

39. ROYAL COMMISSION OF INQUIRY INTO BUILDING FAILURE CAUSED BY CANTERBURY EARTHQUAKES

General Manager responsible:	General Manager Regulation and Democracy Services
Officer responsible:	Legal Services Manager
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PURPOSE OF REPORT

1. This report is to advise the Council about the Royal Commission of Inquiry into Building Failure caused by Canterbury Earthquakes ("Royal Commission"), Council's involvement in the Royal Commission's process to date and to seek approval for the formal Expression of Interest form to be made by the Council to the Royal Commission.

EXECUTIVE SUMMARY

Terms of Reference

2. The Royal Commission was established by the Government to inquire into the performance of buildings within the Christchurch city central business district - the area bounded by Bealey, Fitzgerald, Moorhouse, Deans and Harper Avenues ("CBD"), and the adequacy of the current legal and best practice requirements for the design, construction, and maintenance of buildings in central business districts in New Zealand to address the known risk of earthquakes.
3. There is particular reference to the Royal Commission inquiring into four buildings (CTV, PGC, Forsyth Barr and the Hotel Grand Chancellor). The Department of Building and Housing is also completing a technical investigation into these four buildings. The Royal Commission will also inquire into a range of other buildings, as a representative sample.
4. The terms of reference note, among other things, that it is desirable to inquire into the building failures to establish why the four buildings failed severely, and why certain buildings failed severely while others failed less severely or there was no readily perceptible failure. The results of the inquiry can then inform the decision-making on the rebuild and repair work in the Christchurch and Canterbury region.
5. Justice Mark Cooper, who is a sitting High Court judge, will chair the Royal Commission. His fellow commissioners are Sir Ron Carter and Richard Fenwick. The Royal Commission's terms of reference are attached as **Appendix 1** to this report.

Media releases from the Royal Commission and information requested

6. Since its establishment the Royal Commission has issued a number of media releases about its work. Four of those media statements are attached as **Appendix 2** of this report. They are:
 - 25 May 2011 - Canterbury Earthquakes Royal Commission work underway
 - 14 June 2011 - Family liaison a priority for Chair of Royal Commission
 - 12 July 2011 - Technical reports being prepared for Canterbury Earthquakes Royal Commission
 - 14 July 2011 - Canterbury Earthquakes Royal Commission lists buildings of interest
7. The media releases provide a general picture of the work being undertaken by the Royal Commission to date. The most recent media release, on 14 July 2011, lists additional buildings the Royal Commission will investigate as part of its inquiry. These include any building in the CBD which failed and caused a loss of life (certain buildings outside the CBD that caused loss of life are also included).
8. Other buildings that withstood the earthquake are also listed for investigation, and these include the Council's buildings at 53 Hereford Street (new Civic offices), 163 Tuam Street (former Civic offices), the Art Gallery on Worcester Street, and the Town Hall (currently owned by VBase). It is clear that the list of other buildings that withstood the earthquake, which the Royal Commission will also investigate is not yet complete.

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9. Two of the media releases include other references to the Council. The 25 May 2011 release refers to the Commissioners being on the ground in Christchurch and meeting with various persons, including the City Council. The General Manager of Regulation and Democracy Services and other senior staff have met with the Commissioners to discuss preliminary matters and information the Commission will require (and now has required) from the Council.
10. The 12 July 2011 media release refers to technical reports the Royal Commission has requested from various bodies (the estimated costs to the Commission of the reports requested to date is \$326,000). It notes that those reports are in addition to information provided by the NZ Police, the Council and the Department of Building and Housing. Council staff have been collating information on various buildings from its property files and other records (including civil defence records) to support the work of the Royal Commission.
11. The Royal Commission has also requested a report from the Council, to be completed by 31 July 2011. The report is to cover the Council's powers and processes in relation to buildings, and on the "stickering" of buildings after the 4 September and Boxing Day earthquakes, including the provision of a list of all the buildings in the CBD, whether their status was red, yellow or green, and when and how that status changed (if that occurred). Similar information is also requested post the 22 February 2011 earthquake. That information will be provided to the Royal Commission as soon as it can be collated, but that will be after 31 July.

Notice of issues and expression of interest

12. On 2 July 2011 the Royal Commission published a "notice of issues and invitation for expressions of interest" (attached as **Appendix 3** of this report).
13. Expressions of interest are sought from anyone who wishes to make submissions, give evidence or provide information to the Royal Commission on the issues listed in the notice or any other issues considered to be within the terms of reference. Expressions of interest need to be submitted by 22 July 2011. An extension of time has been sought from the Royal Commission, to submit the Council's Expression of Interest form on 28 July 2011, following its approval at this meeting.
14. Although the Council has already provided the Royal Commission with information, and will continue to do so as requested by the Royal Commission, the Council may also wish to give evidence or make submissions on matters raised by other parties before the Royal Commission. It therefore needs to formally register its interest with the Royal Commission. The proposed Expression of Interest form to be submitted by the Council is attached as **Appendix 4** to this report.
15. In relation to Issue 6 in the Expression of Interest form, on future measures to be recommended by the Royal Commission in relation to new and existing buildings, a workshop will be held with Council before any submissions are made on that Issue.
16. The other issues which have been identified as areas where the Council will make submissions, give evidence or provide information largely involve factual and technical aspects in relation to when various buildings were constructed, any dealings with the Council since their construction and prior to the earthquakes, the assessments of the buildings post the earthquakes, during the civil defence periods and subsequently, and other interactions in relation to the buildings. Submissions and/or evidence will also need to be provided about the Council's earthquake-prone buildings powers and policies over the years.

FINANCIAL IMPLICATIONS

17. There are financial implications arising from the Council's involvement in the Royal Commission's inquiry. The Council has already budgeted \$320,000 in the 2011/12 Annual Plan for the Royal Commission.

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LEGAL CONSIDERATIONS

18. A Royal Commission of Inquiry is a process provided for in the Commissions of Inquiry Act 1908. Section 4A of that Act outlines the people entitled to be heard at an inquiry. Persons must satisfy the Royal Commission that they have an interest. It appears that in this instance the Royal Commission will consider the expressions of interest that are registered with it, and will then decide who is to be heard.
19. In the Royal Commission on the Pike River Mine expressions of interest were sought in a similar fashion and the Commission in that instance then went on to decide the standing of the various parties, splitting them into groups of "parties", "interested persons", and "witnesses/submitters".
20. The Council should therefore submit an Expression of Interest form and then wait to hear from the Royal Commission with regard to its status.
21. Simpson Grierson, one of the firms from the Council's panel of legal advisers, has been retained to assist the Council with its preparations for and representation at the Royal Commission hearings.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

22. Aligned to the extent there is budgeting provision for the work arising from the Royal Commission.

ALIGNMENT WITH STRATEGIES

23. Not applicable.

CONSULTATION FULFILMENT

24. This is not a matter for which the Council would generally carry out consultation. As a regulatory body and holder of relevant information the Council has already become involved in the process at the request of the Royal Commission. Members of the public are able to register their expression of interest directly with the Royal Commission.

STAFF RECOMMENDATION:

That the Council resolve to:

- (a) Receive the information in this report
- (b) Confirm its role before the Royal Commission by approving the attached Expression of Interest form.