

UNDER THE COMMISSIONS OF INQUIRY ACT 1908  
IN THE MATTER OF ROYAL COMMISSION OF INQUIRY INTO  
BUILDING FAILURE CAUSED BY  
CANTERBURY EARTHQUAKES  
KOMIHANA A TE KARAUNA HEI TIROTIRO I  
NGA WHARE I HORO I NGA RUWHENUA O  
WAITAHA  
AND IN THE MATTER OF THE CTV BUILDING COLLAPSE

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CLOSING SUBMISSIONS OF COUNSEL FOR  
THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT  
IN RESPECT OF THE HEARING  
INTO THE COLLAPSE OF THE CTV BUILDING

Date of Hearing: Commencing 5 September 2012

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**MAY IT PLEASE THE ROYAL COMMISSION**

1. Throughout this hearing, the objective of the Ministry of Business, Innovation and Employment has been singular: to assist the Commission by objectively contributing to the pool of relevant evidence. Consonant with that approach, this closing address will be short.
2. The Ministry's principal contribution has been its commissioned reports, namely Dr Hyland's *Site Examination and Materials Report*, Dr Hyland and Mr Smith's *Building Collapse Report* and the *Expert Panel Report*. Although these reports have espoused views relevant to the issues of concern to the Commission, the Ministry has not sought to advocate or defend them.
3. Even in the face of supercilious criticism of this evidence, the Ministry has held fast to the view that the purpose of this hearing is to assist the Commission—not the Ministry—to reach conclusions concerning the CTV building. Indeed, the conclusions required of this Commission extend well beyond those reached in the Ministry's commissioned reports.
4. The Ministry has taken the view that the evidence it has adduced will stand or fall on its own merits. The Ministry has accepted that there might be aspects of the reports about which reasonable minds might reasonably disagree. Indeed, the reports themselves acknowledge this.
5. That said, the closing submissions of Counsel Assisting amply demonstrate that the issues elucidated in those reports are all relevant issues. For all that the analysis of them might now be more refined, almost without exception each of the identified design and construction deficiencies remain identified deficiencies.
6. The Ministry has of course been cognisant that the reports have informed the structure of this hearing. Even though the scope of the reports is much less broad than the scope of this enquiry, they have provided a foundation for this hearing. To that extent, the Ministry has assumed a stake in the process, if not the findings, of this hearing. It is in that context that the Ministry has also facilitated the preparation of supplementary written evidence and the appearances of witnesses at the various expert panel sessions.
7. Overall, it is hoped that the reports and additional evidence adduced and facilitated by the Ministry has assisted this hearing to proceed, as it has, with clear focus.
8. It is certainly the case that this greater focus and breadth of enquiry has been of considerable benefit to the Ministry. It has highlighted the importance of regulating more than simply practices and professions or owners and industries. It has underscored that the regulation of the building and construction sector requires a systemic approach. It has demonstrated how a systemic approach requires responsibilities and accountabilities—from design and consenting to construction and use—to be comprehensive and clearly defined.

9. Perhaps most significantly, this hearing has highlighted that checks and balances are the essence of an effective regulatory system. From a regulatory perspective, good systemic design—like good seismic design—should incorporate redundancy. Failure in one part of the system should be picked up in another.
10. Without intending to diminish or amplify any individual failings, in the Ministry's view the tragedy of the CTV building collapse lies in a concatenation of failure. In this case, in an unlikely and most unhappy way, the system's checks and balances failed through want of clarity of responsibility and certainty of accountability.
11. These areas are key drivers of the Ministry's ongoing work programme. In short, this hearing has bolstered the Ministry's case for further reform. Consequent upon the 2009 Department of Building and Housing review of the Building Act, the Ministry has already taken measures to improve accountabilities and will continue to do so. Most particularly, the evidence adduced in this hearing has cast a light on the engineering profession. The Ministry is acutely concerned that the installation of drag bars in the CTV building, and the risks that gave rise to this, were known to many—but not the Christchurch City Council. As the agency responsible for administering the Chartered Professional Engineers of New Zealand Act, the Ministry will invite the profession, through its apex Council and its membership body, IPENZ, to revise and clarify the Code of Ethics, including with respect to the disclosure of commissioned work, non-compliant work and scope of competency.
12. In conclusion, the Ministry expresses its gratitude to the Commission for the opportunity to participate in this hearing. It hopes that the evidence it has adduced, most particularly through the considerable efforts of Dr Hyland and Mr Smith, has been of assistance to the Commission. To the families and friends of victims, including survivors, of the CTV building collapse, the Ministry offers an assurance that the impetus this hearing has added to its reform programme will result in safer buildings in the future.

Date: 31 August 2012



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Gregor Allan

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