Q. Was that on behalf of the owners?

A. Yes.

Q. Through Mr Dallison, right.

A. Well no actually the situation there was that immediately after
5 Boxing Day the tenant of that building was concerned and Mr Dallison I
think was away at that time and I was contacted by the tenant of the
building and asked to have a look at some aspects of it because I
believe that Council had actually red-stickered the building and a
woman had been prevented from working. She had got hold of me and
at that stage I undertook an inspection on the assumption that
10 Mr Dallison would want me to look at the building but it wasn't until later
in January that I was actually able to discuss it with him.

WITNESS CONTINUES READING STATEMENT FROM PARAGRAPH 13

A. "My inspections found that the west wall of 626 Colombo Street at the
15 third floor level had separated from the main structure and was in
danger of collapse on the Colombo Street." Now I might add that at this
point I was not actually called in to inspect that particular wall but during
the inspections that I actually found it, that there was a concern there. I
raised this matter with the Civil Defence Engineers and a number of site
visits and inspections were undertaken with them in order to discuss the
20 options for temporary stabilisation work and the effect on Colombo
Street in the event of a failure."

1100

Q. And what was the outcome of those discussions?

A. Well we concluded that at a rough estimate there was something in the
25 order of \$20,000 to be spent to try and even tie that wall back to a safe
state. I had no authority to spend that sort of money and because of
course I hadn't been able to contact and get any authority from anyone I
after discussion we decided that it was necessary to prop the veranda of
the building, which was done, and I think at a later stage after the 1st of
30 February meeting we arranged for barriers to be put up along the
frontage of that building within Colombo Street and also in Tuam Street,
so there was a wire barrier.

Q. Were there not any barriers put up between Boxing Day when you inspected and 1st of February?

A. No. I think that –

Q. Do you know why that was?

5 A. Well there was ongoing discussions and no, there had been no – well I was raising concerns about the building but there had been no decisions made by the Civil Defence people at that stage to do further barricading.

JUSTICE COOPER ADDRESSES MR ZARIFEH:

10 This is all about 626 Colombo Street.

MR ZARIFEH:

Yes it is.

15 **JUSTICE COOPER:**

I'm assuming this is relevant somehow to our enquiry.

MR ZARIFEH:

I'm only bringing it up because it was at the same meeting and it was involving
20 the same issues, but I'm not going any further.

EXAMINATION CONTINUES: MR ZARIFEH

Q. So paragraph 14.

WITNESS CONTINUES READING STATEMENT

25 A. "The building at 626 Colombo Street was a category 3 listed building in the City Plan and was also an archaeological site due to its age. The Austral buildings were a category 4 listed building but not an archaeological site. I am aware that because of these listings we could not demolish the buildings or even make changes to the façade for the
30 purposes of stabilisation without a resource consent.

Subsequent events – sometime in January 2011 I was contacted by Matthew Bushnell of Bushnell Builders Limited as he was engaged by

5 Benson Chen Holdings, the owners of 605 to 613 Colombo Street, to advise on repairs for the Austral Buildings. I advised him of my concerns about the building at 626 Colombo Street and we discussed the need for a joint approach for the Austral Buildings. As a result I arranged a meeting at the Christchurch City Council offices on the 1st of February 2011 to discuss the options for these buildings. Both Matthew and I attended the meeting. At the meeting the various options were discussed and both Matthew and I expressed our concerns over the buildings and the risks of failure of the walls.”

10 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. I will just get you to stop there. Is this the same meeting that Mr Dallison was at?

A. Yes, yes.

Q. So it was the one meeting on the 1st of February?

15 A. That's correct.

Q. And you said you were there, Matthew Bushnell, the builder for the owners of 605 to 613?

A. Yes.

Q. Mr Dallison?

20 A. Yes.

Q. And we've heard from him why he was there. Can you recall who else was there?

A. Sean Ward from the Council, Phillip Hector from the Council, Amanda Ohs who I believe was a archaeological –

25 Q. Heritage.

A. – oh archaeological.

JUSTICE COOPER:

Q. Is that spelt O-H-S?

30 A. I'm not sure how it's spelt, O-H –

Q. Take it from me.

EXAMINATION CONTINUES: MR ZARIFEH

A. Trudi, a planner from our office and I think that was all, I think.

Q. And you were there, you've been involved in 603?

A. Yes.

5 Q. And I think you'd also been involved in 601 and 601A?

A. I had been yes. But in both those buildings my involvement principally was those initial reports after the September earthquake. I really had very little involvement other than observation of them, subsequent to that (inaudible 11:04:33).

10 Q. Okay, and did they play a major part in this meeting or not, those buildings?

A. They were – well 605 was certainly mentioned, 601 –

Q. The 603, so 1A, 603 I'm talking about?

A. Oh sorry, yes, sorry 603 was very much mentioned in conjunction with
15 the remainder of the Austral Buildings.

Q. Because they're one block?

A. Yes 601, 601A was mentioned in passing but there was much less emphasis on that.

Q. And –

20 A. It wasn't a heritage building.

Q. You said that Matthew Bushnell was involved only with 605 to 613 so he hadn't been involved in inspecting or doing anything on 603 or 601?

A. No.

25 **JUSTICE COOPER:**

Q. Mr Sinclair, in this paragraph 16, you say that both you and Mr Bushnell expressed your concern over the buildings and the risk of failure of the walls. Now in particular relation to that evidence what buildings were you referring to?

30 A. I was referring to 603 to 613. That's not, I think there was less concern about 615, the very corner building.

Q. Yes.

- A. That's the Austral Buildings, but it was certainly Matthew particularly was concerned because he'd been into those Benson Chen Buildings and had seen the wall opening up on those ones. My prime concern at that time was more the 626 because of the threat that I saw from that wall of that building.
- 5

EXAMINATION CONTINUES: MR ZARIFEH

- Q. So you told us you'd been to 626 Boxing Day and seen the façade separated?
- A. Yes.
- 10 Q. And you said Matthew Bushnell was concerned with 605 to 613?
- A. Yeah.
- Q. Because he'd been in and seen that. Had you been in and seen that damage?
- A. No.
- 15 Q. No, not at all?
- A. No.

JUSTICE COOPER:

- Q. Had you been into 603?
- 20 A. I had had a thorough look at 603 from the exterior at – after, immediately after the September earthquake, but by that stage it was thoroughly wired up, it was probably one of the best wiring exercises of the – in the – or barrier erection exercise that I saw round the city. It was very well wired up and –
- 25 Q. I don't understand what you mean by wired up?
- A. Oh, just the barriers themselves were connected and wired together and bolted together, very firmly and it really was impossible to, without significant dismantling of the access barriers, to actually get into that building. That's 603, but it was quite clear from my inspections around
- 30 the perimeter of that building that the façade was not in good condition on the Mollett Street side particularly.

EXAMINATION CONTINUES: MR ZARIFEH

Q. Well perhaps now it's been raised let's just deal with that issue about 603 and the cordons, and I'll get some photos brought up, 0038.28. You can see 603 on the corner, the Email Games, Tea Net, correct?

5 A. Yes.

Q. And you see a cordon there?

A. Yes.

Q. Is that how you recall it when you inspected?

A. Yes. But that cordon in my recollection remained pretty much right through until 22nd February.

Q. And we can see another shot from the front of 603, it's point – well there's – that's one from 601.

A. Mhm, yes.

Q. And it was one that's .13, a closer up one.

15 A. That's correct.

Q. There's a closer up one of the cordon in front of 603 on the Colombo Street frontage.

A. Yes. That's correct.

Q. So you said I think that the wire of the cordon, the cordon separate, sections of the cordon were wired together. Is that what you meant?

A. Yes. And it was not an easy one to dismantle. Sometimes we could lever aside the wire frames to get into buildings, but this one it wasn't easy.

Q. So were you satisfied that it was the façade, southern façade damage that you saw was catered for by the cordon that was up?

25 A. Yes. I was quite happy with that.

Q. Did you think there was any possibility of collapse of that southern façade given the damage that you'd seen, collapse out onto Mollett Street. I know Mollett Street was blocked off.

30 A. I was aware the façade was quite badly damaged, but, in fact a lot of those cracks were actually old cracks in my estimation. They may have opened somewhat during the earlier earthquakes but they were, certainly some of them were definitely old. I made no detailed

assessment of that, that wall other than it was potentially able to collapse and that was why I was concerned about the stability of the building and the safety of the building.

5 Q. Okay, if that wall, that south wall collapsed, could that compromise the rest of the structure, the eastern façade?

A. If it fractured and fell away right from the corner, yes, that's the left-hand corner of the building in that photograph.

1110

Q. The south-east corner?

10 A. The south-east corner, yes it would leave that eastern wall less supported.

Q. Were you involved in the cordons being put up or not?

A. No.

15 Q. And so you didn't have any say as to where they went or you weren't asked by anyone?

A. No.

20 Q. All right, sorry we got side-tracked. If you go back to your brief and the meeting on 1st February. You've read paragraph 16 and explained which buildings you were talking about and which Matthew Bushnell was talking about, can you recall what you said about your building concern with 626 in general terms?

25 A. I expressed the view and to my mind it was very much one of the reasons I called the meeting was because I was concerned. I wanted to make progress. I was aware of this whole policy of the Council's on heritage buildings and I was conscious that time was of the essence on this particular building and that I was worried that we weren't going to be getting adequate progress.

Q. When you say the Council's policy on heritage buildings what are you referring to?

30 A. Well this was the policy that a resource consent had to be obtained and that I was also aware that in most cases they were insisting on public notification.

Q. You said that your concern with that was from your inspection, physical concern with it was from Boxing Day inspection?

5 A. Yes I was concerned because the building it was the third floor, well it's a three-storey building, second floor level wall was looking like it could potentially peel out onto Colombo Street and if the upper level peeled and the middle level as well then we would have had two levels just rolling out and occupying almost the whole width of Colombo Street.

Q. So you raised that. Can you recall in what terms Matthew Bushnell raised concerns he had about 605–613?

10 A. He raised the issues over the upper level transverse walls or façade separating from the transverse walls, presumably most of the units within that building.

Q. And just in relation to what you said and what he said about the damage, can you recall what the people from the Council's reactions were to that?

15 A. I think there was no specific reaction other than it was taken seriously I think.

WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 17

20 A. "We were advised by the Council staff that it was Council policy that a resource consent was required before we could apply for a demolition consent and that this would be a notified application. I recall that the time-frame mentioned for the granting of the notified resource consent was up to six months and I expressed concern over this time scale. As
25 a result of this meeting we proceeded with the arrangements for a resource consent application for 626 Colombo Street as this was seen as the most urgent of the two buildings and was only in one ownership. Further discussions and arrangements were required between the various owners of the Austral buildings before work could proceed on a
30 resource consent and demolition or repair plans for that building.

On the 10th of February 2011 temporary propping of the verandah was undertaken at 626 Colombo Street and the Civil Defence arranged for a

additional wire barricades along the Colombo and Tuam Street frontages of 626 Colombo Street.

Observations:

5 In hindsight, although the hazard posed by the façades on both sides of the street was raised at our meeting and at other times, I do not think that the risks posed by the façades at 626 and 603–613 Colombo Street were fully appreciated by the Civil Defence when balancing a number of conflicting requirements.”

EXAMINATION CONTINUES: MR ZARIFEH

10 Q. Should that be 605–613?

A. It was just the façade of the whole 603 really through to 613.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

15 A. “Certainly severe earthquakes of the 22nd of February 2011 was not anticipated. The Civil Defence decision on the extent of safety barriers may have also been influenced by the fact that Colombo Street was a major thoroughfare giving access to the City centre. Because of the two dangerous façades – one on either side of the road – the whole of Colombo Street should, in my view, have been closed until the buildings
20 could be made safe or demolished.”

EXAMINATION CONTINUES: MR ZARIFEH

Q. I will just get you to pause there please. Firstly you’re saying that in hindsight so are you trying to work out why things were or weren’t done in this paragraph 20?

25 A. Yes. I’m really saying that it was an ongoing issue and there was a number of meetings. While we have referred to this meeting on the 1st of February there were a number of other discussions between myself and various engineers and others from the Civil Defence organisation or the Council as the case may be and there were various
30 discussions at various stages but I think nobody was expecting that earthquake of the 22nd of February or anything as severe as that and I’m

really just saying that that was a very unfortunate situation. It wasn't expected and had Colombo Street been closed off it would have averted the problems that arose.

5 Q. Well are you aware of what happened post the meeting on the 1st of February in relation to 626? Were there cordons put up?

A. I organised propping of the verandah which at least the intention was to give some protection in a minor sort of a way. I think from memory I made arrangements or called Civil Defence in terms of getting a barrier along the Colombo Street frontage for that building but I had no authority to actually erect barriers within a public street. That was
10 handled by someone within the Council.

Q. Is this after the 1st of February meeting?

A. Yes.

15 Q. So do you know if cordons were erected in the end in front of 626 across the road?

A. Yes it was definitely erected yeah, around just outside the kerb line.

Q. And in relation to 605–613, did you have any subsequent involvement in that after the meeting? Did you have any discussions about cordons there or not?

20 A. I can't recall meetings after the 1st of February on that building. I certainly can recall discussions prior to that time when we were looking at the façade of 626 and we were in the street and across the street along with the other Civil Defence engineers.

25 Q. So who from the Council was at any of those meetings prior to 1st of February?

A. The engineers that I can recall: one would be Neville Higgs, Paul Campbell. There was Richard Gant I think at one stage or at some of the meetings. He was another engineer involved with the Council.

Q. Richard Gant. G-A-N-T?

30 A. G-A-N-T, yes and they would be the main ones. There would have been others. J J Barry was the Council's liaison officer. He was present at times.

Q. And just so we're clear. Were these discussions in relation to 626 or –

A. – predominantly 626 but there may well have been the odd, well it wasn't till mid January that I had heard from Matthew Bushnell and became aware of the problems with the Austral building.

5 Q. It's important if you can't recall then obviously say so but can you recall specific discussions re the 605–613 or the Austral building façade cordon issue or not?

A. I can't recall the words of any discussions at all.

Q. It sounds like you were in Colombo Street on a few occasions in relation to in particular 626?

10 A. Yes.

Q. And you said in that paragraph 20 that the Civil Defence decision on the extended safety barriers may have been influenced by the fact that Colombo Street was a major thoroughfare. Now is that, and obviously it's an opinion you're expressing, but are you basing that on anything
15 that you observed or any information you had?

1120

A. Well I think that by that, that stage it was pretty obvious that if there had been a collapse of the façades on 603 to 613 and a collapse on the façade of 626 then we would have had both façades actually coming
20 down into the, into the street and there was no room for traffic to pass because if you were going to fully barrier that and provide a totally secure and safe situation you, you couldn't actually get the barriers out far enough.

Q. Right.

25 A. And still allow a traffic lane.

Q. Okay you said it was pretty obvious, was that issue though discussed at that meeting or any others?

A. It was definitely not discussed at the meeting.

Q. Okay. So –

30 A. And I can't really recall whether there was anything more than a reference in passing at some stage at other site meetings.

Q. To?

A. A reference to the need to barrier Colombo Street completely.

Q. Okay. All right thank you.

A. It would have been a fairly, fairly brief comment in passing if it was, if it was actually made at that stage.

5 Q. And can you, you can't remember who would have made it, who you'd have been talking to?

A. Well it would have been me if I'd, if I did make it but I don't recall.

Q. All right, okay now I'll get you to come back to your brief. I think 21 you were up to.

A. Mhm.

10 **WITNESS CONTINUES READING BRIEF OF EVIDENCE**

A. "In my opinion after the September earthquake the whole process of dealing with dangerous buildings had become far too complex and time consuming. This was a result of the Christchurch City Council decision on notification of resource consents. This decision effectively prevented
15 urgent decision making and action on dangerous buildings".

Q. And just to clarify that opinion, you're talking about what the length of time it would take or more?

A. Ah, I was mostly concerned about the processes and the length of time that those processes were going to take, and when we had these
20 buildings which were obviously seriously dangerous.

Q. Right and you said that you knew that resource consent would be required prior to going to that meeting on the 1st of February?

A. Yes.

25 Q. And the opinion that you've expressed in paragraph 21, is that an opinion you held back then on the 1st of February?

A. Oh I think it was, it was relevant then because part of the reason for that meeting was to explore ways of getting urgent progress.

Q. Right.

A. On this building.

30 Q. Right so was that part of the discussion on the 1st of February, your concerns about the, the time period and (inaudible 11:23:04)?

A. Yes. Yes.

Q. What was the reaction from the Council officers that were there to that?

A. I think –

Q. To you saying it needed to be quicker because of the problem with the buildings?

5 A. I think we were told in quite firmly that it was Council policy that resource consents were required.

Q. Right.

A. I don't, I don't think we were given any options or alternatives as to how we might, might be able to process the matter faster.

10 Q. Right. And what about the fact that it would have to be notified? Was that discussed or not?

A. It was discussed and I, I think we were told in, that it was almost certain and I guess if, if we'd, had it been possible to make an adequate statement in planning terms to the effect there were no affected parties then it might have been possible to have got that down to a just a non-notified consent but unless you could demonstrate clearly there were no affected parties then it was going to be necessary to, to go for a notified consent.

Q. Okay and just for those who don't know, what further involvement would that bring if it was notified?

20 A. Well the process would be that the consent application was, was made. The Council would then either decide on limited notification or full notification, full notification of course went through the newspaper and the whole process.

Q. Advertising?

25 A. And the public had the right to place submissions et cetera. In the case of a limited notification the Council might identify the parties that could be involved and they would be given the opportunity to place submissions.

Q. And were you told how long it would take?

30 A. Ah –

Q. Was there any discussion of timeframe?

A. Well from my past experience on these consent applications you know they were likely to be six months from go to whoa, ie from starting

Q. All right.

5 A. And that was much the same as Mr Wood mentioned at the, at the meeting.

Q. All right. Paragraph 22.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

10 A. "In my view the damage to both 626 Colombo Street and the Austral Buildings was such that demolition was the only practical and economic option. This was expressed at the meeting. The resource consent process was only delaying the inevitable outcome. It became apparent to me that the, an emergency situation such had we had faced the decision making process must be simple and efficient as far as is possible. Complex planning and approval processes impede the recovery after an event. I also observed that in my experience the process worked much more efficiently after the 22nd of February earthquake although at the expense of limited public and heritage input. I think that it is clear that after, clear that severe aftershocks can be expected after any major earthquake and that all unreinforced masonry buildings are a risk to the occupants and passers-by. As it is often not possible to be certain of the remaining strength of a building without considerable investigation and analysis it would be appropriate to cordon off all unreinforced masonry or other obviously dangerous buildings after a major earthquake. It is also clear that strengthening of all dangerous buildings in our towns and cities needs to proceed immediately if we are to avoid loss of life in future earthquakes. And then available documentation attached are photographs of the Austral Buildings and my past earthquake report on 603 Colombo Street".

25
30 Q. Thank you and just wonder if we look at, which of your photographs best show the damage that you saw to the southern façade of 603?

WITNESS REFERS TO PHOTOGRAPHS

A. Probably figure 3 in my attached photographs.

Q. Right so it's page WIT.SIN.0001.9 thank you.

A. Somewhat grainy but the –

Q. You've got a mouse there that will (inaudible 11:27:33)

5 A. Okay. There's a cracking down through that area there which was some of the worst I can't really see the other cracks in this photograph, it's not good enough quality to pick it but I think there might have been some other ones up to the top right of the right-hand window.

JUSTICE COOPER:

Q. The first crack you referred to was to the west of the right-hand window?

10 A. Yes.

Q. And the other one is to its east?

A. Yes. There would have been other cracks along the rest of that façade as well here and there.

15 Q. And in the report that you wrote on the 20th of September which we've got?

A. Mhm.

Q. You said, "At the present time the southern unit is potentially unsafe given the extensive cracking in the Mollett Street façade"?

A. Yes.

20 Q. That was your feeling at the time?

A. Yeah. Yeah, yes I was quite concerned about the, you know, there were a number of cracks there, some of them as I said earlier were old cracks. They could well have opened as well under September's earthquake.

25 **EXAMINATION CONTINUES: MR ZARIFEH**

Q. Any other photos that we should look at that show the damage or is that it?

A. I think that –

Q. Okay.

30 A. – covers that.

Q. Thank you I just wanted you, to refer you to some of the evidence from the, that Council officers are going to give. Mr Wood you mentioned at the meeting?

A. Mhm.

5 Q. I think you've had access to the documentation for the hearing. Have you read his statement?

A. I have.

Q. Right and do you have any disagreement with what he says in there?

A. Ah, basically I agree with his comments.

10 Q. All right.

A. Slight, minor differences but essentially I agree with his.

Q. Okay well in relation to the issue of the resource consent that you raised at paragraph 20 he said that Mr Sinclair and Mr Bushnell also referred to the discussion around the timeframe for processing a resource consent for demolition of the Austral building at 626 Colombo. "I did advise at the meeting that it may take up to six months to obtain a resource consent for demolition. However I also advised that this was an estimate only and would depend on whether the application was to be notified. I advised in general terms that notification was a strong possibility based on my experience with similar applications." Is that fair?

15

20

A. Yeah I think that's pretty much what Mr Woods said, yes.

1130

Q. And when you left that meeting what impression did you have as to what was going to be involved in terms of resource consent and notification?

25 A. Well at that stage we went away to start the process of getting a resource consent application underway for 626 because there appeared to be no other options available to us. There was some discussion. I can't remember whether it was at the meeting or after but I think it might have been afterwards where it was agreed that the engineers working for Benson Chen Holdings would be best to handle the engineering for 603-615 Colombo Street because there was no point having two engineers mixed up in what's essentially one structure.

30

Q. Because they had already been involved?

A. Yes.

Q. And just finally paragraph 18 Mr Ward says, “My recollection is that Mr Sinclair and Mr Bushnell’s concerns around safety at the meeting on 1 February related to the building at 626 Colombo Street. It was this building that Mr Bushnell and Mr Sinclair were most concerned about. While we did discuss the details of damage to the Austral buildings, and this is noted in the meeting agenda, the discussion related more to the cost of repair and the Council’s processes and views on the demolition of the building. Neither Mr Bushnell nor Mr Sinclair indicated that the barriers around 603 Colombo Street were insufficient at the time or that the buildings from 605–613 Colombo Street needed to be cordoned. I’ve no record in my notes of any comments of this nature being made. I’ve no recollection of Mr Sinclair mentioning that the whole of Colombo Street needed to be closed due to the danger posed by the buildings.”

15 A. Firstly dealing with that I doubt very much whether the closure of Colombo Street came up at that particular meeting because it was not that sort of meeting. Insofar as the barriers on 603–615 were again really outside of the terms of that meeting. Where I perhaps would just slightly disagree is I was certainly concerned about 626 at that meeting but I had asked Matthew Bushnell to come along because of his concerns about Austral buildings and well I had not seen the Austral buildings so I was less concerned about those ones so I think both of us were one talking about one side of the road, the other talking about the other side.

20
25 Q. Just finally in that paragraph Mr Ward referred to an agenda. Was that actually an agenda prepared by you?

A. Yes.

Q. And Mr Ward’s attached it, WITWAR0001.8. See that on the screen?

A. Yes.

30 Q. So it was divided into the two buildings – 603, 615 and 626?

A. Yes.

Q. And you've got the various matters that were going to be considered – one under the first one – Extent of Earthquake Damage – Danger to Public?

A. Yes.

5 Q. And Heritage Classification – Prepare Options, Demolition, Resource Consent et cetera?

A. Yes.

Q. And similarly for 626 – Extent of Earthquake Damage, Danger to Public, Heritage Classification et cetera?

10 A. Yes.

Q. And is that how you recall the meeting? Did it follow the agenda?

A. I think pretty much so, yes.

COMMISSION ADJOURNS: 11.33 AM

COMMISSION RESUMES: 11.50 AM

15 **CROSS-EXAMINATION: MR ELLIOTT – NIL**

CROSS-EXAMINATION: MR LAING

Q. Can I take you back to your reference to Council policy. It's paragraph 17 of your brief. I'd just like you to answer some questions that might help me to understand what you mean by Council policy. In paragraph 20 17 you were saying that it was Council policy that a resource consent was required. That's the first thing?

A. Yes.

Q. And the second thing is you say it was Council policy that there would have to be notification of that resource consent. So that's the second 25 thing. If we can just go to the first matter. That is whether resource consent's required. Was it your understanding that a resource consent was required because of the city plan listing of the building?

A. Yes and my understanding also was that that view had been reinforced by the, the heritage lobby and probably the councillors as well, that they were taking the heritage issues very seriously at that time.

5 Q. Can I just come back to my question though. Was it your understanding and tell me if you don't know the answer, was it your understanding that a resource consent was required by law because of the listing of the building in the city plan as a heritage building? Was that your understanding or are you saying the Council –

A. Ah, yes.

10 Q. – could simply flout the RMA?

A. No, no, no. A, a resource consent was required because it was a heritage listing, no doubt about that. It's just that the process could not be shortened or simplified. That was my, my concern. It made it very, very difficult in these situations.

15 Q. Yes and I'll come to that in a minute but just to be crystal clear on this point, you're not suggesting that the Council could have simply ignored the RMA and not required a resource consent?

A. No, no.

20 Q. So that's the point 1. The second point really relates to notification and you heard the passage of Mr Ward's evidence that I read to Mr Dallison.

A. Yes.

Q. You didn't have any substantial disagreement with that did you?

A. No.

25 Q. And it's also fair to say from your own experience when dealing with resource consent matters that the question of notification only gets determined once a resource consent's lodged. Is that correct?

A. Correct.

30 Q. And as you I think indicated there are really three possibilities and I can just list them for you and tell me if I'm correct. One is non-notification, one is limited notification and one is what's called full notification. Is that correct?

A. That's my understanding.

- Q. Yes and so as at the time of the meeting on 1 February obviously no resource consent application had been lodged had it?
- A. No.
- Q. And so any decisions around notification was something for the future?
- 5 A. Yes.
- Q. You brought along to that meeting a planner from your office.
- A. Yes.
- Q. Did she agree with the Council's officer's position about the need for resource consent and the question of notification?
- 10 A. She accept – well I believe she accepted that, the statements of Mr Ward that that was the way the process was likely to work.
- Q. She accepted that that was how the process would work. If I can ask you to turn to paragraph 20 of your evidence and you've already been asked some questions about this. When you refer to civil defence are
- 15 you really intending to refer to the Council or who are you referring to there?
- A. I was using the term to refer to the staff and engineers and other Council staff who were at the forefront of the emergency operations.
- Q. Yes.
- 20 A. I, I, it was not always clear to us as to exactly what the affiliations were.
- Q. Yes but when, obviously there was a state of emergency?
- A. Yes.
- Q. That's a short of period of civil defence involvement and then the state of emergency's uplifted and then the matter's then handled by Council
- 25 isn't it?
- A. Yes.
- Q. And to your knowledge the Council employed a number of consulting engineers –
- A. Yes.
- 30 Q. – to help it with that task and I think you've mentioned some of their names. So in terms of the process for putting up cordons or barriers do you, did you understand that that was a matter that the Council relied upon CPEng engineers to make recommendations to it?

A. Yes there have been other occasions on other buildings where I had felt concerns about the safety of a building and had advised the, in fact generally it was CD Recovery of the need for a barrier.

Q. Yes.

5 A. But I never got involved in the positioning of the barriers or the sizes of the barriers.

Q. So if I asked you questions about the, the process in telling the Council you, you would not be able to?

A. I wouldn't, no.

10 Q. You are aware though that in the case of at least 603 and I think probably from reading the evidence 605 there were CPEng engineers involved in making recommendations about barriers. Is that your understanding or do you not know again?

A. I'm not, I'm not sure who authorised or designed or positioned the
15 barriers at 603. They were just there by the time I saw the building.

Q. Yes so if it comes to evidence the Council's going to call about the, how the barrier system was implemented you can't really comment on that?

A. I can't.

Q. No, thank you. I wasn't really certain from paragraph 20 but do I take it
20 that you're not suggesting that the Council in the case of the barriers on 603 made a deliberate decision to compromise public safety to keep, keep the street open are you?

A. No I'm, I'm definitely not suggesting that the Council made a deliberate decision at all.

25 Q. No and in fact in your view you'd looked at that barrier and you had no reason to believe that it was not adequate?

A. It, it was entirely consistent with the barriers that were being put up around other parts of the city.

Q. Yes and given that you consider the barrier was adequate that probably
30 explains why you hadn't raised that with Mr Dallison or, indeed, specifically with any Council officer?

A. That's correct.

- Q. Just looking at the, the process following September. I think it was fairly clear from Mr Dallison's evidence that the first, the first thinking was well, look, let's look at strengthening the building, upgrading the building and that moved towards a different view in January where I think the conclusion was reached at least at a tentative stage that the building should be demolished?
- 5
- A. Yes.
- Q. I take it that you were never, ever asked to recommend temporary remedial work, shoring or propping or anything like that?
- 10
- A. No I was not.
- Q. And that would have been a possibility wouldn't it, if there was some concern?
- A. Well yes except that Mollett Street was so well barriered off that it really didn't need any further protection on the Mollett Street frontage and propping would have achieved nothing other than preserving a building which was already badly damaged.
- 15
- Q. Yes as we've already, you've already indicated you didn't have any particular concerns about the state of the barrier on the front facing Colombo Street?
- 20
- A. No I, I didn't because it was consistent with everything else that was being done around the city.
- Q. Yes but at least as a possibility, and don't answer if you can't, the owner could have taken steps to carry out some temporary strengthening works. Was that never considered?
- 25
- A. I'm not sure what they would have achieved. I suppose they could have tied the parapet back to the building. Whether that would have stopped the failure that actually occurred is another matter.
- 1200
- 30
- Q. Yes, and I understand that, I'm not being – please don't think I'm being critical I'm just asking whether that was something that could have been done, if it was thought necessary?
- A. Well it could have – it most certainly could have been done.

Q. Yes.

A. I'm really saying whether it would have achieved anything worthwhile is another matter.

5 Q. Yes, but you were never asked to look at that, the possibility of temporary remedial work?

A. No.

CROSS-EXAMINATION: MR MCLELLAN – NIL

RE-EXAMINATION: MR ZARIFEH

10 Q. You were asked about paragraph 17 of your brief and the reference to resource consent and notification and you mentioned there a six month timeframe was given by the Council which raised a concern with you. What – are you able to tell us what type of notification that timeframe would have related to, the full or the limited?

A. It would have been a full or limited notification.

15 Q. In your experience how long would it take. I think you talked about six months earlier, was that for full or limited?

A. Either limited or particularly full notifications – I have seen the consents take that sort of time in the past.

20 **QUESTIONS FROM COMMISSION FENWICK – NIL**

JUSTICE COOPER:

Q. When you prepared the agenda for that meeting on the 1st of February, one of your items referred to danger to the public?

25 A. Yes.

Q. What was the potential danger to the public given the state of the barricades that had already been erected?

A. The concern I had in arranging that meeting and is why it was the first item on the agenda, was because we had a building in 626 Colombo Street that I considered to be quite dangerous and at – during January
30 Matthew Bushnell had indicated to me that he was concerned about the

building across the road, the Austral Building and it seemed to me that I needed to draw attention to what to me it was perceived as a wider issue at that time and, but it was also the second part of my thinking on preparing that agenda was to try and explore ways in which we might be able to find an easy route through the process that was faster than what I perceived it was likely to be.

5

Q. So did you have a particular concern related to 603 or was it just because it was part of the Austral Building as a whole?

A. It was more the other part of the Austral Buildings, not 603 that I was concerned about, because of Mr Bushnell's information.

10

Q. Now just in relation to the photos which are WITSIN0001, and I wanted to ask you about a photograph on suffix 10, WITSIN0001.10.

WITNESS REFERRED TO PHOTOGRAPH

Q. The top photograph there shows the junction between 603 and 605 Colombo Street?

15

A. That's correct.

Q. Was there any feature of the building at that junction which was of concern to you or have you just given that photograph to help set the scene?

20

A. I was mainly setting the scene and perhaps also trying to illustrate the difference between the two façades, even though they were part of the same building.

Q. All right, and if we could then go to page 12, and highlight, enlarge the second photograph on that page.

25

A. Yeah.

Q. That might give us a better picture I think of the problem on the Mollett Street façade that you were referring to earlier?

A. (overtalking 12:05:13), mmm.

Q. And the cracks that we see there, are they on the left-hand side of that right-hand window that was showing in the other photo?

30

A. Yes.

Q. Just indicate where the cracks of concern to you were?

A. On that particular photograph it was that crack leading up there and that looks like it goes horizontally along there and up through the parapet there.

5 Q. Yes. And if that façade was distressed, would it have implications for the Colombo Street frontage as well?

A. Well it probably suggests that there was a little bit of movement in an easterly direction.

Q. Yes.

A. But not a great deal, that crack is not particularly wide.

10 Q. I see.

A. So I would tend to think it really was just – contributed to the general disintegration of the southern wall of the building rather than specifically suggesting that the – well shall I say it doesn't suggest to me that the east wall of the eastern façade is about to fall out.

15 Q. Right. Well was it because of the damage to the Mollett Street front façade that you reached the view that repair of the building would be uneconomic?

20 A. I think that view was confirmed for me when I had spoken to Matthew Bushnell and heard what the – the cracking, or what cracking had occurred in the transverse walls of the remainder of the Austral Buildings and when I think when you put all of that together in conjunction with a deterioration of this façade, it was pretty clear what, you know what the problem was and what needed to be done.

QUESTIONS ARISING: MR ZARIFEH

25 Q. The close-up photographs that His Honour has referred you to on page 12. I presume that you have photographed the cracks that concerned you on the 603 building, either on the southern or the eastern façade as at the 9th of September?

30 A. From inspection down below on the eastern façade I don't recall any serious cracking that was clearly visible from the street.

Q. And on the southern façade have we got photographs of what concerned you?

A. Yes. I think generally – I wouldn't say there weren't other ones but these were certainly the worst of them.

Q. And they are dated 9 September?

A. Yeah.

5 Q. And there's some other photographs, general photographs that appear to be dated 15 September?

A. Yes. Yeah there was – we were actually, well one of my staff was at the site for 601 on the 9th I think.

QUESTIONS ARISING: MR ELLIOTT

10 Q. Can I refer you to WITSIN0001.9.

WITNESS REFERRED TO PHOTOGRAPH

Q. If the bottom photograph could be enlarged please. His Honour was asking questions about cracking and it's the window on the right, the area of the cracking that you're referring to.

15 A. Top left of the right-hand window.

Q. Top left of the right-hand window is the area, and His Honour was asking about the consequences of distress to that southern wall?

A. Mhm.

20 Q. Can you just explain the types of distress that the wall may have experienced in an earthquake?

A. Well as – if we're referring to the September earthquake, my understanding although I'm sure it varied round the city, but my understanding in this area given the collapse of the wall on – of 601 on Mollett Street was that the shaking was in a north-south direction, ie the walls were face-loaded. Now if it seems that this wall here survived that shaking adequately, the 22nd of February earthquake, it appears that the initial ground accelerations were very strongly in a westerly direction and I'm sure that's what contributed to the failure of those walls because it was literally, well an analogy would be if you were standing in Colombo Street on a rug and somebody whipped the rug out from under your feet to the west you would tend to fall to the east and I'm sure that what happened in practice was that the, the walls on the eastern

25

30

buildings tended to fall back against the structure of the buildings and then collapsed pretty much vertically within the barriers. The wall on the western side of Austral Buildings, because the buildings were shunted very rapidly to the west the wall actually peeled off and peeled out flat and so we have to consider both the direction of the likely ground accelerations as well as the structure of the building when you're thinking about, you know, what could potentially happen on a façade.

5

Q. Just to, to put the issue in a straightforward way. It's a question which I think Mr Zarifeh directed to you about the consequences of some failure of the southern wall and His Honour did as well. The issue for you as an engineer and for other engineers who inspected is just whether the presence of such cracking there to the southern side may have suggested the need for caution around the façade, around the cordon to the eastern side, that is, whether the possibility of collapse of the Colombo Street façade may have resulted from the damage that we see there on the southern side. So I'm really asking you to comment on, on that.

10

15

A. Well I think, I don't think that the damage that I'm, I'm seeing in that photograph on the southern side doesn't really strongly point me to a potential failure of the eastern wall of the, of the building. I think that as I said earlier the cracking on this wall would potentially have an effect under another earthquake which was heading in a north-south direction and it would just generally contribute to the deterioration of that, that wall. It's got less ability now to, in this photograph it's, because of the cracking it's got less ability to withstand face loading and earthquake actions than it would have had if it was an intact wall.

20

25

Q. If, if the brickwork literally gave way on the southern wall, that would mean one of the sources of restraint at least of the eastern wall would have gone. Is that correct?

30

A. I, no I don't think that the, that cracking would have contributed, sorry a collapse of the southern wall alone would not have contributed to the, the wall on the, or the failure of the wall on the eastern side and the

reason for that is that the whole of this window area up here is providing very little strengthen for the, for the eastern wall at all.

Q. Just pause there. You're indicating the window area to the top left of the right-hand windows?

5 A. Yes, yeah that, well the whole of that window area there is, it's just a big cavity really and it, it doesn't provide any structural strength to help support the, the eastern wall. Maybe if there was a bit of reinforcing or some other tie in the parapet up at the upper level it might have helped a bit but quite frankly I don't believe that that crack going up through
10 there, if the wall to the left of that had collapsed that it would have necessarily meant that it destabilised the eastern façade.

Q. And just finally, did you carry out any internal inspection of, of the inside of that wall?

A. No but, because I was satisfied with the poor condition of that and also
15 because of the access difficulties of getting into it that the building was, was unsafe.

CROSS-EXAMINATION: MESSRS LAING AND McLELLAN – NIL

RE-EXAMINATION: MR ZARIFEH - NIL

QUESTIONS FROM THE COMMISSION: COMMISSIONER FENWICK

20 Q. A guide as to whether a wall is stable or not, a clear one isn't it, when it starts to separate from the walls restraining it –

A. Yes.

Q. – the walls at right angles to one and when it separates from the floor?

A. Yeah.

25 Q. Now do you think in retrospect one really needs to go into the building to see whether there is separation between the floor and the wall and of course the same at the roof to get an idea of whether it's moving there or not and if you can't do that should one then take the assumption that wall is going to be unsafe?

- 5 A. Yes I, I – as a general principle I would agree with you and in, we, we often were looking for those sorts of problems. For example on 626 that was how we identified the issues. I think the circumstances on this particular building were such that immediately after the September earthquake we were doing a very rapid assessment trying to set the scene for the owner as to the condition of the building and I was quite satisfied at that stage that the building itself was unsafe. It was barricaded off in a consistent manner with other barricades around the city and I wasn't really thinking in terms of the eastern façade collapsing onto Colombo Street, most certainly after the 22nd of, sorry 4th of September.
- 10 Q. Doesn't this though highlight the problem with the rapid level 1 assessment that really it doesn't tell you. I mean the visual inspection from the outside. The key issues you need to see are really inside aren't they, to really judge whether a building looks safe or not?
- 15 A. Yes. If, if we were doing a much more in-depth assessment on this building and had been called on, on to do so we most certainly would have been into the building provided it was safe to do so and it was certainly probably okay on that building but there were certainly other buildings where we felt it was unsafe to go into.
- 20 Q. But if it wasn't safe to do so then presumably the barricades should be there and presumably they should be in the, in the, completely blocking off the potential fall zone which as you say would have shut down Colombo Street?
- 25 A. Yeah. I, I think perhaps what this has illustrated for me in, in that regard is that you can't trust a masonry building because you can't predict what direction the earthquake movements are going to come from and subsequent aftershocks and really the only way of adequately providing safety is to take the fall zone, any potential fall zone from any parapet on the building and make sure your barriers are outside what that is.
- 30

QUESTIONS FROM THE COMMISSION: JUSTICE COOPER - NIL

WITNESS EXCUSED

MR McLELLAN CALLS**MARK JOHN RYBURN (SWORN)**

Q. Is your full name Mark John Ryburn?

A. Yes it is.

5 Q. And you are a structural engineer from Wellington. Is that right?

A. Yes.

Q. You have your brief of evidence in front of you.

A. I do.

Q. Could you read it please from paragraph 1.

10 WITNESS READS BRIEF OF EVIDENCE

A. "I Mark John Ryburn of Wellington, structural engineer, state I hold a Bachelor of Engineering Civil Honours. I am a member of the Institution of Professional Engineers New Zealand. I have 11 years' experience as a civil engineer and construction project manager. Between the 22nd of
15 April 2010 and the present day I have been employed by Opus International Consultants Limited as a structural engineer.

My brief of evidence relating to another building which I read into evidence at the hearing into 593 Colombo Street held on 13th of December 2011 contains evidence of a general nature relating to the
20 building re-inspection process after the September 2010 earthquake and aftershocks. I do not intend to repeat that evidence but it remains relevant to the other buildings that I have been asked by counsel assisting the Commission to comment on.

In January 2011 I was seconded to the Christchurch City Council to carry out inspections under the direction of its Building Recovery Office.
25 I carried out about 10 inspections each day. Each inspection would take about half an hour, sometimes more, sometimes less.

603 Colombo Street:

On 16th of February 2011 I conducted a re-inspection of the property at
30 603 Colombo Street. I completed an Engineer's Re-inspection of Damaged Buildings Form in respect of that property. I do not recall specifically what instructions I was given by the Council for this

inspection. I was not aware at the time of my inspection that the building had a Heritage Classification”.

EXAMINATION CONTINUES: MR MCLELLAN

5 Q. Mr Ryburn if you just pause there, the inspection report has come up in front of you and you’re about to read into evidence the comments that you made under “General Comments” if we could have that highlighted please.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

10 A. “I noted in that report that ‘building is red stickered, no access to up-date sticker on building due to fencing although it is in still good condition (sticker) and visible”.

EXAMINATION CONTINUES: MC MCLELLAN

Q. And If I can ask you also please if we could focus on the handwritten comments further up the page and I’ll get you to read those out also.

15 A. “Significant cracking to south wall which is leaning outwards – likely connection failure. Also cracking around south-east corner columns and beams” though not applicable related to the comment on the left about pre-cast beams I think it is.

WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 8

20 A. “My report indicates that I considered the condition of the existing protective fencing specifically having regard to the south wall where I observed damage”.

EXAMINATION CONTINUES: MR MCLELLAN

25 Q. Can I ask you to stop there. Can we focus right at the foot of that same page please. Is that what you’re referring to there – the words “protection fencing required”?

A. Yes.

Q. You’ve circled “yes” and you’ve written in place “to remain”?

30 A. Yes.

WITNESS CONTINUES READING BRIEF OF EVIDENCE

5 A. "I was unable to get access to the building because of the fencing already in place. At no other time did I access the building. My report noted that protective fencing was in place. The fencing prevented access to the building and to Mollett Street, the lane running beneath the south wall and my report noted my recommendation that the fencing was to remain. I do not now recall specifically why I considered the fencing to be adequate but my report indicates that I considered it was adequate. I believe that I considered it to be adequate in relation to damage observed which was to the southern wall running along Mollett Street. That part of Mollett Street was cordoned off both at the Colombo Street end and further down Mollett Street. The cordon on the Colombo Street side of the building also extended beyond the footpath into Colombo Street. I am not aware of any other assessments of the protection fencing or who was involved in setting up the fencing. To the best of my knowledge I was not involved in any further action in respect of 603 Colombo Street. My report notes my recommendation that remedial works be carried out within 30 days was reflecting my view that the works should be prioritised".

20 EXAMINATION CONTINUES: MR MCLELLAN

Q. Can we just have photograph 603.0038.28. Is that, from your recollection, a configuration of the cordoning when you inspected the site if you can remember?

25 A. I think it was something like that. I don't know exactly but I do recall there were people out on the footpath along the Colombo Street and there was no access down through Mollett Street lane.

Q. And does that cordon extend into the road?

A. Yes.

CROSS-EXAMINATION: MR ZARIFEH

30 Q. Mr Ryburn when you went to this property I presume you had the Council file?

A. Yes.

Q. And you therefore would have known that the south wall had been observed to be a problem previously?

5 A. Yes, yes. I can't remember the exact information that was included in this particular file. I think there may have been one of the previous rapid assessment forms and possibly some photos.

10 Q. I will just get it brought up so you can confirm that. 0038.6. This is the first Level 1 rapid assessment that was carried out which yellow stickered the building and noted crack and displaced shop front glazing, Mollett Street parapet cracked, slight lean on Mollett Street wall – could be old settlements, structural review of the parapet required, risk of neighbouring building collapse. I think that is a reference to 601 isn't it?

A. Possibly.

Q. On the other side?

15 A. Yes.

Q. And if you look at 0038.7, the next page, it's a Level 2 carried out on the 11th of September and again yellow stickered or yellow sticker maintained. The comments – "South wall is at risk of collapse, significant cracking."

20 A. Yes I see that.

Q. And you will see below barricades ticked and the note, "Barricades need extension to cover front of Colombo Street and entry to Mollett Street."

A. Yes.

25 Q. So presumably as a result of that assessment that would have been done – the cordons that we see in the photos would have been carried out?

A. I assume so, yes.

Q. So do you recall seeing that?

30 A. I don't recall specifically which one of those. It was possible that there was one or both of them in the file.

Q. There's another I had better show you then .10. It's a Level 2. I think that might be by a colleague of yours is it?

- A. Yes, yes.
- Q. So he's an engineer from Opus?
- A. Yes.
- Q. Presumably working for the Council or volunteering at that stage?
- 5 A. Yes, yes.
- Q. And he's maintained the yellow placard and indicated "major cracks south wall"?
- A. Yes.
- Q. And in fact if we go to .12 he appears to have drawn a diagram of the
10 cordon required?
- A. Yes.
- Q. And in fact referred to quite a number of cracks and the look of it?
- A. Yes.
- Q. Including ones towards the south-east corner?
- 15 A. Yes.
- Q. Do you recall seeing that or not?
- A. I can't say for sure. It's likely it may have been in there.
- Q. And just finally then at .22 there's one that was done on 27 December,
so following Boxing Day?
- 20 A. Looks a bit more familiar with the cross through it. Again I can't say for
sure.
- Q. But again it refers to the previous yellow and the major cracks in south
wall?
- A. Yes.
- 25 Q. "Potentially more severe side street. Re-assess current barricade".
- A. Yes.
- Q. So do you think you had that?
- A. I may have, I may have. Certainly the barricading seemed to be
consistent with these reports so that must have been somewhere and
30 been actioned.
- Q. Where that last one says, "Re-assess current barricade", was that part
of your role then?

A. When we were sent out to do the re-inspections we were looking for any obvious risks or anything as well so if I'd seen something I would have brought attention to it, yes.

5 Q. I understand that but what I was getting at was, that note to have the barricades re-assessed, is your visit a follow-up to that?

A. No. There was no specific, I certainly don't recall being sent out there to specifically action that comment, to re-assess the barricading.

1230

10 Q. And it would seem 16 February would be quite a long time after the 27th of December if it was a follow up, wouldn't it?

A. Yes, yes.

Q. So your visit was part of visiting yellow or red stickered buildings?

A. That's right. When the stickers were due to expire and they needed to be updated.

15 Q. And you said you noted on your form that, you noted obviously the south wall cracking that had been notified, noted before, you said "significant cracking to the south wall which is leaning outwards", so you obviously noticed it was leaning to record that?

A. Yes.

20 Q. Can you recall how significantly at that stage?

A. I was down, if you can imagine Mollett Street was obviously closed off and so was part of Colombo Street so we couldn't get right up to it but it was enough to notice from standing back that you could – for me to make the comment.

25 Q. Okay, and then you've said, "dash, likely connection failure", right. Just tell us what do you mean by that, what was the likely connection failure?

A. I guess – probably from that that was a reason why it had come away from somewhere that it wasn't, I guess –

Q. So –

30 A. – it certainly didn't seem to be perhaps in some of these old buildings you could see they looked historical, the wall, but it certainly seemed to be more there'd been some sort of movement out.

Q. And are we talking about the south wall?

A. Yes.

Q. So the south wall moving to the south, leaning to the south?

A. Yes, likely.

5 Q. And where did you think the likely connection failure was, with which wall, or which part of the building?

A. Gosh –

Q. With where it connected to the east wall?

A. It was probably more towards the roof or the floor possibly –

10 Q. So a connection between that wall and the floor or roof, is that what you're saying?

A. Possibly.

Q. Well you can't remember now but I presume you're just going by your record?

A. Yes.

15 Q. So it was obviously something that concerned you to make you write it down?

A. That's right, it certainly didn't seem to be something that was historical or ...

20 Q. Okay. And you've also then noted also cracking around south-east corner columns and beams, right?

A. Mmm.

Q. So perhaps if we get that photograph brought up which shows the south wall, I think it was .28, 0038.28.

WITNESS REFERRED TO PHOTOGRAPH

25 Q. Can you point with the mouse and tell us where that cracking was to the south-east corner and columns and beams?

A. I think from recollection there was sort of cracks in round the beams and parapets up round here.

Q. Okay.

30 A. I think pretty similar to what was shown on the earlier assessment report.

JUSTICE COOPER:

Q. Are you referring to the diagram which had the red lines on it?

A. Yes, I think it was pretty much there at the higher level.

Q. It's suffix 38.12.

5 EXAMINATION CONTINUES: MR ZARIFEH

Q. Are you referring to those cracks?

A. Yes.

Q. So did you make any actual assessment of the barrier, can you recall, the cordons that were there given the damage that you observed?

10 A. Other than what I've sort of said that it seemed to be consistent, the barriers, the Mollett Street was protected. We couldn't get through there, that seemed to be, it extended out into Colombo Street. Other than that I don't recall a specific assessment, no.

Q. Why was it important that it extend out to Colombo Street?

15 A. I think probably from the proximity in around that south-east corner.

Q. The cracking in the south-east?

A. That's right. Other than that I'm not sure.

Q. Right, so do you agree that if the south wall had collapsed.

A. Yes.

20 Q. That might have compromised the eastern façade?

A. I think probably the way similar to what Mr Sinclair said. I think – I don't think the failure of that would have necessarily caused the collapse of the other one but certainly there – obviously they, the buildings are – works as a unit so some weakness there would've ...

25 Q. And perhaps I used the wrong term, I said could compromise it or could affect it, could contribute to possible collapse of the eastern façade or compromise it in some way?

A. Yes, possibly could, there are other elements as well. The connections between the floors and the roofs as well that were important too.

30 Q. Do you recall giving any consideration to that potential risk and therefore the need to have a barrier in Colombo Street?

A. Not specifically. I guess the best is from my report where I looked at it in relation to the damage that I saw.

Q. In particular for the south?

5 A. That's right. But I didn't sort of note anything regarding the east so I can't be sure.

Q. But you saw the cordon on the east side?

A. Yes.

Q. And you're saying you just didn't get to – do you have any thought to whether that extended out far enough to meet any potential risk?

10 A. It certainly seem to – there was nothing that I observed which I made me think that it needed to be changed from what it was.

Q. If there was a connection failure to the eastern façade and it collapsed outwards ...

A. Yes.

15 Q. Do you agree with me that the barrier that was in place would not be sufficiently far enough back to capture the fall zone?

A. Certainly from what we know now on how they – can fall, like Mr Sinclair said, and in sort of that motion, that would seem to be true, yeah.

CROSS-EXAMINATION: MR ELLIOTT

20 Q. Mr Ryburn, obviously your visit to the site was an opportunity whereby the cordon may have been moved further out.

A. Yes.

25 Q. And I'm just going to ask you some questions about the information that you had available to you and a few further questions about your decision. Firstly show you document, I may have shown you this before in another hearing, ENGCCC0002F.148.

WITNESS REFERRED TO DOCUMENT

30 Q. So this is, it'll come up in a moment, but this is the document from the Christchurch City Council entitled "Guidance for Monitoring and Reviewing Barricades".

A. Right, yes.

Q. I think I may have asked you about this document before?

A. That's right.

Q. I'm sorry to repeat that, but there are obviously people here today who would be interested in that, and so my question you'll see it but you recall it. My question is whether you had seen that document, ENGCCC0002F.148? So did you see that document at all before you carried out this inspection?

A. No, no.

Q. And the document lists there firstly the barricade purpose of protecting people from dangerous buildings.

10 A. Mmm.

Q. Was that a purpose that the Council conveyed to you as part of your assessment?

A. Oh yes, yes.

Q. And part of your purpose of being there at that day, on that day was to review the barricade. Is that right?

15

A. Not specifically that, but that was part of the overall works that we're doing to consider everything.

1240

Q. The document lists a number of issues to be considered and one of them is that the factors determining the necessary clearance from buildings, types of potential failure, top building 1.5 x building height, top storey only 1.5 x top storey height and then parapet only 2 metres outside verandah fascia or three metres from building. Were you aware of the Council's position about the placement of the barricade as set out in that point?

25

A. No, no.

Q. So no-one said to you at any point that if you contemplate failure to a top storey you should recommend a barricade of 1.5 x the storey, top storey height?

30 A. No.

Q. The document also records as an issue to be considered, interaction of barricades with traffic and pedestrians. Is that something which the

Council said to you that you should consider in, in the recommendation that you formed about where the barricade should be?

5 A. I don't recall a specific comment but I was certainly aware that there was, there was an element of risk in actually putting barriers which forced pedestrians out into a, out into a roadway and that was a safety risk as well.

10 Q. You may have heard some earlier evidence which Mr Sinclair accepted was only an opinion but were you specifically asked by the Council to weigh up the implications of traffic being impeded against the distance a cordon should be placed from a building?

A. No, not, not, no that was - we were certainly aware that there was, if barricades were put out that it would impede the traffic but it certainly wasn't something that we were asked to weigh up or try and balance at all.

15 Q. Are you aware of whether the desire to keep Colombo Street at least mostly open was a factor in the placement of the barricades around 603?

20 A. I don't, no I don't think that would have, I don't think that set where the barriers were. I think the barricades were set on what was deemed to be an assessment of the risk and, and obviously there wasn't a need to, to extend those unnecessarily.

25 Q. You said that you weren't aware of the point there about the distance of a barrier being 1.5 away. Professor Ingham has given some evidence to the Royal Commission about the behaviour of unreinforced masonry buildings and he's made some comments to the Commission that parapets typically fall outwards and that gable walls almost exclusively fall outwards. Were they things that you were aware of at the time that you did this inspection?

30 A. Not specifically, no. I mean I was, sorry. Just to clarify I was aware that obviously they, they could fall, these, these elements could fall outwards but not specifically parapets you know sort of performed one way or one way only and gable walls performed another way.

- Q. Well I, I think I'm referring more to a tendency. Were you aware of a tendency in unreinforced masonry buildings for parapets and walls to fall outwards?
- A. That, that they could fall, yes.
- 5 Q. Rather than inwards?
- A. Inwards, yes, yes.
- Q. You were aware of that?
- A. Yes, yes.
- Q. And were you aware that the higher the parapet and the higher the wall
10 the further out from a building they could fall –
- A. Yes.
- Q. – during an earthquake? Were you aware when you went to do your inspection that day that the Council considered the building to be earthquake prone?
- 15 A. Not, not specifically. It was an unreinforced masonry building so it was probably likely to be earthquake prone but I wasn't aware of any specific assessment that had been done or classification.
- Q. So did the Council give you any information about a seismic risk survey carried out in 1991?
- 20 A. No.
- Q. Or about a hazardous appendage survey carried out in 1992?
- A. No.
- Q. Were you conscious that in making a recommendation about the position of the barricades that you were doing so in the absence of an
25 internal inspection of the building?
- A. Yes, yes. We weren't, generally we were inspecting on our own so we weren't going in, into the building.
- Q. And that was what the Council directed you to do. You said in your evidence that the barriers were adequate.
- 30 A. In, in relation to the damage that I observed, yes.
- Q. And I appreciate that, I think you've said you don't recall specifically why you considered the fencing to be adequate but just speaking generally

are you able to tell us in, in deciding adequacy of barrier location what particular test or criteria would you apply?

5 A. I'm just trying to, I'd be just looking at the damage that was, that was there. Could be giving consideration of where in the building it was, height, height-wise, condition maybe of the, of the elements. Those sorts of things, yeah.

Q. So are you saying it was a damage based assessment?

10 A. Predominantly yes. When we were there we were sort of doing a re-inspection so were weren't doing a complete, I guess, detailed engineering evaluations or along those lines.

Q. And was, was that criteria you've just referred to something which the Council gave you directions on or did you formulate that yourself?

A. That was probably more just from my general training and knowledge.

15 Q. Would you consider that in reaching a decision about adequacy of cordons what you might have considered was what the strength of the building might have been and made some comparison to the possible accelerations it might experience?

20 A. That, that's one way that it could be done but with the information that we had in this, sort of within what we were doing which was turning up, doing re-inspections. We didn't have access to drawings or calculations or, or information to that which would have allowed that I guess.

Q. If you knew it was earthquake prone you would have some idea about the strength of the building wouldn't you?

A. Yes I guess, yes, yeah.

25 Q. Did you have any information from GNS about the likely aftershocks that may be experienced in future?

A. Nothing than what was sort of broadly available to the public, no.

30 Q. Given the information which I've been through which you didn't have, do you agree that you weren't really in a position to make a decision about the adequacy of the cordons on that day?

A. I mean there's, there's the damage on the, on the Mollett Street side and I, and I felt that I could, could make a recommendation on, on, on that. In relation to the damage I guess I observed I certainly felt that,

that I could and if I felt that it was inappropriate I guess I probably would have, I would, I would have felt comfortable to raise that but, yeah, without doing any detailed engineering evaluation I was certainly limited.

5 Q. In hindsight at least given the absence of that more detailed information and the absence of information about possible aftershocks and ground accelerations, would you agree that it would have been better to take a cautious approach and recommend an extension of the barrier to 1.5 x the building height?

10 A. At the time when I went to see it, it obviously had been put in place and there'd been various inspections done I needed to sort of have a, have a reason to, to change it and I certainly didn't observe any additional damage or anything else that would be a basis to change what was in place.

15 1250

CROSS-EXAMINATION: MR LAING – NIL

RE-EXAMINATION: MR MCLELLAN

20 Q. Mr Ryburn you were asked some questions by Mr Elliott about the adequacy of the barriers. As best you're able after this amount of time from the contents of your report, what was your expectation about the nature of fall hazards that there might be from the building we are talking about?

25 A. Again my best recollection from my report is again it was related to the south wall where the damage was and the hazard was along that south wall.

Q. And at that time how did you expect masonry might fall in terms of the plane of the failure?

30 A. Certainly probably didn't expect it to rotate out as a complete, almost a complete storey. It was probably more sort of crumbling vertically similar to other areas we'd seen in other buildings I'd seen around the place, yeah.

COMMISSIONER FENWICK:

- 5 Q. There were two Level 2 assessments which it doesn't say on the assessments but I guess that no-one went inside the building. Even though it was yellow stickered they could have gone inside the building if there had been someone with them to go in?
- A. They could have if they had felt comfortable I guess going inside.
- 10 Q. You looked along the Mollett Street front and you could see it was leaning out because you could get a clear sight of that but I assume you couldn't get a clear sight the other way up Colombo Street. There would have been too much in the way is that correct?
- A. Probably not as good an angle as we could get from Mollett Street, no.
- 15 Q. So you couldn't tell whether that was leaning out or not?
- A. No and there certainly weren't any obvious signs that there was any lean that wouldn't have been perhaps historical or anything.
- Q. In hindsight and retrospect do you think it would have been advisable to get someone to go into the building to see if there had been some separation movement between the roof and the floors and the exterior walls?
- 20 A. I think in the scope of what we were doing at the time with the re-inspections and sort of focusing on up-dating the Building Act Notice and red stickers that were there, probably not but I think in general your earlier comments about the need to see inside the building to be able to make a proper assessment I agree with those, yes.
- 25 Q. I can certainly see the need for the Level 1 assessment where you can't do that but I think you agree with me perhaps that should have been carried out or repeated with a Level 2 where they actually went inside. If they couldn't go inside, so dangerous, they should have assumed it was dangerous and barricaded it appropriately. Would you agree with that?
- 30 A. Yes and I think probably the fact that it was an unreinforced masonry building it was almost reason in itself.

JUSTICE COOPER:

- 5 Q. Mr Ryburn, this was a re-inspection on the 16th of February and you say in your evidence that you do not recall specifically what instructions you were given for the Council for the inspection but what did you understand was the general purpose of your task that day?
- 10 A. Generally it was the same as the other re-inspections that we had done which was we had some Building Act Notices and placards that had been issued and that were expiring. The need to go out and re-issue those but also actually view the building make sure there hadn't been anything additional or any further damage.

WITNESS EXCUSED

MR MCLELLAN ADDRESSES THE COMMISSION:

Your Honour, just before I start, Mr Campbell's brief of evidence deals with both 603 and 605–613 and I have agreed with Mr Zarifeh that we will have him read his evidence on both but because we haven't heard much about 603

5 I will orientate the Commission with some photographs when we get to that point.

MR MCLELLAN CALLS**PAUL CAMPBELL (SWORN)**

- 10 Q. Is your name Paul Arthur Campbell?
A. Yes it is.
Q. And you are a structural engineer of Auckland?
A. I am.
Q. You have your brief of evidence in front of you?
15 A. I do.

WITNESS READS BRIEF OF EVIDENCE COMMENCING FROM PARAGRAPH 1

- A. "I hold a BSc and a BE (Civil) Hons. I am a Member of the Institute of Professional Engineers of New Zealand and am a Chartered Engineer.
- 20 I have 14 years' experience as a structural engineer. From 1997 to the present I have been employed by Opus International Consultants Limited and hold the position of principal structural engineer. I am a Member of the New Zealand Society for Earthquake Engineering. I am a Member of the Structural Engineering Society of New Zealand of
- 25 which I am also a Management Committee Member. I am past Chairman of the Auckland Structural Group from 2005 to 2008. From the 27th of December 2010 to the 22nd of February 2011 I was seconded to Christchurch City Council to carry out inspections under the direction of its Building Recovery Office. The Council warranted me for
- 30 this purpose and I held a warrant card confirming this. The inspections I carried out for the Council and which are the subject of this enquiry were all re-inspections of buildings that had previously been inspected by other engineers or building inspectors. The inspections I

carried out were limited in scope and generally involved only exterior observations. They were not detailed structural engineering evaluations nor did they involve calculations of structural capacity or strength assessment and I was not provided with building plans or drawings.

5 My brief of evidence relating to 116 Lichfield Street contains evidence of the general nature relating to the building re-inspection process after September 2010 earthquake and aftershocks. I do not intend to repeat that evidence. That remains relevant to the other buildings that I have been asked by counsel assisting the Royal Commission to comment on.

10 603 Colombo Street:

I do not recall the date on which I completed an Engineer's Re-inspection of Damaged Building Form in respect of the property at 603 Colombo Street but according to chronology prepared by counsel assisting the Commission, it was around the 16th of February 2011. The re-inspection was directed by the Council although I do not now remember exactly why I was requested to carry out this re-inspection. I prepared a report of the re-inspection. I recorded in the report that it was not possible to access the building at 603 Colombo Street due to the protective fencing that was in place around the property".

20 **EXAMINATION CONTINUES: MR MCLELLAN**

Q. Can I just stop you there and we have the report in front of you. Could we have the general comments brought up please. That's the comment that you have just referred to in your brief is it?

A. It is.

25 Q. And can we also have a look at the comments further up the page. You can just read that into evidence please.

A. I've noted bad cracking to Mollett Street elevation and that's in relation to columns, plaster and corbel and there's also a moderate neighbouring hazard. That's from 601 and 601A I believe.

30 Q. 601–601A Colombo Street which is on the south side of Mollett Street?

A. Correct.

Q. And I think you were involved in an inspection of that building as well at another time?

A. Correct.

1300

5

WITNESS CONTINUES READING BRIEF OF EVIDENCE FROM PARAGRAPH 7

A. "I was not responsible for the fencing around the property and do not know who was. My notes in the report state that there was bad cracking to the Mollett Street elevation. On 14 February 2011 two days before my inspection of 603 Mollett Street I inspected a building at 601 and 601A Colombo Street which was the next building south of 603 Colombo Street across Mollett Street. I considered that the cordoning was appropriate for the property and it appears from my report on 603 Mollett Street that I reached the same conclusion for the cordoning near that building. The hazards presented by 601 and 603 Colombo Street were similar and that the side walls of each building are running along Mollett Street were cracked. The cordon prevented access to this part of Mollett Street both at the Colombo Street and further down Mollett Street. The Colombo Street frontage of numbers 601/601A and 603 were cordoned off with the fencing extending into Colombo Street. To my knowledge my inspection or about the 16th of February 2011 was the only inspection I carried out of this property and I was not involved in any further action in relation to the building".

10

15

20

25 EXAMINATION CONTINUES: MR MCLELLAN

Q. Now I will just get you to turn to 605 Colombo Street. We have a photograph of that please which I think is 603.0038.3. So 603's obviously on the left and 605 is the building, the whitish building to the right of the red brick, the exposed brick corner building?

30 A. Correct, it's the left-hand end of that building, I think it's the Satay Noodle House was the tenancy.

Q. Can you read your brief from paragraph 12 please?

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "On or about the 2nd of February 2011 I carried out an inspection of the property at 605 Colombo Street and completed an engineer's re-inspection of damaged buildings".

5 EXAMINATION CONTINUES: MR MCLELLAN

Q. Now I'll just ask you to read into evidence your handwritten general comments if we can focus on those.

A. "No evidence of work being carried out – canopy propped, accept that parapet and façade have moved (no roof access available so trust
10 previous report)" and then I've got a next line "as per Nilsson report dated the 26th of December 2010".

Q. So do we take it from that that you had a copy of that report?

A. From my evidence yes I –

15 JUSTICE COOPER:

Q. Sorry, in the second line there you mean accept or did you – was that a spelling mistake?

A. Yes, no access to the roof, to put it into context the Nilsson report talked about going up in a cherry picker or something like that and having high
20 level access.

EXAMINATION CONTINUES: MR MCLELLAN

Q. No, I think you've misunderstood His Honour's question.

A. Sorry.

Q. Did you mean 'accept' in the second line or is it a spelling line and did
25 you mean 'except'?

A. Oh, except, so trust what the Nilsson report said.

JUSTICE COOPER:

Q. Sorry.

30 A. Accept what the Nilsson report –

Q. No, no, just take a moment to read it would you?

A. Sorry. Oh, except, yes, I'm sorry, that's my bad spelling.

Q. E-X-C-E-P-T.

A. Correct.

EXAMINATION CONTINUES: MR MCLELLAN

5 Q. I will just take you to the Nilsson report which you said that you had, and that is 603 to 613.0001.17. And if we can focus on the highlighted passage under comments on the right-hand side about the middle please. Can you just read that out.

A. Okay, "Front façade leaning out? (question mark). Parapets above
10 roofline appear to have separated" and then in brackets, "(viewed from other side by Fire Department hoist)". And then "from cross walls".

Q. Yes I think Mr Tony Raper who will give evidence tomorrow, he carried out this inspection with Mr Nilsson and his evidence is that he, that the writing there reads "parapets above roof line appear to have separated".

15 "From cross walls" has been added.

A. Okay.

Q. So this was the report that you were referring to in your report when you said, "Trust Nilsson report." Is that correct?

A. Yes.

20 Q. Can you carry on reading your brief from "I am now aware."

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "There was no access to the building because it was locked".

EXAMINATION CONTINUES: MR MCLELLAN

Q. No, in paragraph 13.

25 A. Sorry where do you want me to start from?

Q. Paragraph 13, "I am now aware."

WITNESS CONTINUES READING BRIEF OF EVIDENCE

A. "I am now aware that another Opus engineer, Tony Raper, was also involved in that inspection. They do not appear to have recommended
30 cordoning outside 605 Colombo Street. On the re-inspection form I –"

EXAMINATION CONTINUES: MR MCLELLAN

Q. Sorry, I will just stop you there. If we could go back to your form which was .0001.27? Have you got that in front of you?

A. Yes.

5 Q. So right down on the bottom of the page please, that's what you're referring to?

A. Correct.

Q. Just carry on reading, "I know to the question mark."

WITNESS CONTINUES READING BRIEF OF EVIDENCE

10 A. "Beside the bracket protection required field. I do not now remember why I did that. From my external observation I did not see any fall hazard that required a cordon, my observation in the general comments field of the report that there was no evidence of work being carried out indicates that I may have been instructed simply to report on the issue
15 of whether the work had been carried out."

EXAMINATION CONTINUES: MR MCLELLAN

Q. And just one question about that, was that common for your re-inspections to be for the purpose of checking whether work had been carried out?

20 A. I wouldn't say it was common, it wasn't uncommon and we were often sent out, the Council would send you on a specific task, can you please just go and have a look at this, so yes I had been asked to do that on previous buildings.

25 **COMMISSION ADJOURNS: 1.08 PM**

COMMISSION RESUMES: 2.00 PM

CROSS-EXAMINATION: MR ZARIFEH

Q. Mr Campbell, can I deal firstly with 603 Colombo Street. What were your instructions from the Council on that day in relation to that building?

- A. I don't recollect any specific instructions from the Council other than just the general ones that I've talked about previously. I can go over that if you like.
- 5 Q. No, that's all right. So it was just because that building had been yellow or red stickered and a Building Act notice red stickered it after Boxing Day I think. Building Act notice sent –
- A. Yes.
- Q. Sent out and this was a follow-up exercise?
- A. Correct.
- 10 Q. So was it really to check if work had been done?
- A. That would have been part of the general brief, you know, has work been done, has it, there been any deterioration.
- Q. Okay and we heard from Mr Ryburn that he went there on the 16th of February.
- 15 A. Mmm.
- Q. And although your form is undated, it's on the screen there now, is undated you thought that you would have gone around the same time.
- A. Correct.
- Q. Do you know why it would have been that two of you were going around
- 20 the same time?
- A. During that same time, you know, files were actually being made up and the Council et cetera were extremely busy and there might have just been a duplicate file made up. It could have also been that there was a file made up for 603 and 603A. I just don't recollect though.
- 25 Q. So there's no significance in two of you being there?
- A. No.
- Q. Like one was there for one reason and one for another. That's not necessarily the case?
- A. I wouldn't, well I honestly don't know but I wouldn't read anything into
- 30 the two of us going.
- Q. And Mr Ryburn you, I think you were here, you heard him –
- A. Yes.
- Q. – telling us what he had from the file?

A. Yes.

Q. And thought that he had at least one if not more of the assessments.

A. Mmm.

Q. Was that the same position for you?

5 A. Look I, I honestly don't recollect but I'm, I'm not disputing what Mr Ryburn said. If there were two files, for argument's sake, we may not have had identical information.

10 Q. So did you rely back then in that position you were in, did you rely on the Council or the person at the Council who was putting together something for you?

A. Yes.

Q. So you didn't actually get the whole Council file or a copy of it for your purpose?

A. No, no.

15 Q. So it very much depended on what the person in the, was it the BRO office?

A. Yes.

Q. What they thought was relevant for you?

20 A. I'm not sure whether they would have weighted any relevance on any piece of information or not, just what they had at hand, downloaded and put on the file.

Q. But I take it you weren't necessarily getting the full file –

A. No.

Q. – when you went out to these inspections?

25 A. No, we, we could have requested, if we had an inkling here and there you could say to some admin staff, you know, “have we got everything?”

Q. Okay so you went there, you saw as you've recorded the cracking –

A. Yes.

Q. - to the Mollett Street elevation which you noted as severe?

30 A. Yes.

Q. So no issues with the assessments that you've heard reference to or Mr Ryburn's explanations?

A. None at all.

- Q. Well did you give any thought to the extent of the cordon that was there. You obviously saw it –
- A. Yes.
- Q. – but did you think about it?
- 5 A. Yes in, in general terms.
- Q. And is that, are you answering that from your recollection of the practice you adopt or can you actually recall it on the day?
- A. No it would be the practice I adopt.
- Q. Because you now can't recall what you saw in terms of cordon or
10 damage. Is that fair?
- A. Snippets of memory, it's fair, snippets of memory but we inspected a lot of buildings.
- Q. So you can't answer this issue that I put to Mr Ryburn that any reconsideration of the cordon or consideration of the extent of it and
15 whether it was sufficient on the Colombo Street side?
- A. From my recollection and my notes I haven't noted anything on the Colombo Street façade. I would note though that the cordon along Mollett Street, there were two buildings either side of Mollett Street. Now they both had gable ends, well one had a gable end and one had a
20 façade. It could have collapsed. So the reason or some of the reason for the cordon along the Colombo Street façade could also be 601A. When that fell out debris could hit the ground and shoot slightly along as well.
- Q. And what if the, it said on the picture, what if the south façade of 603
25 collapsed in an earthquake.
- A. Yes.
- Q. Do you think that that could have compromised the Colombo Street façade?
- A. After it had collapsed, depending on how much of the top right-hand
30 corner it brought down with it, it potentially could have weakened that corner.

Q. Do you think that in hindsight to try and mitigate that potential risk it might have been better if the cordon was further out on Colombo Street?

5 A. No I, with the practices we were adopting at the time the cordon along Colombo Street I was satisfied with. With hindsight I think a lot of people have said, you know, we have to pay a lot more attention to these masonry buildings so that might have brought us to a different set of criteria that we were using.

10 Q. And I think you heard the questions Commissioner Fenwick put to Mr Ryburn about the benefit of going into the building –

A. Yes.

Q. – and seeing connections et cetera?

A. Yes.

Q. And I presume you agree with that in hindsight?

15 A. One hundred percent, yes.

Q. Because if that approach had been taken then clearly the cordon would have been a lot further out than it's shown in that photograph, wouldn't it?

A. If we had observed damage I would expect so.

20 Q. Right or if a different approach was adopted so that even if you hadn't gone in –

A. Mmm.

Q. – given the damage that was seen a more conservative approach would be taken, the cordon would be still moved out further if there was any –

25 A. Certainly putting the cordon out further was a more conservative approach.

Q. Can I just ask you about 605.

A. Yes.

30 Q. And I'll get that re-inspection form brought up. The number – .27613. So that's your inspection form, re-inspection form and there's a date there 2/2/11. Is that likely to be the date? I know it's not necessarily the date you put on it.

A. I would expect it would be around that date, yes.

- Q. Now you changed one word, or said it was a mistake, that the “accept” should be “except”, correct, in the second line under general comments?
- A. Yes that, that’s correct. I mean you have to forgive me for my English but it, it can be both ways. What, what I'm saying is that the canopy had been propped. In hindsight there should have been a full stop there and what I'm saying is that from the, my notes on the bottom, from the Nilsson report they have noted that the façade have moved out, question mark, and I'm saying that while I haven't seen that I've got no reason to disbelieve that.
- Q. So you were noting that the only thing that’s been done was the canopy propping?
- A. Yes.
- Q. But you're making the observation that although that had been done from the Nilsson report the parapet and façade have moved.
- A. Well there, there’s a question as to whether it’s moved. It said the, I think from memory the Nilsson report and we could just bring that up maybe.
- Q. We’ll bring it up, it’s .17.
- A. Um, I think if you look in the middle page on the right-hand side there, “front façade leaning out question mark”.
- Q. Mhm.
- A. That's the information I had so I've got no, I couldn't see that from the ground but I've got no reason to, um –
- Q. Well you accepted it?
- A. Yes.
- Q. Because it was there?
- A. Yeah.
- Q. And it also went on though, didn't it? “Parapets above roof line appear to have separated from cross walls”?
- A. Correct.
- Q. So you had that as well?

A. I believe so.

Q. All right. And as you say, you had no reason not to accept that information?

A. Correct.

5 Q. And you didn't access the building internally?

A. No.

Q. And in fact didn't, so just stood at the street really looking at it?

A. Yes.

Q. And all you could really see was the canopy propping?

10 A. Correct.

Q. So again you don't know why you were there?

A. No I don't know why I was there. I mean my notes saying that there'd been no work done, lead me to believe I might have been sent down to say, "Hey has anything changed or has some work been done on this building".

15

Q. Right so would you have been aware that a Building Act notice had been sent?

A. I expect I would've primarily because they were fixed to the front doors or façades or fence where they were. I have no specific recollection of that building though.

20

Q. Okay. And I was just wondering if you went there to check on the work how would you do that without going inside. How would you tell if work had been done?

A. Depending on the extent of the work. For example if a façade was being tied back it was quite common to see a timber whaler from the outside which is basically a horizontal piece of timber that ties back through the building. Other, other tell-tale signs of bolts going through the outside or contractors' hoardings up, something like that.

25

Q. So is that given the comments that you had in that level 1 form from the 26th December is that the kind of thing you might have expected to see if work had been done, given the comments?

30

A. Sorry I don't understand the question.

Q. Given the comments.

A. Yep.

Q. In the level 1 assessment on 26 December?

A. Mhm.

5 Q. That you had, are those the kind of things you might have expected to see if there'd been any restraining of the façade?

10 A. I would expect yeah the struc- the restraining of the façade I would expect to see something externally or sometimes through the windows what you could actually see is some diagonal braces or something like that done from the inside but generally there is some tell-tale signs on the outside of the building.

Q. Okay, so if from the Council file you only have that form?

A. Mhm.

Q. And very little else, I presume from that you would have been looking to see if any work had been done to address those concerns?

15 A. I would assume so yes.

Q. And if you had the Building Act notice which is .22 I presume you would have seen that it really repeats what's on that level 1 assessment, "Council records show that the parapets above the roof line appear to have separated from cross-walls".

20 A. Yes.

Q. Do you remember seeing that?

A. I, I don't remember seeing it.

Q. And I take it you don't remember looking in the windows to see if any of this kind of work or signs of this work had been done?

25 A. Well standard practice when I couldn't gain access to the buildings you know sort of go up peer through the window and things like that. I have no recollection of this specific building but I would be surprised if I didn't you know make every effort to peer through the windows and, and view any works.

30 Q. Right. And what about the fact that it was locked. Were you wanting to get access or not?

A. The general rule was we weren't going into buildings because we were carrying out these inspections by ourselves and we were only going to

yellow or red buildings. From my recollection of this building and looking back at my notes it is a building that I potentially would've gone in if I had a set of keys with me because you know viewing it from the outside I, I didn't deem the risk that great.

5 Q. Right but you did have those comments from Mr Nilsson recorded?

A. Yes.

Q. Did those comments concern you in relation to the building?

A. Not unduly.

Q. Why do you say that?

10 A. Well there are plenty of buildings around town had actual historical slight movement of the front façade so I didn't have any information on me to say whether it was earthquake damage or historical damage. Certainly viewing it from the street I saw nothing that caused me alarm.

Q. Right but are you saying that the level 1 assessment might have been
15 what, that, those – that damage might have been a reference to pre-existing damage?

A. It could well have been. I, I just don't know because I haven't viewed it myself.

Q. Right but do you not think that an engineer who's observing things like
20 that?

A. Mhm.

Q. Would distinguish between things that were historical and of no real concern and things that he obviously thought were earthquake related and therefore required attention?

25 A. I've seen because it's done by various individuals I've seen a spectrum of what has been and hasn't been noted on those report forms, so if there was some historical damage that you thought, "Gee that could really go in an earthquake", you may or may not distinguish it between earthquake damage and historical damage.

30 Q. Right well in this case though the engineer that did the inspection on 26th December requested a further structural inspection didn't he?

A. Yes.

Q. He's ticked the level 2 structural. So clearly he had concerns about it?

A. Ah, yes.

Q. And we know that it's led to a Building Act notice?

A. Yes.

Q. Requiring the owner to repair or address that damage?

5 A. Correct.

Q. So would that not in all those circumstances, just trying to understand why you wouldn't be, or wouldn't have some concerns about it? I appreciate you didn't do the inspection but with that information?

10 A. Well obviously the building was, it was first yellow stickered and then red so it was restricted use so I had that information with me. In terms of the concerns I was more addressing those towards a sort of a cordon and I was relying heavily on what the previous inspectors had seen.

Q. Sorry so you were considering cordon rather than, than checking on the damage or the repairs?

15 A. From the exterior of the building I couldn't observe damage.

Q. Right.

A. Okay so I've relied on a level 1 assessment report.

Q. I understand.

20 A. That same assessment report hasn't recommended barricades in any way. I haven't seen anything from my observation that would lead me to require barricading of it. I noted that the building has been ticked yellow and then that's been crossed out and someone's put red. So the building's obviously suffered some sort of damage. When I answered your question previously I was sort of having a bent towards whether
25 barricades were required or not.

Q. Right. So are you saying then that based on the information from that 26 December assessment?

A. Mhm.

30 Q. You considered whether despite the person who carried that out, inspection out not ticking barricades on that –

A. Mhm.

Q. – day whether in fact there should be barricades?

A. Yes.

- Q. Okay and on your form you put a question mark where it said barricades or protection?
- A. Correct.
- Q. Protection fencing required and you put question mark?
- 5 A. Correct.
- 1420
- Q. So does that indicate that you had concerns about the building?
- A. I'm not sure why I put that question mark there. It might have been an aid to me when I got back to the office just to say, "Hey, is there an
- 10 engineer involved in this building?"
- Q. Right, but if that was the case, you can't now recall if you did that?
- A. No, I'm sorry I can't.
- Q. Is that something you usually did?
- A. Yes, we –
- 15 Q. The question mark I mean?
- A. Oh the question mark?
- Q. Yes.
- A. Yes it is. I mean sometimes on these forms you will – there's things like interior walls or something like that. If I couldn't see those or I couldn't
- 20 get into the building I'll often just put a question mark there.
- Q. And I think you did that on the 603 form. There's question marks down this (overtalking 14:20:57) boxes?
- A. Probably is, yeah.
- Q. Yes. But in relation to protection fencing required.
- 25 A. Mhm.
- Q. Would you normally put a question mark?
- A. I'm not aware of any other forms I have.
- Q. Where you've done that?
- A. Where I've done that, but I filled out so many of these forms.
- 30 Q. Surely it would either mean that you were concerned about the issue of protection fencing but perhaps unsure what was required?
- A. If I saw anything that needed a fence I would have definitely ticked yes and made some notes.

Q. But if you were unsure you'd put a question mark. Why else would you put a question mark, I guess I'm asking?

A. I'm sorry I really don't know why I did that.

5 **JUSTICE COOPER:**

Q. I suppose another way of approaching it would be say, why didn't you indicate 'no'?

A. And while I have no recollection of it, maybe the only reason I didn't circle no is that someone has said that the façade has slightly moved and I just wanted to make sure that that had been considered.

10

Q. So would it – could one say that you thought it was an issue that should be addressed?

A. Yes you could say that. As I said I don't recollect why I put that there.

CROSS-EXAMINATION CONTINUES: MR ZARIFEH

15 Q. What was going to happen, what would happen to these forms in the normal course then, once you'd done your re-inspection?

A. They would go back to the Council.

Q. To the BRO office?

A. Yes, and –

20 Q. To be processed and dealt with?

A. To be processed and dealt with and if there were any questions they would have come to the author or a second opinion would have been sought.

25

Q. So what was the Council officer who completed that exercise, what was he or she to do with your form in relation to the issue of protection fencing?

A. Well I would expect that that would've prompted a question to me or a discussion or possibly what, need to, we need to consider this a bit more.

30 Q. And I take it that that didn't take place?

A. Not to the best of my knowledge.

Q. And do you think in hindsight that perhaps the more cautious or conservative way to approach it, given the information on the 26th of December might have been to tick yes and either decide on the extent of barriers or at least be definite so that something was put in place?

5 A. I agree that that was a more conservative way of doing it. In hindsight I wish I had actually written some notes in there of some description.

Q. I understand that but my question is given the information you had, from the file and in particular that form, and what I suggest is – was a clear position where you must have had some concerns or been unsure?

10 A. Yes.

Q. On the issue that it would have been better to make it clear that something was possibly needed and perhaps it needed a bit more thought as to exactly what.

A. Yes, a note in there “internal inspection required” or “detailed inspection required”, I agree that that would have been a more conservative approach.

15

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr Campbell, did you hear my questions to Mr Ryburn?

A. Yes.

20 Q. So you heard the tenor of what I was getting at. Were you aware of any of the information about 603 Colombo Street that the Council appears to have had access to the seismic risks survey in 1991 or the hazardous appendage survey in 1992?

A. No I was not.

25 Q. Can we just have document BUICOL603.0038.1 please? That is the seismic risk survey for 603 Colombo Street dated 2 December 1991. I appreciate that you may not have seen that before.

A. Mhm.

Q. But if we could just highlight the bottom left-hand corner please.

30 **WITNESS REFERRED TO DOCUMENT**

Q. The person who has inspected the building at that point identifies “hazards: cornice, parapet, chimney” and says under general: “mortar

deterioration, notably on corner of parapet on street ELEVS", which I assume is elevations?

A. Yes.

5 Q. And then they had a rating system and the recommended action in this case arising from that rating was immediate action, and then I'll just show you BUICOL603.0038.4. Again for 603 Colombo Street and you see in the centre there noticeable mortar deterioration, noticeable cracking and a note of a cracked parapet cornice and wall, a note that the cracking is continuous to the window, that this is the information
10 which you did not have at the time you inspected?

A. Correct.

Q. Would that information have assisted you?

A. In the damage assessment that I was sort of doing in the re-inspection, that background information would have been good. I am wondering
15 with this photograph though which elevation we are looking at. That appears to be almost the same crack pattern that Mr Elliott showed us earlier on this morning.

Q. Mr Sinclair.

A. Oh sorry Mr Sinclair, sorry.

20 Q. Yes, well it may well be.

A. Mmm.

Q. Well I should also just for the sake of completeness show you the photograph from that same survey which is BUICOL6030038.5.

WITNESS REFERRED TO PHOTOGRAPH

25 Q. It's hard to distinguish there I know.

A. That would appear to be the rear of the building. Are we sure we've got the right building there? I'm actually wondering if that's the photograph of 601, I just remember the black and white painting on the side.

30 Q. Yes, well possibly Mr McCarthy or someone else from the Council can help us out, but I'm just showing you both those photographs and my question was would that information have assisted you and I think you referred to what a damage based assessment similar to what Mr Ryburn

described, and so you would have been looking at cracks and if they were historical cracks –

A. Correct.

Q. – and that may not have made a difference?

5 A. Yes.

Q. And the question I asked Mr Ryburn, this damage based assessment, from your point of view where did that come from?

10 A. Well it's part of the processes that we were doing in sort of post seismic event, you know the evaluation of the buildings. You will see all the forms, the level ones and twos, and the re-inspection forms are largely tick box and they were looking for damage so that was the flavour of the inspections we were doing.

15 Q. And in fairness to you and Mr Ryburn I think there's been a lot of evidence before the Commission that engineers right across town were using a similar type of damage based test?

A. Yes.

1430

Q. In their considerations both within and outside of the Council inspection process?

20 A. That's correct.

Q. You don't need to comment on that I'm just making the point. The questions I asked Mr Ryburn about an awareness of tendencies of parapets and walls on unreinforced masonry to fall outwards. Was that a tendency that you were aware of at the time of your inspection?

25 A. At the time of the inspection we'd certainly seen damage from the previous 'quakes so and general observations were yes that they would fall in those sort of areas.

Q. In relation to 605 Colombo?

A. Mhm.

30 Q. I take it again that you weren't aware that as at 1982 the Council had concerns regarding the structural stability of 605 Colombo Street in a moderate earthquake?

A. I was not.

Q. Or that the Council had carried out a seismic risk survey to 605 and the officer recommended remedial action within two years?

A. No I was not aware of that.

5 Q. Were you aware of the Council's position that this was likely to be an earthquake prone building under the 1991 or 2004 Act?

A. I wasn't aware of it but the general construction and nature and age of the building and all that it does not surprise me.

Q. And I think you've said that there was no internal inspection by you of either 603 or the 605 building. Is that right?

10 A. Correct. That's correct.

Q. The proposition I put to Mr Ryburn which I think you may have already touched upon but would you agree that given the absence of an internal inspection in relation to 603 at this point I'm just talking about?

A. Mhm.

15 Q. And the absence of the other information I've highlighted to you and to Mr Ryburn that really you didn't have enough information to make any adequate assessment about where the cordons should be around that building?

20 A. With the information we had at the time I believe we, we applied what we thought was, well we applied the general policy. Not having seen any distress to the Colombo Street façade there was no reason to put the cordon there from the external observation but I do agree that going in would've, going into those buildings would have given us more information on which to make some judgement calls.

25 Q. You refer again to distress which relates back to the damage based assessment?

A. Correct.

30 Q. And I'll ask Mr Laing to correct me if I'm wrong on this but I think Mr Ryburn said that that test didn't derive from something the Council had said to him but rather his own initiative. From your point of view did that distress based analysis derive from what the Council told you you should do when inspecting these and other buildings?

A. I think the Council, it would be fair to say the Council sort of adopted it as a default policy. The distress based survey or inspections, they came into effect under the state of emergency when we were using the standard level 1 and level 2 inspection forms. After the Boxing Day event when a state of emergency was not declared they sort of became the default policy if you like.

5

Q. But you understood this was a different position in that you were now seconded to the Council for the purpose of amongst other things following up Building Act notices?

10

A. Yes.

Q. As opposed to doing level 1 and level 2 assessments during an emergency period?

A. Yes.

Q. And was there a specific instruction given to you by the Council about what criteria you should apply then or was that an assumption that you made?

15

A. I guess it would be an, well not I guess, it would be an assumption I made based heavily on the re-inspection forms that we were given and they if you like were our brief.

20

Q. The – can we just have your form again please.

A. For 603 or 605.

Q. I'm sorry for 605 I'm talking about now, so that's it there.

WITNESS REFERRED TO FORM

A. Yep.

25

JUSTICE COOPER:

So that's suffix 1.27.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. Thank you Your Honour. And this is the form that you returned from your visit to the office?

30

A. Yes.

Q. To whom would the form have been given?

- A. It would have gone in an inbox in the little office we were using, and then the administrative team would have dealt to it from there so it could have been one or two people. I'm sorry I can't recollect the names.
- Q. Who is the, the decision maker above you in the chain of command?
- 5 A. Um, engineering wise or Council policy wise?
- Q. I'm asking who would the recipient of that form have been?
- A. The team leader for the BRO team at the time was a Vincie Billante okay, and then there was also a Mr Neville Higgs, he was the engineering co-ordinator at the time. So if there were any questions that
- 10 couldn't be answered at a lower level I'm assuming it would have been escalated to one of those two.
- Q. Just in relation to 605 you've, you were aware when you did your inspection of I think you said possibility that the front façade was leaning out?
- 15 A. Yes.
- Q. Were you aware that on the 7th of January 2011 the Council had received a customer service request from the owner to the effect that the wall has gaps over 40 millimetres after the 4.9 shock?
- A. Not to my recollection no.
- 20 Q. Would that information have assisted you?
- A. Yes.
- Q. What would you have done had you received that information?
- A. I would have done several things actually. I would have asked a case manager to, to chase the building owner and see whether they had a
- 25 private CPEng engineer involved and commissioned a detailed engineering report. If that had've been done and I was concerned I would've given that engineer a quick ring and say, "Hey do we need to provide any protection at all?" If that CPEng, if a CPEng engineer had not been engaged or instructed this is hypothetically but I think I
- 30 would've tried to get in the building and view it for myself or, or sent one of the team in to do the same.

Q. And a part, as part of that sort of internal inspection would you have been especially interested to look at the connections between façade and floors?

A. Yes.

5 Q. Just at the bottom of your form there in the bottom horizontal boxes, you've ticked there that this building was in the heavy damage, heavy, high risk unsafe category, "significant damage. Do not enter"?

A. Yes.

Q. And was it right there was a Building Act notice current at that time?

10 A. Yes.

Q. So I take it from that that you inferred some risk to people attaching to that building?

A. Ah, yes, the other thing that you need to note though is with our brief we actually weren't able to downgrade a status of a building so if, if the building was red and I went to a red building I couldn't've said, "Oh no it's yellow", we were requiring a more detailed engineering inspection to downgrade a building status than what, what we were doing on behalf of the Council.

Q. My point is though that if risk was perceived in relation to that building?

20 A. Mhm.

Q. Presumably the risk could have been either to those within or to those outside the building?

A. Correct.

Q. And you're aware of the tendency of unreinforced masonry buildings to collapse outwards. So how is it that you could've not recommended a cordon?

25 A. Well without going inside and seeing what the load paths were or doing a lot more investigating than what I did, I could not have known or been sure that the building was going to collapse outward. Certainly if I had have suspected that there was a likelihood of that happening I would have recommended cordoning.

30

1440

Q. But didn't the front façade leaning out indication provide exactly that suspicion?

A. Well the front façade leaning out, question mark. You can interpret that statement however you want. I looked closely at the external of the building and didn't see anything that caused me alarm or concern.

5

Q. Do you agree though given what we've just discussed that you should have recommended a cordon for that building rather than putting a question mark?

A. No I agree that it warranted further investigation or looking at. From, from what I knew about the building at that stage there, there was no reason to believe it required a cordon. If I had of thought it needed a cordon it would have had one.

10

CROSS-EXAMINATION: MR LAING – NIL

RE-EXAMINATION: MR McLELLAN – NIL

15 **QUESTIONS FROM THE COMMISSION: COMMISSIONER FENWICK**

Q. Mr Campbell you have obviously had a lot of experience in assessing buildings –

A. Mmm.

Q. – and you've seen what's happened in Christchurch. So I'd just like your opinion on one or two points. It could be quite valuable to us. First of all, talking about 603. There were I think five assessments of that.

20

A. Yes.

Q. Two of them were level 2 but in fact there's no sign on the form but in fact they weren't level 2 because they couldn't get into the building because of the work there and there's no indication on the form that they didn't get into the building.

25

A. Mmm.

Q. Now you might have been comfortable looking at the outside and the damage knowing that there had been some level 2 assessments but of course they weren't level 2 assessments, they were level 1

30

assessments. How do you feel about that? You can think in hindsight if you wish.

- 5 A. Look the simplest thing on that level 2 form would have been a little tick box, have you been in the building, yes or no. Certainly the briefings we all received, it was generally acknowledged that a level 2 form was filled out once you'd gained entry inside and with the amount of work and all that we went on I can easily see how someone, level 2 form, just made the assumption they've been in it.

10 **JUSTICE COOPER:**

- Q. Well in fact when you say it was generally accepted, wasn't that the difference?
- A. It was the difference, yes.

15 **QUESTIONS FROM THE COMMISSION CONTINUE: COMMISSIONER FENWICK**

- Q. Now they didn't go inside, not because it was dangerous to go inside, it was yellow placarded –
- A. Mmm.
- 20 Q. – so they could have gone inside but the reason they didn't go in was the barricade was in the way. I find that surprising. I thought there would have been some allowance or way in which they could have climbed over a barricade or (inaudible 14:43:49) themselves rather than actually indicating they'd done a level 2 assessment and they hadn't. Now doesn't this lead to a potentially dangerous situation where one
- 25 assumes the structure is safe and it really is [*sic*] because you can't see whether there's separation between the façade and the transverse walls or the floors which is really the vital, I think you agree with me –
- A. Very vital.
- Q. It's the actual vital sign you've really got to look for isn't it?
- 30 A. Yes I've got a little bit of anti-dotat evidence on 603 in particular.

JUSTICE COOPER:

Q. Anecdotal?

A. Sorry it's not a good day for my English.

5 **QUESTIONS FROM THE COMMISSION CONTINUE: COMMISSIONER FENWICK:**

Q. That's all right. We all do that.

10 A. There were containers down Mollett Street and the reason those containers were down Mollett Street was there were one or two areas in town we were having issues with vagrants and other people wandering into areas that they shouldn't have. So in general I think Mr Sinclair said this morning, you know, you're able to move a barricade away just to whip in and have a look. Special attention was paid to this area to stop people getting in there so that's one part of your question. In terms of
15 getting into the building, I wholeheartedly agree that that should have happened and if the inspector only had a level 2 form that they were with or something like that I would have expected them to annotate: "We did not gain access inside," you know, "Re-inspection needed," or something like that.

20 Q. Of course it would have been easy enough to have locked the barricades together with a padlock and to have carried a key wouldn't it, or to have carried a stepladder?

A. Yes it would but in the context of multiple engineers going out and things like that, actually having somewhere where those keys reside and
25 making sure someone hasn't cut the padlock off and changed it and things like that, there are some practicalities but I agree in principle.

Q. In terms of the safety issue surely this is something we should learn from?

A. I wholeheartedly agree.

30 Q. Because I think, think you were working off, quite frankly, false information because that hadn't been done. You had, you could have had no idea how well that façade was attached.

A. Correct.

Q. And probably if you'd found, as you said, you might well have required the barricades moved out to the safe distance.

A. Correct.

QUESTIONS FROM THE COMMISSION: JUSTICE COOPER

5 Q. Would you have assumed that these buildings had had a level 2 assessment?

A. Yes purely for the time that I was inspecting them, you know, obviously the 4th of September time you get to early in the new year but even the Boxing Day event I would have expected the CBD to be triaged within
10 three or four days. You'd start with level 1s and then depending on what you found there escalate it to level 2s. So certainly by late January/early February I would have expected level 2s to have been done.

15 Q. And your role on this occasion, as you perceived it, was similar to that that Mr Ryburn was performing?

A. Correct.

Q. Except that, I think we got to the point with questions from counsel that you thought that the location of a cordon or barrier outside 605 to 613 was something that should be considered?

20 A. Locations of barriers should always be considered, you know, where you suspect damage.

Q. But on the form, the person filling in the form, has to answer the question, "Protection Fencing Required."

A. Yes.

25 Q. Yes or no.

A. Correct.

Q. And you didn't know what the answer was?

A. It would appear so the way I filled that form out.

Q. So you thought that was something that should be looked at?

30 A. I, I guess. I honestly don't recollect why I put that question mark.

Q. Well can you suggest some other basis upon which you would have put a question mark on the form?

A. No I can't.

WITNESS EXCUSED

1450

MR ZARIFEH CALLS

PETER MURRAY McLEOD (SWORN)

Q. Mr McLeod, can you give the Commission your full name please?

5 A. Peter Murray McLeod.

Q. And your occupation?

A. Insurance Loss Adjuster.

Q. And are you with Mainland Claims Management Limited?

A. At the time of this event I was, yes.

10 Q. And what was your role in relation to the building at 605 Colombo Street?

A. We were the appointed loss adjusters to service the insurance claim for the property.

Q. For the owners?

15 A. For the insured owner.

Q. And did that cover, we've been referring to 605-613, did that cover those tenancies or that portion of the building?

A. Yes to the end of the military disposal tenancy.

Q. So we've got 603 on the end of the block?

20 A. Yes.

Q. Then we've got 605-613?

A. Yeah.

Q. And then we've got 615 I think was Leather Direct on the corner?

A. That's right.

25 Q. So you're the block in the middle?

A. Yes.

Q. And you've provided the Royal Commission with considerable information and copies of reports from engineers and we're going to hear from Mr Fletcher from Buchanan and Fletcher tomorrow and I don't want to take you through all of this but I just wanted really you to summarise it and if I can ask you a few questions to do that. When did you first become involved with this building?

30

A. Ah, the 14th of October.

- Q. 2010?
- A. 2010, yes.
- Q. And did you meet the owner?
- A. Yes.
- 5 Q. And I think the owner is a company, Benson Chen Holdings Limited?
- A. Yes.
- Q. And is it Robin Cheng who represented the company, was a director?
- A. Yes.
- Q. Now did you have much contact with Mr Cheng?
- 10 A. Yes quite a bit. We had two or three visits to the property and walked around with the engineers.
- Q. And you hadn't been to that building before the 14th of October?
- A. No.
- Q. Do you recall any concerns you had with the building and damage to the building on that visit?
- 15 A. Yes I immediately saw that the building had cracks to the inside front wall at the restaurant end of the building.
- Q. So restaurant end, is that the south?
- A. Yes.
- 20 Q. Right so between 605 if you like and 603 next door?
- A. It will be in 605.
- Q. Yes, but that wall?
- A. Yes within that wall.
- Q. And did you take any photos of them, of that cracking?
- 25 A. Yes.
- Q. And I think you provided them to us. They might be up there now. So I think you provided that photo. That's a photo of the building?
- A. Yes that's right.
- Q. And the Kiwi Disposals Army Surplus is to the north?
- 30 A. Yes.
- Q. And in fact took up most of that part of the building that you are concerned with?
- A. Yes.

[ref: photo 7.5]

Q. And the restaurant end that you termed it, the south, is that the teally-coloured frontage verandah?

A. Yes that's correct, yes.

5 Q. If we can look at the photo below that one on the original page, tell us where that is in the building?

A. That's to the north wall within that first room.

Q. So when you say 'the first room' are we still talking about the restaurant?

10 A. Directly above the restaurant, that floor area, the restaurant, I must say the top floor was not occupied.

Q. So it's upstairs and is that the boundary wall with 603?

A. I don't think so. I think it's the other side. I'm not quite sure from that photo. Both north and south walls were damaged similarly.

15 Q. And that's in terms of how far from Colombo Street façade that is, what would you say?

A. Just about three or four metres I guess.

Q. If you turn to 7.6 please.

A. They are in the south wall at the end of the building in the same floor
20 area. Those are the ones that worried me.

Q. So looking at that photo the wall that we can see is the south wall?

A. Yes.

Q. So that must be the boundary with 603?

A. Yes.

25 Q. And the window that we can see that side is the Colombo Street façade?

A. Yes.

Q. And this is upstairs because we can see part of the roof?

A. That's right, yes.

30 Q. And the bottom photo, is that a close-up of that same crack?

A. Yes, continuing down.

Q. And what date did you take these?

- A. Those would have been on the 14th of October or thereabouts when I met up with Mr Cheng. Within a few days I would have been there.
- Q. And what did you do as a result of your inspection and visit to the building?
- 5 A. Well as soon as I saw that sort of damage I appointed Mike Fletcher from Buchanan and Fletcher Engineers who had already been there on behalf of Mr Cheng so I carried on with that engagement.
- Q. And we'll hear from him tomorrow but he carried out a few inspections of the building between 4 September and 22 February?
- 10 A. Yes. As the aftershocks continued we kept him up-to-date and we had re-visits as the cracks became wider.
- Q. Now were you involved in any discussions about how to or whether the building could be repaired or what to do with it?
- A. Yeah we did talk about it and we researched a temporary fix and holding
- 15 it back was very difficult, complicated and hard to get a decent connection point and that was going to cost over \$200,000 and we decided then that the only future for the building was demolition.
- Q. Now were you involved in any discussions with the Council about the building?
- 20 A. No I wasn't myself but Matthew Bushnell who you will hear from later and our engineer both started procedures to secure a permit to demolish this building and other parts of the block of buildings.
- Q. So you were made aware of that by them but you didn't have direct contact?
- 25 A. No, the whole thing came to a grinding halt because of the heritage listing of this building. I wasn't aware of it being a heritage building until very late in the piece. That sort of put a stop to everything.
- Q. Why is that?
- A. That seemed to create a complication and a delay.
- 30 Q. And again I presume you're relying on information that you were given by either Mr Fletcher or Mr Bushnell?
- A. Yes and my experience in other buildings, other heritage buildings.
- Q. Post September are you talking about?

A. Yes, yes.

Q. And generally experience that the heritage classification caused delays. Is that what you're saying?

5 A. Major, major delay. There seems to be no provision for an emergency like this for engineers to act quickly to get past that heritage listing of a building and there needs to be a change to enable them to do their job quickly.

Q. How many buildings did you think you were involved with post 4 September that were heritage?

10 A. I looked after the old Children's Library on the corner of Cambridge Terrace and Hereford Street. We had major danger problems there and major lengthy discussions. I dealt with Western House opposite the George Hotel and all of these were demolished eventually but getting there is I guess more of a nightmare really.

15 Q. And did you have dealings with the Council yourself in relation to any properties on that issue?

A. Only the old Children's Library and we had on-site meetings but the engineers we engaged in every case dealt with the heritage people.

Q. So just going back to 605–613. You got Mr Fletcher involved?

20 A. Yes.

Q. And I think Matthew Bushnell became involved giving a quote for repair work initially?

A. Not really no. We didn't feel there was much future for this building. We were going to try and secure it in the first place but that was just too
25 difficult.

Q. But I think you mentioned in your written material getting a quote from him before that and you said it was too expensive to do?

A. Yes it was a temporary fix.

1500

30 Q. Right. Now in between 14 October when you first went or around that date, and Boxing Day, did you go to the building?

A. Yes just after Boxing Day I – over the weekend I went in to have a look myself. I was worried about it and the City Council people were in the

street and they were very busy having meetings. I tried to catch their eye but I couldn't get into the building and subsequently found it was red stickered and I couldn't have got in anyway, but I subsequently did get in with Robin Cheng and the engineer again, on the 28th I believe, 28th of December.

5

Q. Just dealing with that visit when you said the Council were there. We've got a form that was completed by someone from the Council on 26 December, so Boxing Day, looks like about 6 o'clock, just before six it was completed. Was that the day you were there?

10 A. No, I was there on the following day I think, people were – it was a very busy part of town.

Q. And why did you want to try and get someone's attention did you say?

A. I just wanted to get in. I was wanting to get into the building but I wasn't able to so that was the end of that.

15 Q. All right, but you said you got in some time later?

A. Yes.

Q. And –

A. And with the engineer.

Q. Right.

20 A. And Mr Cheng.

Q. And were you aware the building was red stickered after Boxing Day?

A. Yeah, we had to get Mike to let us in, the engineer to get permission to go in, did it properly.

25 Q. And can you recall the damage that you'd seen and you've referred some of it to us in the photographs. Can you recall what, how that was?

A. Yeah, we just – the gaps just got wider and the walls had other cracks, like the military end started to crack.

Q. So the military end is the north?

30 A. Yes, and up until that point there wasn't much cracking there at all. Even there people had kept tenancy going and they were very mindful of it and they questioned us very closely about whether they should be there or not, and we said, "Well as long as there's no more cracks you know, you should be fine."

- Q. Well just on that what was actually red stickered then?
- A. The restaurant.
- Q. So the tenancy closest to 603?
- A. Yes.
- 5 Q. The teal coloured veranda?
- A. Yes.
- Q. And the rest of it though, was not, was it – did it have a placard, a green placard then?
- A. I'm not quite sure about that, I just know that that end of the building
- 10 was the worst end, at the restaurant end, the rest was minor.
- Q. And were tenants in it after Boxing Day?
- A. The military one, yes.
- Q. The Kiwi Disposals?
- A. Yes.
- 15 Q. You said that you had some discussion with the tenants?
- A. Yes.
- Q. And they asked you if they should be in there?
- A. We inspected the upstairs. They occupied the upstairs area and they
- 20 had a very big business there and they were concerned about the cracks and asking an engineer for guidance as to whether they should stay there or not and we all agreed it wasn't too bad, it was fairly minor.
- Q. Who agreed?
- A. The owners, the engineer and myself.
- Q. On that end of the building?
- 25 A. Yes.
- Q. So was the concern, or your concern the south end?
- A. Yes.
- Q. South end of that block?
- A. Restaurant.
- 30 Q. So do you know what the position was then at 22 February in terms of occupation?
- A. No, the restaurant was out from Boxing Day. The tenancy was still there and I was overseas, I wasn't here at the time.

Q. What about the Kiwi Disposals, was that occupied at the time or not?

A. Yes.

Q. At the time of the earthquake?

A. Well the restaurant had gone, and the Kiwi Disposals was still there.

5 Q. Following Boxing Day then and the inspections some days after, from you, did you have any further inspections of the building?

A. No.

10 Q. And did you give any thought when you saw the damage and again after Boxing Day, did you give any thought to whether there should be any kind of barricade or cordon up on the footpath or street?

A. No, not really, because it looked so good –

Q. From where –

15 A. (overtalking 15:04:27) from the outside as the previous engineer said, you wouldn't think there was anything wrong with it, but internally it was a different story.

Q. Do you know when the propping went up under the verandah?

A. It went up after September.

Q. And was that organised by Mr Fletcher?

20 A. No, Mr Cheng. It was there when I got the case. I wasn't involved in that.

25 Q. Right, and we've heard some evidence about a meeting on the 1st of February with the Council, involving Mr Sinclair who, an engineer who was involved with 603, and Mr Dallison the solicitor involved with 603, and Mr Bushnell was present as well. Did you have anything to do with that, or were you aware of that?

A. No. Wasn't involved.

Q. What about the application for resource consent to get the building demolished, were you involved with that?

30 A. Well I was involved in supporting it, and asking it to be done quickly when events overtook us.

CROSS-EXAMINATION: MR ELLIOTT

Q. Mr McLeod, can I just refer you to document BUICOL605-6130007.8, it's the bottom half of that document, we're just going to enlarge the bottom section for you. Is that an email from you?

5 A. Yes.

Q. To Paul of where?

A. Oh, Paul (overtalking 15:06:33) –

Q. The insurer.

A. He's the claims manager for China Taiping insurance.

10 Q. And in that email it says that, or you say that the building has some very large cracks in the upper level within the brick walls and they looked very sinister to me.

A. Yes.

15 Q. "The entire front wall is leaning out to Colombo Street and getting worse". That summarises your perception of the –

A. My first impression wasn't good, unfortunately. So what we do, we tell the insurers via brief paragraph what the position is in a building, so they can do a reserve, in this case I'm saying it reserved for a total loss.

20 Q. Document BUICOL605-6130007.17. Your Honour these are all behind tab 8, and this is another email from you?

A. Yes.

Q. This time the 13th of January 2011 and if the second paragraph could be highlighted. "Damage already inspected is probably worse".

A. Yes.

25 Q. "And a further inspection will be required. We have asked Buchanan and Fletcher to contact the Council and obtain a permit to re-enter, inspect the current state of the damage, determine how much further the cracks we're already aware of have opened up. As you are aware the building is leaning out over Colombo Street and is a danger".

30 A. Yes.

Q. Again that was your perception at that time?

A. That was my feeling about the place.

Q. And then –

A. That's why I wanted to get into the building and then at that stage I was assuring the demolition and when we found out about a heritage listing.

Q. And document 0007.18. This is an email that appears back to you from Mr Fletcher of Buchanan and Fletcher on the 17th of January confirming separation between the east Colombo Street wall and cross walls have worsened. A gap of 50 to 60 millimetres.

A. Yes, that's right.

Q. And ending by saying it is now becoming urgent that a decision is made to either secure or demolish the building.

10 A. Yes, and a decision had been made. We made an immediate decision after discussion with the owner and Matthew Bushnell and all involved, we asked for demolition arrangements to be made.

JUSTICE COOPER:

15 Q. I'm finding it hard to hear you I'm sorry, following the discussion with – you said following a discussion with somebody, the decision was made to demolish the building and I couldn't hear who the discussion was with?

1510

20 A. Oh it was with the owner, Matthew Bushnell, Mike Fletcher the consulting engineer, and we also discussed the news that the building was a heritage listed building and that we had to handle things correctly in conjunction with the other buildings that Matthew was involved in to be pulled down together. They were all interconnected. So it wasn't possible just to pull that building out of the middle.

25

JUSTICE COOPER:

Q. And by that building you're talking about number 605?

A. Yes.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

30 Q. And I think you said that your, you reached a point where you realised there was a heritage issue?

A. Yes. That was at that discussion there I think if I recall.

Q. Were you not aware that there's a provision in the Building Act whereby building work can be carried out without a consent where it's necessary to protect life?

5 A. No I wasn't aware of that.

Q. No-one raised that in the course of any of the discussions that you or the owner had?

A. Well we just, just rely on our engineers to know that. There was no indication of any, of any provision for that that I was aware of.

10 Q. Given your views about the building as expressed in the emails I've referred you to?

A. Yes.

Q. Can you explain why you or the owner didn't go down and knock on the Council's door until they came and put a cordon in place in front of that building?

15

A. Well upon reflection I probably could've done that but I would not normally. That's not my nature to do that sort of thing. I wouldn't, I wouldn't normally do that but I don't know. We're all, all in the same boat I guess the owner, myself, the engineer, we're all in the same decision-making mode not knowing that February's approaching.

20

Q. Just thinking to the future are there any rules within your profession or expectations that you learn of about when you should inform a local authority or public authority about the potential danger to life?

A. No well this is new, new territory for us. We might get one serious fire a year where we deal with people and pull buildings down. We just never had to face so many buildings all together, and who would believe that these earthquakes would just continue and I guess that had we known what February's upon us we would have, we're all going to learn from this aren't we? It's all, let's all have the knowledge given to us that these provisions are available. Let's have some training.

30

CROSS-EXAMINATION: MR LAING

Q. Mr McLeod it seems clear that as early as September the view had been formed that the building should be demolished?

A. Yes.

5 Q. Can you explain to me just why it took until January to start dealing with that in a sort of proactive way?

A. Well just, I felt unsafe in that building it just didn't look right and I engaged the right advice because the insurers will never believe us, us, us mere loss adjustors cannot make such decisions. We can only give our observations.

10 Q. Yes I'm not being critical of you, Mr McLeod please don't, don't think that, I'm just trying to understand and there may be some answers you can help us with?

A. Yes.

15 Q. As to why it took from September to probably mid-January 2011 to make a decision about demolition?

A. I think, looking back I probably wanted to try and stabilise the building myself while everybody got, got their heads around what I was saying about demolition because the insurers don't like people doing that without professional backup from a qualified structural engineer which we had on the case and I explained it to him and they don't always agree with me, us.

20 Q. Can I get you to look at your timeline please, 613.0007.3?

A. Yes.

WITNESS REFERRED TO TIMELINE

25 Q. Under the heading document number 3 30 November 2010 "Mainland asked Buchanan and Fletcher to arrange for a quote for Bushnell Builders for the tie backs"?

A. Yes.

30 Q. Yes and then on the 13th you receive the quote from Bushnell Builders and then you say, "Insurers gave approval for temporary repairs to be undertaken". Was that the repairs that you were referring to an you answered a previous question?

- A. Yes. And that, that was discussed but it was decided that it was far too expensive and would not be effective because the building was in, such, such a condition further back that to get a decent tie into was not going to be easy.
- 5 Q. No so do I take it that work did not proceed?
- A. Take it?
- Q. Did that work then therefore not proceed?
- A. No it was, it was decided that it was not practical or economical.
- Q. Yes and who made that decision?
- 10 A. Jointly, the owner who was facing \$200,000 off his sum insured. These things all have to be paid for out of the sum insured. It was not economical, it wasn't practical to it was decided to, to talk about demolition.
- Q. So the owner, insurers and others made a decision really based on
- 15 economic grounds, is that correct?
- A. Yes, yeah.
- Q. And following that of course you obviously had to then look at demolition?
- A. Yes and that was just happening when Boxing Day earthquake comes
- 20 along.
- Q. Right and then what happened then?
- A. Well that's when we, um, had a, had a further meeting on site with the engineer and it was definitely a demolition decision then. Of course, that moved on into January and everybody was having a holiday but nothing
- 25 much happen from the Christmas through to the sort of mid-January.
- Q. You gave evidence that the question of the heritage status of the building arose in January. Who raised that issue?
- A. Um, I think Mr Chen might have raised it to our attention and the engineer and I'm not – maybe Matthew knew about it as well I'm not
- 30 quite sure about that but it was raised at a meeting and then it become a major problem.
- Q. But you, you had no knowledge of that previously?
- A. No. No.

CROSS-EXAMINATION: MR MCLELLAN – NIL

**QUESTIONS FROM COMMISSIONER FENWICK AND JUSTICE COOPER
– NIL**

WITNESS EXCUSED

**5 MR ZARIFEH ADDRESSES JUSTICE COOPER – TIMETABLING OF
WITNESSES**

MR ZARIFEH CALLS:**ROBIN CHENG (SWORN)**

Q. Mr Cheng, can you understand me?

A. Yep.

5 Q. Can you give your full name to the Commission please?

A. Robin Cheng.

Q. Thank you. You reside here in Christchurch?

A. Yeah.

Q. Did you own a building at 605 Colombo Street?

10 A. Yes I'm a director of the company.

Q. And was that Benson Chen?

A. Benson Chen Holdings Limited.

Q. Holdings Limited, right. How long had the company owned that building?

15 A. Ah, probably over, about 15 years.

1520

Q. Right. Now you've been in Court for sometime this afternoon and you may have heard, there was a discussion about that block of buildings known as the Austral Buildings?

20 A. Yep.

Q. And it was between Mollett Street and Tuam Street?

A. Just in the middle, not, not that, two corner.

Q. Right so the one on the south corner is 603. That was owned by the Yee Brothers?

25 A. Yep.

Q. And then there's 605 to 613 that had the Noodle House tenancy and the Kiwi Disposables, Disposals?

A. Yes.

Q. And then the corner, the northern corner had I think Leather Direct in it.
30 Correct?

A. Another, Yee family own.

Q. Yes. So you can see a photo there in front of you on the screen?

A. Yep.

- Q. I just want to get it clear the building that you owned or Benson Chen Holdings owned, is that the lighter coloured building that contained the Kiwi Disposals and the Noodle House?
- A. Yes. The (inaudible 15:21:19) part is the Kiwi Disposal and the last two
5 shop is Noodle House.
- Q. Noodle House, okay. Thank you. So 605 to 613? Correct?
- A. Yep.
- Q. Had you had any strengthening work done on the building before or during the time that you had owned it?
- 10 A. No.
- Q. Did you have any understanding of the Christchurch City Council's earthquake prone policy or requirements to strengthen buildings?
- A. I think I got some information about building strengthening.
- Q. Is that recent information?
- 15 A. Yeah we need to do some building strengthen within 15 or 30 years time.
- Q. And how long ago did you get that?
- A. Just early this, before September.
- Q. Before September so your recollection is you had what, 15 to what
20 years? How many years, 20 years?
- A. Yeah, probably. Fifteen to – 30 year, that period really to do some strengthen.
- Q. But you hadn't given any thought to doing anything like that before that?
- A. We considering but nothing.
- 25 Q. Nothing done, all right. After the 4th of September earthquake, we've just heard from Mr McLeod that he became involved on behalf of your insurance company, the company's insurance.
- A. Yep.
- Q. Did you go and inspect the building with him. Do you remember that?
- 30 A. Yeah after we, with Bushnell and Peter McLeod and Fletcher.
- Q. Michael Fletcher?
- A. Michael, yep.
- Q. So you saw the photos that Mr McLeod showed us?

- A. Yep.
- Q. Some of the damage?
- A. Yep.
- Q. Do you recall that?
- 5 A. Yep.
- Q. Did you inspect it in the period between September and February? How many times do you think you would have gone to the building?
- A. Probably two, two or three times – after the Boxing Day definitely we have go together again, yep.
- 10 Q. And you went with Mr McLeod he said?
- A. Yep.
- Q. Right and did you think the damage that you had seen in October, did you think that was the same or worse?
- A. You mean after Boxing Day?
- 15 Q. Yes after Boxing Day.
- A. Definitely is worse.
- Q. We know that the Council inspected the building on Boxing Day and that it was red stickered. Do you know what I mean?
- A. Yep.
- 20 Q. So the tenant from the Noodle House, did he have to vacate, did he have to leave?
- A. Yeah, yeah. After Boxing Day Council give me a letter to say 605 but I think Council is – 605, yes, in our rate invoice 605 yes, the whole block, the five shops but definitely we can, I see Council just put the red sticker
- 25 on the Noodle House but the Kiwi Disposal still yellow sticker.
- Q. Right so I was going to ask you about that. So after Boxing Day –
- A. Yep.
- Q. – Noodle House is red stickered.
- A. Red sticker, we close the door.
- 30 Q. But there's no red sticker on Kiwi Disposals?
- A. Yes.
- Q. And did Kiwi Disposals remain in occupation throughout?
- A. Yeah, yeah.

- Q. Were they in there when the February earthquake occurred?
- A. I'm sorry?
- Q. Were Kiwi Disposals, were the people that ran that business, were they in the building when the February earthquake occurred?
- 5 A. Yes.
- Q. They were?
- A. Yes.
- Q. So what was your understanding of the red sticker? That it just applied to the Noodle House section?
- 10 A. After the Boxing Day we found the red sticker on the Noodle House –
- Q. Yes.
- A. – so I informed the tenant don't go in and they immediately closed the door. So it was vacant after Boxing Day.
- Q. Do you remember receiving a letter from the Council after Boxing Day. It
- 15 was dated the 28th of December, so two days later –
- A. Yep.
- Q. – with a Building Act notice?
- A. Yep.
- Q. A notice requiring you to do work on the building?
- 20 A. Yep.
- Q. You remember that?
- A. Yep.
- Q. And it might have been put on the building as well, on the Noodle House.
- 25 A. Yep, yep.
- Q. But you remember receiving that?
- A. Yeah probably.
- Q. Okay and do you remember doing anything as a result of that? Was there any work done on the building?
- 30 A. Everything I have forwarded to the insurer and I, I can't do anything, just supposing the, the insurance brokers should handle such type of thing for me. I, I have no idea how to do it.
- Q. So are you saying that you, did you instruct the engineer Mr Fletcher?

- A. One time I have, want have a meeting with a engineer, insurance adjuster and a builder. I think January 17th we go together. In the morning I also emailed to Council as well. Asked them, we have a meeting but they have no people come. Council have no people come.
- 5 Q. You emailed what, asking the Council to come?
- A. Informed that we have a meeting on that day afternoon.
- Q. All right, yeah I think, there's a record of that.
- A. And he just give me a reply, ask me get the engineer report after inspection.
- 10 Q. And so are you saying that you left things to the insurance, to Mr McLeod?
- A. Yeah, yeah.
- Q. Was he organising things for you?
- A. I, I left everything to an insurance broker and Peter McLeod and
- 15 everything I depend on their decision.
- Q. Did you know though that as the owner, or the company as the owner had to do something about the building?
- A. I suppose that insurance to do that for me if necessary. I informed all, all information I forward to them.
- 20 Q. Now were you aware the building was a heritage building?
- A. Yeah.
- Q. And did you tell Mr McLeod that?
- A. I think he should know that.
- Q. You said on the 17th of January you emailed the Council. We've got that
- 25 email, it's 0001.25, and there's an email. It seems to be a reply to the person who sent you the Building Act notice, your email and you refer to the letter of 28 December. That's the one that went with the Building Act notice. If you look at the bottom, that's an email from yourself, correct?
- 30 A. Yeah, yeah, yep, yep, that's the email.
- Q. And you say, "Referring to your letter dated December 28 re the subject building, I want to have a meeting with you to discuss the building assessment and building consents application before appoint a builder

to fix the building. I have leave a message on your phone re this matter. I have a meeting with the builder at 1.00 pm today. Please contact me". Right? That was your email?

Q. Yeah.

5 1530

Q. And looks like you got one back a short time later from a Laura Bronner at the Council telling you about the process that should be followed, correct?

A. Yeah.

10 Q. All right. Did you, did you come to a decision about the building whether it could be repaired or not or whether it had to be demolished?

A. It, um, before that I very much depend on the insurer what they have compensate or repair or demolish, but after Boxing Day I have serious consider to demolish the building so I, ah, have keep contacting the
15 Council to get more information how to do, what to do.

Q. Okay and was Mr Bushnell, did you, were you aware of him speaking to the Council about your building?

A. Ah, I don't know but, um, I don't know personnel, personnel he recommend, ah, he, that company can do that for me.

20 Q. Okay. All right, the only other thing I want to ask you about was on the Council records?

A. Yeah.

Q. There's a record of a phone call from, from you I presume on the 7th of Dec- of January of last year, so 7 January 2011?

25 A. Yeah.

Q. And they've recorded what you said on the phone conversation, "Please inspect building", or sorry now this is a as a result of a phone call from you?

A. Mhm.

30 Q. "Please inspect building. Owner has called in saying that a wall has gaps over 40 millimetres after the 4.9 shock". So was that a call from you to the Council?

A. Um, yes I suppose – I remember after Boxing Day I tried to get, um, some engineer to, ah, have a look to inspect to make safe or whether to, um, how can I say it, to protect the tenant, ah, can go in or enter because Kiwi Disposal still, ah, ah, open –

5 Q. So you were concerned about –

A. – so I asked, ah, the insurer broker to, whether they can give me, ah, get the engineer to the building but they tell me that time all engineer very busy or, or on holiday so I call Council to get help.

Q. Okay.

10 A. But, so nothing they didn't have people come.

Q. Right well I was going to ask you, you rang the Council and said that?

A. Yeah.

Q. Did you get any response from the Council?

A. Um, probably have some reply but nothing can help just ask me to get
15 the, ah, hire, employ engineer and, and give them the report.

Q. Okay.

A. Nothing Council people come, can do.

Q. So, yeah, so did you want a Council inspection of the building?

A. Yeah.

20 Q. All right and –

A. I want that, something help from Council.

Q. Did you get one or not?

A. I emailed to them but no people come, no Council people come.

CROSS-EXAMINATION: MR ELLIOTT

25 Q. Mr Cheng I'll just have a document brought up in front of you there,
BUI.COL.603-613.0001.11.

WITNESS REFERRED TO DOCUMENT

Q. Do you see that?

A. Mhm, enlarge that?

30 Q. Yes I'll just enlarge, so I'll enlarge a section in a moment but can you see it's a letter from the Christchurch City Council dated 20 October

2005 to Benson Chen Holdings Limited or would you like me to enlarge that?

A. Yeah, yeah.

Q. Okay if we can just enlarge the... Do you see that?

5 A. Yeah.

Q. Yes. Now do you –

A. I can only see top.

Q. Do you recall seeing this letter?

A. Could you roll down?

10 Q. Yes. If we just enlarge the heading and the first couple of paragraphs?

A. I can't read that.

Q. Yes we're just going to enlarge those for you. So an application for a building consent alterations at 605 Colombo?

A. Mhm.

15 **JUSTICE COOPER ADDRESSES COUNSEL**

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. Mr Cheng –

A. I can't see.

20 Q. Are you okay to read English, I don't mean to embarrass you with that question?

A. Yeah.

Q. You can –

A. But only read the –

Q. Understand.

25 A. – the words -

JUSTICE COOPER:

Q. I think he wants to see the rest of it now.

A. I want to read the whole.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. If we can show the remainder please?

A. Yep.

Q. Have you seen that letter before?

5 A. Ah, I'm not remember but if I got that I will forward to the insurer or insurance broker to handle.

Q. This is a letter dated 20 October 2005?

A. 2005?

10 Q. Which appears to talk about an application for a building consent for 605 Colombo Street?

A. I'm not remember 2005.

Q. Did you know that the Council considered 605 Colombo Street as likely to be earthquake prone as at September 2010? Sorry I'm probably confusing you.

15 A. In my understand, um, all building have earthquake, ah, strengthen in the late 15 year that I got it from, letter from Council but not urgent.

Q. You've told Mr Zarifeh here that on the 7th of January 2011 you called the Council and talked about the wall with gaps of 40 millimetres?

A. Yep.

20 Q. I'll just ask for document 0001.25 to be brought back up.

WITNESS REFERRED TO DOCUMENT 0001.25

Q. And the top section please. That says, "Hi Robin following our phone conversation"?

A. Mhm.

25 Q. And my question just as there appears to have been a phone conversation between you and Laura?

A. Yeah. Similar like the reply what this email.

Q. Yes. And during the phone conversation did Laura Bronner ask you about any danger to the building or discuss the gaps?

30 1540

A. I do not remember in the conversation but I got the email reply.

Q. Document BUI.COL605-6130007.17 please. Just enlarge the top half please. This was an email from Mr McLeod to you. Do you agree?

JUSTICE COOPER:

You should clarify what you're asking him to agree to probably.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

5 Q. Did you receive that email from Mr McLeod on the 13th of January 2011?

A. I'm not sure, I want to see the rest.

Q. If we could show him the remainder please.

A. Could you enlarge the bottom part? I have no idea this email. I need to
10 check my, I have no idea of this.

JUSTICE COOPER:

Q. Are you saying you can't, you can't remember receiving that email?

A. Yeah, yeah.

15 CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. Well there's a statement in that email, "As you are aware the building is leaning out over Colombo Street and is a danger."

A. Mmm.

20 JUSTICE COOPER:

It's on the previous screen.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

Q. The last sentence there.

A. Yep.

25 Q. Were you aware in January 2011 that the building was leaning out over Colombo Street and is a danger?

A. I have, in my knowledge I can't just – or what I say everything I suppose the insurer or insurance broker should handle that for me.

Q. I'm just asking you whether you were aware that the building was
30 leaning out over Colombo Street and was a danger?

A. I have no idea which stage the, or in what circumstance it is a danger or in dangerous because I'm not engineer, not an insurer adjuster so I forward all information to them to look after my building.

5 **JUSTICE COOPER:**

Q. Well can I ask you this? Did you know the building was leaning out towards Colombo Street? Did you know that?

A. Yeah that I, I told the Council and –

Q. Yes.

10 A. – and what that situation –

Q. Yes.

A. But I –

Q. As to whether it was a danger or not you don't –

A. I asked them to, to give me some –

15 Q. Help.

A. Help.

Q. I understand that.

A. Nothing people do, I can get help.

20 Q. What I think you're saying to Mr Elliott now is that although you knew the building was leaning out over Colombo Street whether or not it was a danger you were leaving to other people to tell you. Is that right?

A. Yeah, yeah. I told them that is in that situation, definitely that is some danger but I don't know, whether it could –

Q. Fall?

25 A. Fall or not. I asked them some, I want some help but ...

Q. Okay.

A. So I get the engineer and Council people to give me some advice.

CROSS-EXAMINATION CONTINUES: MR ELLIOTT

30 Q. You may have already answered this but the question that people may have is why did you not do something, for example, have some urgent work done to the building or say to the Council, put a fence out the front. Why did you not do that?

A. What I say is I have no knowledge about the dangers of the building so I ask somebody help. Some, I think the engineer or the Council people could give me some advice. I believe just before February earthquake the insurers, I just got the email, the advice the building is going to demolish, that's the last decision that the insurance give me, advice. But this too late.

5

Q. So the people that you were relying upon were the engineer?

A. Yeah.

Q. Mike Fletcher?

10

A. Yeah.

Q. And the Council you said?

A. Yeah.

Q. And on Mr McLeod as well?

A. Mmm?

15

Q. Were you relying on Mr McLeod's –

A. Yeah.

Q. – advice to you as well?

A. Probably. If the building is in danger they have more knowledge than me I believe.

20

CROSS-EXAMINATION: MR LAING

Q. Could I look at 0001.11 please. I'm sorry I meant .25 – 0001.25. Now you've already been asked some questions about this Mr Cheng but that's a record of your email to the Council on the 17th of January isn't it?

25

A. Yeah.

Q. And Laura Bronner had a conversation with you?

A. Yeah.

Q. And then she replied telling you to get an engineering inspection done, correct?

30

A. Yep.

Q. Can I then go to 0027.1 please. Sorry BUI.COL605.0027.1. My apologies. And is that a letter that you sent to the Canterbury Earthquake's Royal Commission.

A. Yes.

5 1550

Q. Could you enlarge paragraph 6 please, and there you're saying that you're referring a meeting on the 17th which must be after you had your conversation with Miss Bronner?

A. Yes.

10 Q. And Mr Fletcher was at that meeting?

A. Mike Fletcher and Peter, yeah.

Q. Mike Fletcher was the engineer?

A. I'm not remember but came from Fletcher.

15 Q. Yes well maybe we could look another document, WITFLE.0001.3 please?

WITNESS REFERERD TO DOCUMENT

20 Q. Now could I have highlighted paragraph 4.6. This is part of the evidence that Mr Fletcher will give to the Royal Commission today or tomorrow. It says there on the 17th of January I carried out a further inspection accompanied by Robin Cheng, owner, Matthew Bushnell and Peter McLeod. So it would seem wouldn't it that Mr Fletcher was at that inspection with you and he was the engineer. You agree?

A. Yeah.

25 Q. And did Mr Fletcher give you any advice at that stage as to what to do with the building?

A. That – he has to report to Peter McLeod.

Q. Yes. But when you say that you were asking the Council for help, help was at hand by the 17th of January wasn't it, you had your – you had an engineer there on site with you providing advice. Is that correct?

30 A. Before that I also want Council people to come but ...

Q. Yes, but on the 17th, just please answer the question, on the 17th you had an engineer on site to provide advice and to assist you didn't you?

A. Sorry say that again.

Q. On the 17th of January you had a meeting on site, with Mr Fletcher, who is an engineer.

A. Yeah.

5 Q. And he was available to provide you with advice wasn't he? Well the answer's yes or not.

A. Ah, not –

Q. I'll ask the question again. You had a meeting with a number of people on the 17th of January?

A. Yeah.

10 Q. Including Mr Fletcher?

A. Yeah.

Q. Mr Fletcher was an engineer. Is that correct?

A. Yeah.

Q. And he was available to give you advice on that day wasn't he?

15 A. Yes.

Q. Yes, thank you.

CROSS-EXAMINATION: MR MCLELLAN – NIL

QUESTIONS FROM COMMISSIONER FENWICK – NIL

20 **WITNESS EXCUSED**

COMMISSION ADJOURNS: 3.55 PM

COMMISSION RESUMES: 4.10 PM

25

MR ZARIFEH CALLS

MATTHEW JAMES BUSHNELL (SWORN)

Q. Mr Bushnell, can you give the Commission your full name please?

A. Matthew James Bushnell.

30 Q. You reside here in Christchurch?

A. I do.

Q. And are you a master builder, a registered master builder?

A. I am.

Q. And I think your company is Bushnell Builders Limited?

A. Yes.

5 Q. How long have you been in that industry?

A. Bushnell Builders has been in existence in one form or another for over 30 years.

Q. And what kind of work are you involved in?

A. Predominantly commercial work.

10 Q. So commercial construction?

A. Yes.

Q. As you're aware, this hearing is in relation to the Austral Buildings that were located on Colombo Street between Mollett Street and Tuam Street on the west side.

15 A. Yes.

Q. When was the first occasion that you had anything to do with any of those buildings?

A. I was contacted by ODL Insurance brokers and asked to go out and examine the property in September a few days after the earthquake.

20 Q. And when you say the property, which particular one?

A. The portion of a property owned by Benson Chen Holdings, specifically Kiwi Disposals.

Q. So ODL Insurance Brokers were acting for insurers of Benson Chen Holdings?

25 A. Correct.

Q. So we're dealing with the 605 to 613 as I refer?

A. Yes.

Q. Did you have any involvement with 603?

A. Only indirectly when we had meetings with the Council to try and facilitate demolition.

30

Q. Had you been to 605 to 613 before, before that day?

A. Before September?

Q. Yes.

A. No.

Q. No. All right, and what was the purpose of your visit, what were your instructions?

5 A. I think Kiwi Disposals wanted assurance that their building was safe so I visited the premises, I saw some small cracking and I was sufficiently concerned to organise for Dave Eaton from Buchanan and Fletcher to visit the site. He had returned from holiday that day so fortuitously he was able to come immediately to site and look at the light structural damage that had occurred.

10 Q. So, just so we're clear if we look at that photo, which building did you and he go into then, which tenancy?

A. We went into the Kiwi Disposals building closely adjacent to Leather Direct.

15 Q. So the – just that one with the two windows that we can see immediately next to Leather Direct?

A. Yes.

Q. That first portion.

A. Well the portion that has the Kiwi Disposal signage on it, we looked at all of that and the upstairs of that building.

20 Q. Did you look at any of the other portions of that building at that stage?

A. I don't recall looking at inside the Noodle House that day. I believe that we contacted Mr Cheng who visited the site with us a few days later and we then inspected the inside of the Noodle building which was 603.

Q. 605.

25 A. Sorry 605.

Q. So you got a report from Buchanan and Fletcher as a result of the inspection by Mr Eaton on the 14th of September?

A. Correct.

Q. And did he recommend propping under the verandah?

30 A. Yes.

Q. And who installed that?

A. Bushnell Builders installed that on or about the 15th of September.

Q. Right, and can we see that propping in the photo?

A. Yes if you look along the front there's some distinctive pink and blue props out near the outer edge of the verandah, mainly in front underneath the verandah of, well 60 – of Kiwi Disposals and also the Noodle House.

5 Q. And what was the purpose of those props?

A. The purpose of the props was to support the veranda load so that in the event of an earthquake there wasn't the same live load. Obviously if you have an earthquake the verandah bounces up and down potentially and that puts load on the rods that then go back into a building façade.

10 Q. So support for the verandah?

A. Well yes and indirectly also to reduce any earthquake loadings that might be placed on the façade.

Q. Now you said that you went a few days later.

A. On or about the day where the props were installed which I think was about the 15th of September, we gained access to the inside of the Noodle House and we inspected that with Mr Cheng who wanted us to check that there were no loose items on the roof and we did some minor work up on the roof, removing some loose tiles and so on. I don't believe that Buchanan and Fletcher were present for that inspection, they had only looked at the inside of Kiwi Disposals at that stage.

20

Q. But did you look at 605, the inside?

A. Yes.

Q. Now I think we've got some photographs that I'm not sure if you took them or Buchanan and Fletcher.

25 A. I've never taken any photographs.

Q. Well I think you were in Court, did you see the photographs that Mr McLeod –

A. Yes.

Q. – took on the 14th of October I think he said?

30 A. Yes.

Q. Can you make any comment about the damage that we saw in those photos in relation to your visit in September?

A. My recollection is that the same cracking was evident but it was nothing like that extent, so the reason for my concern and the reason why I got Buchanan and Fletcher involved initially is that there was cracking between the transverse walls and the façade of Kiwi Disposals. Now the building had not separated, but there was cracking and there was therefore potential for it to fall over in the event of a large enough event and I felt that it warranted a more qualified inspection.

5

Q. And were you involved in further inspections following that one?

A. The only other inspection that I personally was involved with was on January the 17th, which we've already heard evidence about previously.

10

Q. So that's the next occasion that you went there?

A. Yes.

Q. And Mr McLeod, his evidence mentioned discussions about trying to tie back the façade and restrain it and as I recall there was a quote obtained from Bushnell Builders?

15

A. Correct.

Q. So when did that occur? Did that occur in 2010?

A. We gave a quote in December 2010. The next discussion that I'm aware of about that I was involved with, about the strengthening that took place at the time of our meeting on January the 17th.

20

Q. Well let's go to that, that meeting. So where was the meeting, was that at the site?

A. The meeting was at the site and we spent most of the time on site within the Noodle tenancy, because that's where the damage was most apparent.

25

Q. So it was much more apparent in the south end of that portion of the building than the north?

A. Yes. The façade had opened up very substantially from the time of my first inspection where it was little more than a crack and it was in the order of well, somewhere between 50 and 80 millimetres at the very top of the parapet, so basically that whole façade from through the Noodle House was pretty much free standing. It was getting – deriving no

30

support from the transverse walls that ran at right angles to Colombo Street.

Q. So there's the crack that we saw in Mr McLeod's photo on the south side of 605?

5 A. Mhm.

Q. At the front of – on the Colombo Street frontage, on the south wall, what about on the other side of 605, on the northern –

A. My recollection is that we actually got up into the roof, and that the crack was worse at roof level and as you went further north towards Leather Direct the crack diminished so that by the time it got to Kiwi Disposals it was, there was a crack but there was virtually no separation.

10

1620

Q. Right. So in each of the transverse walls of that portion of the building there were cracks?

15 A. Yes.

Q. So similar cracks to the ones we saw in the photograph of Mr McLeod but decreasing as you went north. Correct?

A. Yes when you got into Kiwi Disposals there was, there was no separation. Once you got beyond Kiwi Disposals it was, it was, there was actually a crack and a gap and the crack in Kiwi Disposals had got very slightly worse but really there'd been very little change since the, the first visit I made to site.

20

Q. Now was there any discussion about that damage and the increased damage that you saw?

A. The discussion we had centred around the fact that we'd given a quotation for temporary restraint and that in my opinion it was not economically viable because that still was not going to put the building in, into a condition where it was, would not require any further work. That was really essentially only emergency works and it, according to studies we'd done on other buildings, it wasn't going to be economically viable to, to restrain and strengthen the building because of the fact it was quite a tall building and only partially occupied.

30

Q. Did you realise at that point it was a heritage building?

- A. I didn't become aware of its heritage status until I think probably shortly before Christmas 2010. I understand now that it was a category 4 building which is at the lower end of the scale.
- Q. Now following your meeting on 17 January and your further inspection, were you concerned about the state of the façade of that building?
- 5 A. I was.
- Q. And did you voice that concern, apart from at the meeting to, presumably to Mr Cheng and Mr Fletcher in the discussions, did you voice it to anyone else, did you –
- 10 A. Yes.
- Q. All right.
- A. On or about the 1st of February I had a meeting with City Council officers.
- Q. Now is that the meeting, I think in your letter to the Commission you'd said 17 February but I –
- 15 A. Yeah, no I accept that was actually the first.
- Q. Just one meeting?
- A. Just one meeting. There was only ever one meeting.
- Q. So it was the 1st of February?
- 20 A. Yes.
- Q. We've heard about that meeting because Mr Sinclair was there?
- A. Yes.
- Q. And Mr Dallison. Do you know him, John Dallison?
- A. I do know John Dallison. I don't remember him being there but –
- 25 Q. Okay well who do you remember being there?
- A. Mr Sinclair, there was a planner from his, his company, there was about four, three or four people from the City Council. I think Amanda Ohs, Phillip Hector and another planner. I thought Vincie Billante was there but I accept that I may be incorrect about that.
- 30 Q. I think she's put in a brief saying she wasn't – and you accept that?
- A. Yeah, well, I had a number, quite a number of meeting with the Council, it's quite possible I may have been –
- Q. Well just on this meeting then, why were you there?

- A. I was there specifically to discuss the Austral Building. I had no involvement with any of the other buildings that were discussed at that meeting.
- Q. Mr Sinclair told us that he was there because he'd been involved with
5 603 and he'd been involved with 626 across the road.
- A. Correct.
- Q. But your involvement was simply with 605 to 613?
- A. Yes.
- Q. And had you, I'm just wondering how you came to be at the meeting. I
10 understand that you'd become involved with the building as you've told us but why was it that you went to this meeting?
- A. I'm not really quite sure but I was asked to be there and –
- Q. Asked by who?
- A. I was asked by Peter McLeod I believe to attend.
- 15 Q. So were you going in effect on behalf of the owner or the insurer?
- A. I was asked to attend the meeting and report back on what the options were so.
- Q. And do you remember an agenda?
- A. An agenda was supplied by Marton Sinclair I believe.
- 20 Q. Now was there any discussion about the 605 to 613 building?
- A. There was quite substantial discussion about the requirements to obtain consent for demolition.
- Q. Did you voice any concerns that you had about the building?
- A. Yes I very clearly remember saying that I thought the building was
25 dangerous and that I believed that the most appropriate action was demolition.
- Q. Did you say why you believed it was dangerous?
- A. Yes I said that we'd made an inspection of the building on the
30 17th of January and that the façade had separated by a significant amount and that it was substantially worse than at the time of my first inspection in, in September or my first visit in September.
- Q. Do you recall the reaction, if any, from the Council officers?

- 5 A. The main reaction I recall was their advice that the building could not be demolished because of its heritage status without a resource consent and that the resource consent would be notified and Marton Sinclair put it to them that that process was likely to take about six months and they agreed that, yes, that was the likely scale, likely timescale.
- Q. Okay well at the meeting, apart from you voicing your concerns about the danger from that building and the reason for that, was there any other discussion about that apart from the resource consent and the demolition?
- 10 A. I believe someone may have asked if the building was barricaded.
- Q. Is that something you say you believe, you're not sure about?
- A. I can't categorically say it. I certainly had a discussion about barricading that building and another building but I can't say for sure that it was at that meeting.
- 15 Q. Well what was the state as far as you're concerned of barricades at that building?
- A. There was a barricade that went from along the front of 601 on the other side of Mollett Street, across Mollett Street and along in front of 603 and then it returned into the building and I believe that the barricade is pretty
- 20 much what you can see –
- Q. In this photo?
- A. In the photograph up here.
- Q. Right so in front of 605 to 613 there was no barricade?
- A. Correct.
- 25 Q. Now back on the 17th of January when you went back to the building and you were obviously concerned about it, did you give any thought to whether or not there should be some kind of barricade up in front of that building because of what you'd seen?
- A. I didn't specifically consider the barricades, no. It wasn't my
- 30 responsibility. There was –
- Q. I wasn't suggesting it was but I'm just asking if you did.
- A. No I didn't at the time.

Q. And you told us about the meeting on the 1st of February. Was that the first time since your visit on the 17th of January that you voiced concerns about the building to anyone else other than the people who were at the meeting, at the inspection on 17 January?

5 A. I can't categorically say but I believe so.

Q. Were you involved in discussions about the building at 626, across the road, at that meeting on the 1st of February or not?

10 A. I think I was more of an interested observer for part of the meeting. I may have even left the meeting early once they started discussing that property.

Q. So your purpose was 605 to 613. That's why you were there and you told us what happened about, what was said about the resource consent. What's your recollection of what you were told about whether it would be notified or not?

15 A. I am absolutely emphatic that we were told that it was a political decision, that there was no discretion whatsoever because of public interest, it would be a full-blown resource consent and it would be notified and we had discussion about, the Council officers who were there were quite helpful and they offered to assist to make sure that the
20 application was as clean as possible to avoid any, any procedural delays but it was quite clear that it was going to be a full-blown resource consent and that it would be notified.

Q. And when you left the meeting, or after that, what happened in terms of that building? Were you involved in getting any kind of application
25 together or that, that kind of thing?

A. I contacted, I attempted to, to contact the solicitor for the other parties. We of course had just shortly before that time completed doing some minor strengthening work to Leather Direct and the situation was complicated by the mixed ownership where there were effectively three
30 different entities that owned the four Titles. So I contacted Dallison Stone to get authority and I made preliminary enquiries about submitting a resource consent for alteration of the building, alteration being the partial demolition and then the earthquake intervened.

Q. What was the partial demolition relating to?

A. Well there was a suggestion that the requirements for a full notified resource consent could be circumvented by applying for a resource consent to alter the building, the alteration being the demolition of three-quarters of it and that was permitted so therefore it didn't need to be notified and there was the potential that it could be quicker and more straightforward.

5

Q. And what would have been demolished on that?

A. Everything through to Leather Direct.

10

Q. You mentioned before that you did some strengthening work on Leather Direct for the owner?

A. Yes.

Q. Did that strengthening work, was it effective in the 22nd of February earthquake?

15

A. I believe it was.

Q. What did that involve just in brief terms?

A. In brief terms we tied the façade above roof level back to the roof with steel work.

Q. But the building has been brought down with the others hasn't it?

20

A. That portion of the building was actually relatively undamaged.

Q. Well it was?

A. Yes but was all deconstructed by Frews and we actually subsequently cleaned up the rubbish.

Q. But what you're saying is the façade that you tied back didn't fail, well I think part of it failed didn't it?

25

A. That end of the building fared better but it had previously I'd have to note that it was the least damaged portion of the building so there's no surety that it wouldn't have survived even with no strengthening.

Q. And if you see the photo there we can see perhaps what you're talking about. You can see debris has been removed and you're talking about the building on the end of the block, correct?

30

A. Yes but I think if you looked at the Tuam Street frontage you'd find that that was actually the least damaged and I think part of our strengthening was round in that Tuam Street elevation.

5 Q. You said in your written response to the Commission that you had raised concerns in October with a City Council planner about possible dangers to members of the public from the loose section of parapet on 242 Tuam Street. Do you recall that?

A. Yes.

10 Q. And you were met with the response, "Why are you telling me about this. This is not my area of responsibility." Do you know who that was that you were dealing with at the Council or not?

A. I do.

Q. Do you?

A. Mmm.

15 Q. I don't know if you've read it but there's been a brief put in by the Council about the, well I'll just carry on, you said, "When I pointed out the Council's phone system was inoperative and I had no other direct dial numbers I was again told that that was not this person's area of responsibility." I don't know if you've read the brief that has been put in
20 by Mr Dalley –

A. No.

Q. – about the phone system but do you know who you were talking to then do you?

A. I do.

25 Q. Was it someone that has put in a brief or not?

A. No.

Q. Was the phone system inoperative at any stage?

30 A. Well certainly on the particular day I allude to I rang and "inoperative" may not be the most descriptive way of explaining it. I rang and got a long convoluted recording about which swimming pools were open and closed and after that there was a message saying that if you wanted to speak to someone to push a certain extension. I pushed that extension and was immediately cut off so I thought I must have pushed the wrong

extension number. I rang back, listening to the long convoluted message again which was two or three minutes long, pushed the same button and was cut off again so certainly on that particular day the phone system wasn't –

5 Q. wasn't working as you thought it should be?

A. Well perhaps people could ring out so maybe it is fair to say it was operative but you certainly couldn't contact anyone at the City Council by ringing their main number.

10 Q. And something I should have covered, at that meeting on the 1st of February was there any discussion about when you raised the issue of 605–613 and the danger that you considered it posed, was there any discussion about the issue of cordons or barricades or can you not be sure?

A. I can't be sure.

15 **CROSS-EXAMINATION: MR ELLIOTT**

Q. Just briefly Mr Bushnell. I appreciate that it was the engineer who designed the work which you prepared a quote on and, no criticism at all, but the quote was \$200,000 plus GST, so quite a sizeable figure and quite a bit of work. My question: was there some discussion at that
20 point about alternative perhaps lesser work might have done the job of securing the façade?

A. No.

Q. Was the possibility of even partial deconstruction of the façade considered?

25 A. Not by me. I believe that the amount of the repair cost would have been considerable even if a different repair scheme had come up with, been developed, and that still didn't solve the underlying problems that the building did not comply with the new Council standard and that the building owner would be faced with the cost, very substantial costs, to
30 up-grade it to those new standards.

Q. During the meeting on 1 February with the Council were there suggestions about how to deal with this danger that you say you highlighted, such as partial deconstruction or anything else?

5 A. Well of course the Council prior to that meeting had served a notice under the Building Act requiring the building owners to make the building safe and most of the previous discussions we'd had about buildings where similar notices had been served revolved around gantries being fitted to the exterior of the building at very substantial cost to stop the buildings toppling over into the street and of course
10 even where gantries were fitted they were subsequently shown in February to be pretty ineffective.

Q. I think you said that there was substantial discussion in that meeting about the requirement to obtain a consent for demolition. Is that right?

A. Yes, resource consent, notified resource consent.

15 Q. Did anybody from the Council inform you that there is a provision in the Building Act where urgent work can be carried out to protect lives without a consent?

A. I'm quite sure that I asked if the work could be exempted from the building consent process to allow it to take place urgently and was told
20 that no it couldn't – this is the demolition I'm talking about. As I've said in my submission I don't believe that any other course of action other than at least partial deconstruction of the building would have provided the same level of surety of public safety.

Q. Finally you've answered about barricades and I think you'd said that you
25 can't recall, is that right, a discussion about barricades at the meeting of 1 February?

A. Yep.

Q. Am I right in saying that you suggested the possibility there had been a discussion at some other time?

30 A. I believe but I can't be absolutely certain that I had discussions about barricades. Certainly I had a discussion about barricades on another job and I think we may have talked about this job at the same time. The other job was a job at 232 Tuam Street of slightly lower scale. I was

very concerned that it wasn't adequately barricaded. I made quite vigorous representations to a Council officer saying that I believed the barricade should be put in the middle of the street and what actually happened is they were moved approximately two feet to the edge of the footpath.

5

1640

Q. In relation to discussions about this building?

A. No the point I'm making is that even had I made disc- had made any representations I couldn't be confident that they would've had any influence on the final position of the barricades.

10

Q. No I understand that I'm just asking for you to tell us if you can remember in relation to discussions about barricades for this building?

A. I can't say for certain that I discussed this site barricade, barricading this site.

15 **CROSS-EXAMINATION: MR LAING**

Q. Mr Bushnell I think you've answered most of my questions but the, when you talk about the Council's policy in relation to resource consents, were you suggesting in your letter to the Royal Commission that the Council should have ignored the provisions of the RMA and allowed demolition to occur without a consent? Is that your evidence?

20

A. No but prior to this buildings were demolished under emergency powers.

Q. Yes –

A. And maybe those emergency powers should have remained in force for longer.

25

Q. And so that is obviously a legislative issue isn't it?

A. I, I can't criticise the Council's, I mean they were bound by the requirements of RMA and it's I think the RMA itself that is at issue.

Q. Yes and so just to be totally clear on this, what you really were saying is that you would see the need for some rationalisation of the legislation to deal with emergencies is that, is that correct?

30

A. Absolutely.

Q. Yes. And I took it from your evidence that the Council officers were trying to be helpful about the resource consent process?

A. The Council officers were professional and helpful but their hands were tied by, by the requirements of, of the RMA and by Council decision that, that no consents were going to be granted for historic buildings unless they were notified, no resource consents.

Q. How familiar are you with the resource consent process?

A. Oh...

Q. Fairly familiar?

10 A. Mmm –

Q. Well a simple question?

A. Well I'm reasonably familiar with it.

Q. And so would you know for instance whether the question of notification is something that happens once a resource consent is lodged?

15 A. My understanding is that notification is decided on a case by case basis.

CROSS-EXAMINATION: MR MCLELLAN

Q. Could I have 0005.19 please? Mr Bushnell I'm just going to show you a couple of photographs of that, the interior of the, of 605 above the Noodle House that we've already seen?

20 A. Mhm.

WITNESS REFERRED TO PHOTOGRAPHS

Q. Now can we have the bottom left photograph enlarged if possible to show a close-up of the crack in the left-hand side of that wall facing the camera, bottom, bottom left? I think that's the photograph that I think Mr Buchanan must have taken in October 2010?

25

A. Yes.

Q. And tomorrow I'll be calling Mr Tony Raper who inspected this part of the building on Boxing Day and I just want to ask you a question about the development of these cracks if there was any. Could I now have WIT.RAP.0001.9? If we could have that blown up on the same crack please? Now just relative perhaps to the size of the bricks for my part I can't see any substantial difference between the width of the cracks

30

that's visible there and the crack that we saw in the previous photograph would that be your observation as well?

A. Ah, they do appear to be fairly similar yes.

5 Q. Yeah, and Mr Raper would say that what he saw in, on Boxing Day was about 20 millimetres in width. Would you agree with that?

A. Ah, well I didn't see it on the Boxing Day so I don't know.

Q. All right when you saw it I think next in mid-January, 17th of January was it?

A. Yes.

10 Q. What do you say it was then?

A. Well we're not talking about the same crack. I'm talking about the, the roof above gutter level so the upper top portion of the façade.

Q. Okay we'll come back to that in a moment but just dealing with this crack you're happy with the proposition that the crack appears to be similar, of similar width in the two photographs that we've just seen?

15 A. Appears to, yes.

Q. Okay. Now the point that you were just making to me relates I think to an external observation on the roof?

A. Mhm.

20 Q. Can we have .0005.21. Do we have the ability to rotate that 180 degrees? And can we zoom in on the bottom right-hand photograph please? So that is the, I think you described it as the separation between the façade on the left being the Colombo Street façade is that correct?

25 A. Mhm.

Q. And the transverse wall running east/west?

A. Yes but I don't believe that shot is of the southernmost wall because if you look at the top right-hand corner of the picture you'll see orange roofing tiles and the Satay House actually had, was entirely, well mostly roofed with orange roofing tiles so I believe that the, the transverse wall between 605 and 603 is not the wall shown in this photograph.

30 Q. So where we see the orange roofing tiles is that not the roof above 603?

A. No I believe that the orange roofing tiles are the roof above 605.

Q. Okay well I'll just show you another photograph which is one taken by Mr Raper and that's WIT.RAP.0001.7. Can we go to the bottom of that photograph please? Sorry it's .6 that I want. Now Mr Raper's evidence is that that's the, the boundary effectively between 605 and 603 is that not the same?

5

A. Yeah, no I think you are correct.

Q. Yeah because in that earlier photograph that was just up we could see that that was the, the orangey roof of –

A. Yes.

10

Q. – the corner building being 603. So if we have a look at this photograph in front of us and just zoom in on the, the right angle between the front masonry wall and the short grey wall running back to the right of the photograph? That's it. So I think Mr Raper would say that that's, that's perhaps a 20 to 30 millimetre gap that he saw on Boxing Day. When you looked at it in January are you saying that you saw something larger than that?

15

A. Yes.

Q. Okay but you'd agree that this, what you see in this photograph's about 20 to 30 millimetres?

20

A. Well I can't say for sure but that would be consistent with the photo that, below which he says is of a similar order so...

1650

Q. And what you saw a couple of weeks later was larger than this?

A. Was larger yes.

25 **RE-EXAMINATION: MR ZARIFEH - NIL**

QUESTIONS FROM COMMISSIONER FENWICK – NIL

QUESTIONS FROM JUSTICE COOPER:

Q. Can I just ask you about this meeting at the Council on the 1st of February, just to make sure I'm understanding what was said to you. As I recall your evidence it was that you were told by a representative of the

30

Council at that meeting that all resource consent applications to demolish protected buildings under the plan would be publicly notified. Is that correct?

A. Yes.

5 Q. And that there had been a political decision to that effect?

A. That was sort of an aside that, that the Council officers said, "Regardless of our own feelings about this, this is a political decision from, from above and our hands are completely tied. There is no discretion whatsoever".

10 Q. Was it, did you understand that they were saying that as the result of a provision in the District Plan or was there a decision that had been made by the Council as to how the District Plan should be administered and do you appreciate the difference?

A. I do appreciate the difference.

15 Q. Yes.

A. My understanding is that it was a decision that had been made by elected Council because of public interest in historic buildings that, that all historic buildings were to be subject to a notified resource consent for, prior to demolition.

20 **WITNESS EXCUSED**

**MR ZARIFEH, MR LAING, MR ELLIOTT ADDRESS JUSTICE COOPER –
TIMETABLING**

JUSTICE COOPER ADDRESSES MR LAING:

25 Q. Can I just raise with you Mr Laing this issue about there needing to be a notified resource consent where people wish to demolish a building that's scheduled for protection in the District Plan?

A. Yes.

30 Q. Does the Council accept that the position was as it was in accordance with his evidence anyway told to Mr Bushnell that there had been some sort of Council resolution that all such applications would be publicly notified?

- A. Sir that is complete news to me.
- Q. Right okay.
- A. I am aware that a decision was made that decisions on heritage buildings notification would be dealt with by a Council panel.
- 5 Q. Yes.
- A. And but Mr Ward or Mr Higgins who will be giving evidence tomorrow –
- Q. Yes.
- A. – I'm sure can help you with that.
- Q. Yes.
- 10 A. And Mr Higgins's evidence deals quite comprehensively with the –
- Q. Yes.
- A. – situation with resource consents.
- Q. Well if there were a Council solution or even some sort of direction to that effect I would expect and I'm sure you would take the same view
- 15 that that would be frankly advised to the Commission?
- A. Yes I –
- Q. Yes.
- A. I am not aware of it. I'll look overnight again. I must admit it's some days since I've read Mr Higgins's evidence but –
- 20 Q. Yes.
- A. – as far as I'm aware there was a, there was a decision to use a panel.
- Q. Yes.
- A. For making those decisions.
- Q. On notification?
- 25 A. On notification but I'll get some instructions on that overnight.
- Q. Yes. Well I suppose in short of some sort of political resolution to that effect again if there were an understanding that absent a resolution that was the invariable result of consideration of the notification issue by the panel I'd want to be told that as well.
- 30 A. Yes.
- Q. And the other thing that occurs to me and I may have to go and read section 330 of the Resource Management Act but yesterday we were told of a heritage organ which was sought to be removed from the

church at 309 Durham Street and on the evidence that required a resource consent but the Council was quite happy to in effect grant an informal approval for that work to be undertaken on the basis that a formal resource consent application would follow and –

5 A. That was of course temporary work not –

Q. Yes.

A. – permanent demolitions Your Honour.

10 Q. Yes. But with no real guarantee that the church would be fixed on any particular timeframe but in any event what power was being exercised when the Council adopted that stance which could not be availed of in a circumstance such as the present is the issue that's concerning me.

A. Yes I don't think there's a right line there Your Honour.

Q. No.

15 A. One thing that I did learn which I had forgotten was that there in the Resource Management Order in Council there was power to relax or compliance with the RMA but it's very, very doubtful.

Q. That's referred to in one of the briefs that we're to hear tomorrow.

A. Yes.

Q. Which complicates the plot further.

20 A. Complicates the plot so yesterday Your Honour asked me for a memorandum on section 330 and related sections. I was intending to expand that to include the Order in Council provision as well.

Q. Yes.

25 A. But my submission there's a very large difference between urgent remedial works to make a building safe and then demolishing it. Once you demolish it a resource, a retrospective consent is really, really no point at all because it can't, you can't put the building back again.

30 Q. I appreciate there's a, I appreciate there's a distinction which may very well go to whether a power order would not be exercised but that doesn't really meet the questions in my mind, which are whether there was in fact a power to proceed by saying, "Well this work needs a resource consent you go ahead and do it and make the consent later",

I'm not talking about whether the power was properly exercised but whether it existed.

A. Yes –

5 Q. And if it did exist then why wouldn't it be available for use in the case of a building just notionally which was perceived by everybody to be a great danger and it had a heritage protection. Well okay, but if there is such a power mightn't it be said that in some cases and just theoretically removed from the facts of this case say –

A. Yes well I –

10 Q. – and the building which might fall and kill people should be subject to the same flexibility if I may –

A. Well there's a very self-harm-

Q. – put it that way?

A. Your Honour there's a very short answer to that.

15 Q. Yes.

1700

MR LAING:

20 Your Honour there's a very short answer to that and that is it was within the power of the owners of the building at any stage to do some temporary works and they would have had the benefit presumably of the Council's willingness to accept a retrospective consent for that.

25 **JUSTICE COOPER:**

Temporary works to, to pull down a building?

MR LAING:

No, temporary works to make a building safe. That was always a possibility.

30

JUSTICE COOPER:

Like pulling it down?

MR LAING:

No not pulling it down but doing, doing parapet strengthening works, doing securing works, that always was a possibility. It was always a possibility here and I don't want to get into a debate into the evidence here but –

5

JUSTICE COOPER:

No, no but I'm just addressing the issue theoretically. It's not a very satisfactory answer if the proposition is that people having decided that a building is irreparably damaged should spend a lot of money on repairing it.

10

MR LAING:

No I'm, I'm –

JUSTICE COOPER:

15 That would hardly be sensible.

MR LAING:

Well equally though unless there is a power as Your Honour's observed –

20 **JUSTICE COOPER:**

Yes, yes.

MR LAING:

25 Then the Council certainly, and I think it's very important to bear in mind the sort of climate of the time where the Council was really effectively the meat in the sandwich.

JUSTICE COOPER:

I understand that. I understand that.

30

MR LAING:

And the heritage zealots, if I can call them, on one hand and the building owners on the other and it was trying to steer a very sort of, sort of medium or mid-line.

5 **JUSTICE COOPER:**

Well we must and I appreciate that Mr Laing but – and I suppose, I'm just, I just need to know what the power was that was exercised in Durham Street because –

10 **MR LAING:**

Yeah well I intend to address that and provide you with an answer one way or another. To some extent it's touched upon by Mr Higgins' evidence tomorrow but equally he's not a lawyer so I don't think we can take that any further than otherwise he can tell you what they did. Whether it was, you know, it's a whole
15 different exercise whether it was a lawful act or not.

JUSTICE COOPER:

Well perhaps I can ask counsel assisting to come armed tomorrow with, it's section 330 of the Resource Management Act is it Mr Laing?

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MR LAING:

Yes.

JUSTICE COOPER:

25 Is that going to help?

MR LAING:

I think it will need a little bit more analysis than overnight because not only do we have section 330 we have section 330 as amended by order in council as
30 well.

JUSTICE COOPER:

Yes and then there's the Building Act provision. Isn't there section 129?

MR LAING:

But that's, section 129, there was an express exemption under the RMA order in council from obtaining consent if a section 129 notice was issued. So that
5 was, there was only two buildings that I'm aware of that were in that category and you had to establish –

JUSTICE COOPER:

What were they?

10

MR LAING:

In the category of being, requiring urgent demolition.

JUSTICE COOPER:

15 I understand the category but what were the buildings?

MR LAING:

Manchester Courts is one of them Your Honour.

20 **JUSTICE COOPER:**

And the other one's mentioned in the evidence.

MR LAING:

The other one's mentioned in the evidence.

25

JUSTICE COOPER:

Yes.

MR LAING:

30 And even then there was some litigation, there was a High Court attempt to get an injunction to stop that work being done so it was quite fraught and there was no further amendment to the RMA order in council. That was the situation in February when these events unfolded.

JUSTICE COOPER:

All right. Well that's an interesting discussion.

COMMISSION ADJOURNS: 5.04 PM

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