



**Canterbury Earthquakes  
Royal Commission**  
Te Komihana Rūwhenua o Waitaha

**UNDER** **THE COMMISSIONS OF INQUIRY ACT 1908**

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

**AND IN THE MATTER OF** **THE CTV BUILDING COLLAPSE**

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**PRACTICE NOTE NO 2:  
PROCEDURAL RULES FOR CTV HEARING  
2 APRIL 2012**

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## PROCEDURAL RULES FOR CTV HEARING

### Status of Practice Note No. 1

1. On 28 October 2011 the Royal Commission issued Practice Note No. 1 for five specified hearings. These were the ones that had been identified as those most likely to involve disputed facts and the potential for findings that might be considered adverse to the reputation or interests of individuals or organisations. This included the CTV building hearing.
2. As the issues involved in the CTV building hearing have become clearer, the Royal Commission has concluded that a further Practice Note is required that deals specifically with that hearing. This Practice Note now replaces Practice Note No. 1 for the purposes of the CTV hearing.

### CTV hearing

3. As previously determined and advised, the hearing into the failure of the CTV building collapse will start at **10am** on **Monday 25 June 2012**. It is currently scheduled to take five weeks, with the sitting weeks limited to four days a week.
4. The Royal Commission will sit on Monday to Thursday of each hearing week, with no hearing on Friday.
5. Subject to any further direction from the Royal Commission, hearings will begin at 10am each Monday and 9.30am each Tuesday through Thursday and conclude at 5.00pm each day.

### Hearings status

6. Categories of “affected parties” and “interested persons” will be established by the Royal Commission (**status**). Both affected parties and interested persons are entitled to appear and be heard at the hearing, either personally or by counsel, although the rights of affected parties are more extensive than the rights of interested persons.

7. Affected parties are those whose actions might be called into question or who otherwise have a substantial interest in the subject matter of the hearing. For the purposes of the CTV hearing bereaved families are affected parties.
8. Interested persons are those who have a particular interest in the hearing over and above that of the general public. That interest may require that they participate in some aspects of the hearing, but not others.
9. Prior to the commencement of the CTV hearing the decisions that have been made on status will be notified. If any person or organisation believes it ought to have been granted status for the hearing and has not been, or has been granted a status other than that which it believes is appropriate, it must advise the Royal Commission of this forthwith, setting out its reasons. The Royal Commission will then issue a final ruling.
10. There will also be persons who are neither affected parties nor interested persons, who notify the Royal Commission that they wish to be witnesses or make a submission. Notification does not give a right to appear and be heard at the hearing. However, if the Royal Commission requests or requires that the witness or submitter appear and be heard at the hearing there is then a right to be represented by counsel.

#### *Rights of affected parties*

11. Affected parties are entitled to be represented by counsel at the hearing and:
  - a. to give and call evidence;
  - b. to identify additional documents they wish to have included in the record;
  - c. to be heard on why these documents are relevant;
  - d. to advise Counsel Assisting of any witnesses that they consider ought to be called by the Royal Commission and where a summons is required.
12. Affected parties have the right to question any witness at the hearing on matters relevant to that party and within the Terms of Reference, subject always to the overall discretion of the Royal Commission to control the form and duration of all questioning. An affected party also has the right to present closing submissions on any issues affecting it, in accordance with the procedure set out at paragraph 29, if the Royal Commission directs that closing submissions are required following the hearing.

### *Rights of interested persons*

13. An interested person may be entitled to appear as a witness and be represented by counsel, with counsel entitled to lead the evidence of that witness. Any additional rights are at the discretion of the Royal Commission.

### **Secure document access system**

14. A secure document access system has been established for the hearing and, subject to a confidentiality undertaking being signed in the form specified by the Royal Commission, both affected and interested parties are entitled to access this system.

### *Confidentiality undertaking*

15. Any affected party or interested person wishing to access documents on the document access system is first required to sign the prescribed undertaking. This requires any person accessing the documents to acknowledge that the information obtained is received in confidence is to be used only for the purpose of the hearings and is to be treated as confidential until such time as it becomes public in the course of the hearing. It will become public for these purposes when the witness gives that evidence at the hearing. In the case of documents, they become public when they are referred to in the course of the hearing by either a witness or counsel, or in any event at the conclusion of the hearing.

### **Notice of required evidence**

16. The Royal Commission will notify individuals from whom, and organisations from which, it requires evidence. This notification may be by a summons to require attendance at the hearing.
17. Any individual from whom, or organisation from which, the Royal Commission requires evidence will be advised of:
  - a. The matters which the Royal Commission wishes any written statement of evidence to include, but this does not limit the issues that the individual or organisation may choose to address; and

- b. The date by which that statement of evidence is to be received by the Royal Commission.
18. All documents, statements of evidence and other material to which any party intends to refer during the course of the hearing (**evidence**) is to be placed on the secure site prior to the hearing in accordance with the timetable set out in this Practice Note. Leave will be required from the Royal Commission to refer in the course of the hearing to any evidence that has not been provided to the Royal Commission in compliance with that timetable.
19. Evidence is being progressively placed on this secure site as it becomes available.

### **Reply evidence**

20. Reply evidence requires the leave of the Royal Commission. Any application for leave must be filed no later than **11 June 2012**. If leave is given the evidence must be filed with the Royal Commission and served on any affected or interested party within 5 working days of leave being granted, or at such later date that the Royal Commission may stipulate in a particular case.
21. All applications will be considered by the Royal Commission principally on the basis of whether the evidence in respect of which a right to reply is sought may adversely affect the interests of the party seeking leave.

### **Expert evidence**

22. Any party intending to call an expert witness to give evidence at the hearing is required to notify the Royal Commission in writing of the name, professional details and the general nature of the evidence that witness is to give, by no later than **16 April 2012**. Leave is required before any expert witness who has not been notified to the Royal Commission in this way can be called to give evidence.
23. The requirement to notify in advance the intention to call an expert witness imposes no obligation to call that witness and no adverse conclusion is to be drawn from the failure to call any such witness.

24. The Royal Commission may require expert witnesses to confer prior to the hearing for the purpose of narrowing and defining areas of agreement and disagreement between them.
25. All expert witnesses will be required to comply with the Code of Conduct for Expert Witnesses set out in Schedule 4 of the High Court Rules.

### **Order of witnesses**

26. The expected order of witnesses and the hearing schedule will be made available on the secure document access system prior to the hearing and will be updated if any changes occur. To the extent practicable, witnesses who are likely to give evidence adverse to or critical of an individual or organisation will be called to give evidence prior to the affected individual or organisation.

### **Closing submissions**

27. In the event that the Royal Commission requests closing submissions following the hearing, affected parties have the right to make closing submissions on any issue relevant to them, at a date that will be advised by the Royal Commission..
28. The Commission is also entitled to request submissions from Counsel Assisting and to direct the order in which written submissions are to be filed with it.
29. Any submissions are to be in writing and are to be provided in the first instance to the Royal Commission. Submissions will be placed on the secure document access system. If the Royal Commission considers any submission should be presented orally in an open hearing, appropriate arrangements will be made and advised.

### **Provision of submissions, documents and evidence**

30. Submissions, documents and evidence should wherever possible be provided in electronic form with e-mails addressed to [canterbury@royalcommission.govt.nz](mailto:canterbury@royalcommission.govt.nz). If the electronic files are large, material should be provided on memory sticks or CD-ROM. Further guidance about lodging material is on the Royal Commission's website: [www.canterbury.royalcommission.govt.nz](http://www.canterbury.royalcommission.govt.nz).

## **Modification of hearing rules**

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

## **Timetable**

32. **By no later than 16 April 2012:** Notification of expert witnesses (refer paragraph 22).
33. **By no later than 21 May 2012:** Witness statements from all witnesses being called by Counsel Assisting including the documents to be referred to by any such witness or by Counsel Assisting.
34. **By no later than 31 May 2012:** All witness statements, including documents to be referred to by witness or by counsel, for persons having the status of affected party or interested persons to be filed with the Royal Commission.
35. **After 31 May 2012, within two days of receipt:** Documents, statements of evidence and any other relevant material to be available on the secure document access system, other than any reply evidence.
36. **By no later than 5 June 2012:** Any request by affected parties for witness summons to be issued by the Royal Commission.
37. **By no later than 7 June 2012:** Any request for additional documents to be included in the record.
38. **By no later than 11 June 2012:** Any application for leave to file reply evidence must be filed with the Royal Commission.
39. **By 15 June 2012:** Documents, evidence and other relevant material to be available on the secure document access system.

Dated: 3 April 2012

**Royal Commission of Inquiry into Building Failure caused by Canterbury Earthquakes**