

Before an Independent Hearings Panel
Appointed by Christchurch City Council

under: the Resource Management Act 1991

in the matter of: proposed Plan Change 14 to the Christchurch District
Plan

and: **Carter Group Limited**
(Submitter 824)

Statement of evidence of Jeremy Phillips (Planning) on behalf of
Carter Group Limited

Dated: 20 September 2023

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**STATEMENT OF EVIDENCE OF JEREMY PHILLIPS ON BEHALF OF
CARTER GROUP LIMITED**

INTRODUCTION

- 1 My full name is Jeremy Goodson Phillips.
- 2 I hold the qualifications of a Bachelor of Science from the University of Canterbury and a Master of Science with Honours in Resource Management from Lincoln University, the latter attained in 2001. I am an intermediate member of the New Zealand Planning Institute, a member of the Resource Management Law Association and a member of the Institute of Directors. I have held accreditation as a Hearings Commissioner under the MfE Making Good Decisions programme since January 2010 and have held endorsement as a Chair since January 2013.
- 3 I have 21 years' of experience as a resource management planner, working within and for territorial authorities, as a consultant and as an independent Hearings Commissioner. I have particular experience in urban land use development planning in Greater Christchurch, predominantly as a consultant to property owners, investors and developers.
- 4 Of relevance to these proceedings, I have had extensive involvement in respect the Proposed Selwyn District Plan and associated Variation (IPI) process, providing evidence for submitters on a number of chapters and rezoning proposals, where implementation of the NPS-UD and the RMA was a key consideration. I was also extensively involved in the hearings on the Replacement Christchurch District Plan.
- 5 In a Christchurch specific context, I have significant experience in all forms of land use planning under the Christchurch District Plan for projects ranging from small scale residential developments and individual houses, through to large scale residential, commercial and civic projects including Te Kaha, Te Pai, The Crossing, Riverside Farmers Market, large-scale suburban retail and industrial developments, and the majority of post-earthquake commercial office developments on the western side of the Avon River. Through that experience I have an excellent practical understanding of the application and implementation of the District Plan provisions.

CODE OF CONDUCT

- 6 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the Code of Conduct for Expert Witnesses contained in Part 9 of the Environment Court Practice Note 2023. I have complied with it in preparing my evidence. I confirm that the issues addressed in this statement of evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to

consider material facts known to me that might alter or detract from the opinions expressed.

SCOPE OF EVIDENCE

- 7 My evidence relates to the submission filed by Carter Group Limited ('CGL') (Submitter 824) on Plan Change 14 ('PC14').
- 8 Given the broad scope of that submission, my evidence does not canvas all submission points and instead focuses on provisions of particular interest to CGL.
- 9 My evidence does not fully engage on the concerns of CGL relating to the scope of changes in PC14 on the basis that these will be covered in detail in legal submissions. However, I have indicated my view with respect to scope, based on my understanding of the legislation and the recent *Waikanae*¹ case.
- 10 Given the nature of CGL's submission points, my evidence addresses:
 - 10.1 Submissions relating to thematic issues, including:
 - (a) The scope of PC14 as an Intensification Planning Instrument ('IPI') and the implications for proposed changes in PC14;
 - (b) The relevance of strategic objectives 3.3.1 and 3.3.2 in the District Plan to PC14;
 - (c) Proposed qualifying matters ('QM') or provisions that are unnecessary given existing Plan provisions, including:
 - (i) Significant trees as a QM;
 - (ii) Heritage related QM and provisions;
 - (iii) Tree canopy provisions;
 - (iv) Wind rules; and
 - (v) Other urban design or built form rules.
 - 10.2 Submissions on site-specific matters, relating to:
 - (a) 184 Oxford Terrace;

¹ *Waikanae Land Company Limited v Heritage New Zealand Pouhere Taonga* [2023] NZEnvC 56.

- (b) 129-143 Armagh Street; and
 - (c) The former Christchurch Girls' High School ('CGHS') site at 32 Armagh Street (also known as 325 Montreal Street).
- 10.3 Submissions on chapters or zone-specific provisions, including:
- (a) Chapter 3 - Strategic directions
 - (b) Chapter 7 - Transport
 - (c) Chapter 8 - Subdivision
 - (d) Sub chapter 9.3 – Historic Heritage
 - (e) Sub chapter 13.6 - Specific Purpose (Schools)
 - (f) Chapter 14 - Residential zones
 - (g) Chapter 15 - Commercial zones
- 11 Given the broad scope of PC14, my evidence is confined to the matters set out in my evidence below and in particular those areas where I disagree with the reasoning and/or recommendations in the section 42a ('s42a') report(s) insofar that these relate to submissions by CGL. To the extent that my evidence concludes that provisions introduced or amended by PC14 are not appropriate and should be deleted or amended, I have endeavoured to identify consequential amendments that may also be required (whilst acknowledging that other changes may also be necessary due to the scale/complexity of PC14, and the focus of CGL's submissions and my evidence). I have also endeavoured to draft specific amendments to provisions (with tracked changes) where I consider changes are necessary. However, in some instances this has not been possible due to the magnitude of change required.
- 12 My evidence does not engage on a number of specific or minor submission points by CGL that have been accepted or accepted in part by Council officers in their s42a reports. However, I generally agree with the rationale expressed in the submission and in the officer reports on those points.
- 13 In preparing my evidence, I have reviewed:
- 13.1 The submissions filed by CGL (also referred to as 'the submitter').
 - 13.2 The relevant Section 42A Reports prepared by Council officers. Given the number of different s42A reports, I refer to these as relevant in the body of my evidence.

- 13.3 The relevant statutory planning documents, including the Resource Management Act 1991 ('the Act') as amended by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ('the EHS Act'), and the National Policy Statement on Urban Development 2020 ('NPSUD').

SUMMARY OF EVIDENCE

- 14 I consider a number of further amendments to PC14 are necessary and appropriate, in response to the submissions filed by CGL and for the reasons expressed in my evidence.
- 15 I have general concerns with the extent to which PC14 proposes amended or new provisions that:
- 15.1 go beyond the scope of an IPI; and/or
 - 15.2 are inconsistent with strategic objectives 3.3.1 and 3.3.2; and/or
 - 15.3 duplicate operative provisions that otherwise provide for evaluation of the merits or effects of increased height or density, in regards to significant trees, historic heritage, tree canopy coverage, wind and other urban design or built form matters.
- 16 Accounting for these concerns I consider a number of changes are required to the revised provisions provided by Council in the s42a report(s). Such changes include minor amendments that I have detailed below, whereas others require deletion or more fundamental changes to provisions that I have described in my evidence.
- 17 In terms of site specific relief sought by CGL, I consider that:
- 17.1 The proposed Central City Heritage Interface QM is not appropriate insofar that it imposes:
 - (a) a 45m (rather than 90m) maximum building height for 184 Oxford Terrace; and
 - (b) a 28m (rather than 90m) maximum building height for 129-143 Armagh Street.
 - 17.2 The operative/existing heritage setting for New Regent Street should be adjusted so as to not extend over the northern footpath of Armagh Street and avoid unnecessary consenting requirements for development of the land to the north.
 - 17.3 The zonings and overlays at 32 Armagh Street / 325 Montreal Street should be amended to:

- (a) Delete the heritage listing of the Blue Cottage item and setting at 325 Montreal Street;
- (b) Delete the Inner City West RHA generally, and specifically insofar that it relates to the site;
- (c) Delete the RHA Interface overlay insofar that it applies to the site;
- (d) Provide a 32m building height limit for the site on the building height planning maps; and
- (e) Delete the two scheduled trees in the northwest corner of the site.

THEMATIC ISSUES

Scope implications for an IPI

- 18 As set out in paragraph 18 of the covering letter accompanying its submission, CGL considers that a number of provisions in PC14 as notified are beyond the scope of an IPI, because:
- 18.1 Section 77I of the RMA only grants Council's the power to impose QM over 'relevant residential zones' and a number of QM have been identified over zones which are not 'relevant residential zones', including industrial, specific purpose, open space, and rural zones.
 - 18.2 Sections 77I and 77O of the RMA only grants Council's the power to modify the MDRS or the height or density requirements of Policy 3 of the NPS-UD through a QM over relevant residential zones and urban non-residential zones 'only to the extent necessary to accommodate [a qualifying matter]'
 - 18.3 On the authority of *Waikanae*, QM must only relate to making the intensified density standards themselves less enabling, rather than imposing further constraint to the status quo.
- 19 Where relevant, I note the concerns above in my evidence on provisions below, however I note that a significant number of provisions introduced or amended by PC14 impose further constraints to the status quo.

Conflict with Strategic Objective 3.3.1 and 3.3.2

- 20 In addition to issues of scope, I also consider that the provisions in PC14 need to be carefully evaluated in the context of the strategic direction provided by Chapter 3 of the District Plan and objectives 3.3.1 and 3.3.2 in particular. Notably, the introduction to the Plan's strategic objectives states that:
- a. *'For the purposes of preparing, changing, interpreting and implementing this District Plan:*
 - i. *All other objectives within this Chapter are to be expressed and achieved in a manner consistent with Objectives 3.3.1 and 3.3.2; and*
 - ii. *The objectives and policies in all other Chapters of the District Plan are to be expressed and achieved in a manner consistent with the objectives in this Chapter².*
- 21 Objective 3.3.1 relevantly seeks recovery and future enhancement of Christchurch in a manner that, among other things, 'fosters investment certainty', which is a key concern underpinning CGL's submission on PC14. Plan provisions that introduce additional

² 3.3 Objectives, Interpretation

requirements for resource consent and/or increase the scope or subjectivity of assessment will obviously diminish certainty. My experience to date interpreting and advising on the implications of the provisions in PC14 is that they create considerable uncertainty for those planning to invest in new residential or commercial developments in the City.

- 22 Objective 3.3.2 specifically seeks clarity of language and efficiency within the District Plan, and requires that:

'3.3.2 Objective - Clarity of language and efficiency

- a. *The District Plan, through its preparation, change, interpretation and implementation:*
- i. *Minimises:*
 - a. *transaction costs and reliance on resource consent processes; and*
 - b. *the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice; and*
 - c. *the requirements for notification and written approval; and*
 - ii. *Sets objectives and policies that clearly state the outcomes intended; and*
 - iii. *Uses clear, concise language so that the District Plan is easy to understand and use'.*

- 23 I consider a significant number of the provisions proposed in PC14 fail to achieve this objective, insofar that they will not 'minimise' (and will almost certainly increase) transaction costs, resource consent requirements, or the number, extent and prescriptiveness of provisions that diminish innovation and choice. My experience to date with PC14 is that it makes the District Plan considerably less easy to understand and use (notwithstanding the usual challenges of comprehending extensive changes to Plan provisions and the depiction of these through tracked changes).

- 24 I identify provisions where I hold these concerns in my evidence below.

The necessity of QM or Proposed Provisions

- 25 As noted above, s77I and s77O of the RMA, provides that QM may make the MDRS or NPS-UD policy 3 height or density requirements, less enabling, only to the extent necessary to accommodate a qualifying matter. In response, PC14 identifies a number of new or existing QM as the basis for limiting height, density or introducing new provisions.

- 26 However, a number of the QM and new provisions proposed in PC14 are for matters that are already addressed by the operative and established District Plan framework that (either partly or fully)

provides for the evaluation of development proposals and the merits or effects of increased height or density.

27 As stated above, minimising the number and extent of rules is a strategic objective (3.3.2) for the District Plan and relying on (or amending) operative provisions would provide for easier and more efficient interpretation and administration of the Plan and avoid unnecessary duplication.

28 In the case of CGL's submissions, I consider the following QM or new provisions are more efficiently and appropriately managed by operative Plan provisions, and I address these in turn below:

28.1 Significant trees as a QM

28.2 Heritage items and settings as a QM

28.3 Residential Heritage Areas as a QM

28.4 Residential Heritage Areas Interfaces as a QM

28.5 Tree canopy provisions

28.6 Wind provisions

28.7 Other urban design or height rules.

Significant trees as a QM

29 Operative District Plan provisions already limit the extent to which any development (irrespective of its height or density) can occur in the vicinity of scheduled trees, and therefore provide a framework for the protection or management of scheduled trees.

30 Having reviewed the section 32 report³, I am unable to identify reasoning as to why some trees in Appendix 9.4.7.1 are identified as 'qualifying matter trees' and others are not, or more relevantly, what the implications are of a tree being classified as such.

31 To the extent that PC14 proposes a distinction between QM and non-QM significant trees, I question why a distinction is needed given the protection to trees afforded by existing provisions in chapter 9.4 of the District Plan.

32 Section 6.2.5 of the s32 evaluation report suggests that relying on the operative rules only would result in '*significant environmental costs through the overall lack of protection that the status quo approach will provide for urban tree cover within Christchurch*', and

³ [Plan-Change-14-HBC-NOTIFICATION-Section-32-Qualifying-Matters-Part-3-15-March.pdf \(ccc.govt.nz\)](#) and Section 32: Appendix 24, Significant Trees Qualifying Matters Technical Report, 30/6/2022, Hilary Riordan

that *'This approach could lead to the loss or damage of numerous trees on the schedule as the status quo affords them with reduced protection in light of the incorporation of the MDRS'⁴*. However, these statements do not explain how or why the current provisions would fail to provide adequate protection from intensified development.

- 33 Given that the operative provisions manage all works in the margins of listed trees (irrespective of height or density) and prevent the removal of scheduled trees, I do not agree with the reasoning provided and consider there is no need for a specific QM for this matter.

Historic heritage as a QM

- 34 By way of context, PC14 proposes historic heritage as a QM in order to justify lower heights or densities than that otherwise required by the MDRS or NPS-UD Policy 3⁵. The heritage related QM of relevance to CGL's submission and the methods imposed to reduce or limit density⁶ are as follows:

- 34.1 Sites of Historic Heritage and their Settings, which will continue to be managed predominantly by existing, operative provisions in sub chapter 9.3 (noting some minor changes are proposed to these provisions). This is relevant to the southern part of 32 Armagh Street / 325 Montreal Street.
- 34.2 Residential Heritage Areas ('RHA'), that will be subject to extensive new built form standards including changes to building heights, the number of residential units permitted per site, setbacks, building coverage, outdoor living space, and minimum lot sizes for subdivision. This is relevant to the southern part of 32 Armagh Street / 325 Montreal Street.
- 34.3 RHA Interface sites that will be subject to a new consent requirement for buildings. This is relevant to the northern part of 32 Armagh Street / 325 Montreal Street (which is outside of the RHA).
- 34.4 Central City Heritage Interface sites or areas which are applicable to properties that surround the heritage settings for New Regent Street, the Arts Centre, and the Cathedral Square. This relevantly imposes an alternative built form standard for building height for 184 Oxford Terrace and 129-143 Armagh Street.

⁴ ibid

⁵ See page 1 of PC14 s32 and s77 evaluation report: [Plan-Change-14-HBC-NOTIFICATION-Section-32-Qualifying-Matters-Part-1.pdf \(ccc.govt.nz\)](#)

⁶See [PC14-QM-s32-Proposed-provisions-s32-Part-2-Appendix-2.pdf \(ccc.govt.nz\)](#)

- 35 CGL is concerned at the extent to which these QM are disabling relative to the status quo, or limit the height and density of development that would otherwise apply under the MDRS or Policy 3. Whilst there is a degree of overlap between the listed heritage item/setting, RHA and RHA interface QMs that apply to 32 Amagh Street / 325 Montreal Street. Each of these QMs is addressed in turn below.

Historic heritage items and settings as a QM

- 36 For sites with listed historic heritage items and settings, the operative rules in chapter 9.3 manage any new development within those settings or which affects heritage items. To the extent that development of greater building height or density may eventuate under implementation of MDRS or NPS-UD Policy 3, any impacts on heritage values would remain subject to evaluation under the operative rules, assessment matters and policies relating to heritage, and these provide broad scope to impose conditions or refuse consent as is appropriate to the context. For example, assessment matter 9.3.6.1 applies to alterations, new buildings, and replacement buildings and considers whether a proposal is '*consistent with maintaining heritage values... having particular regard to (i) the form, scale, mass materials, design...*' and whether new buildings will be '*compatible with the heritage fabric, values, and significance of the item*' and its '*impact on views to or from the heritage item*' and '*the relationship between elements*'.⁷
- 37 Accounting for the above, I consider the existing heritage provisions in subchapter 9.3 for listed items and settings provide sufficient protection, and building heights or densities need not be modified in reliance on this QM, given that the realisation of any building (and its height or density) will ultimately be subject to the broad evaluation of its heritage impacts through the resource consent process.
- 38 Such an approach effectively says "taller buildings and greater densities are anticipated in this zone/location generally, but may require moderation or refusal based on an assessment of heritage effects". That can be contrasted to an alternative approach which says "for heritage reasons, taller buildings and greater densities are not anticipated in this location". In my view, the former approach is better aligned with the enablement generally sought by the MDRS and NPS-UD policy 3 and the imperative in section 6 of the Act to protect historic heritage from *inappropriate* use and development.
- 39 Whilst the appropriateness of the heritage listing at 32 Armagh Street is addressed in further detail in my evidence below, I support the approach in PC14 of relying on existing heritage provisions

⁷ 9.3.6.1 (d)

(generally) to manage the height and density of development within heritage settings or that directly affects heritage items.

Residential heritage areas as a QM

- 40 The s32 report states that RHAs are subject to a QM, *'because they contain historic heritage which is noted in the RMA S6 as a matter of national importance. The qualifying matter is incompatible with permitted development specified in the MDRS because it is necessary to control development affecting sites of historic heritage to ensure that the historic value of these sites is protected'*.
- 41 As stated above in my evidence, I consider that *listed* heritage items and settings are already adequately protected by way of operative provisions in Chapter 9.3. In the event that additional sites or buildings in areas of the City meet the criteria for listing, that can readily occur in order to provide protection for those heritage features.
- 42 The blanket regulation of areas that is otherwise proposed by way of the RHA QM in PC14 is ultra vires for the reasons given in *Waikanae*. Namely, currently permitted activities (such as demolition or relocation of unlisted buildings, etc) are disenabled and therefore beyond the scope of a QM. Nor is the RHA a related provision consequential on the MDRS or NPSUD Policy 3.
- 43 Regardless, to the extent that the general or collective heritage characteristics or attributes of wider areas (associated with listed or unlisted buildings) may warrant regulatory control, this is also already provided for by operative provisions in the Plan. For example, in commercial zones, the relationship of new development to heritage assets and the *'exterior design, materials, architectural form, scale and detailing'* of nearby buildings are relevant urban design assessment criteria⁸. In residential zones, the operative urban design rules and assessment matters that apply to developments of four or more residential units in the Residential Central City and Residential Medium Density⁹ zones require consideration of *'Whether the design of the development is in keeping with, or complements, the scale and character of development anticipated for the surrounding area and relevant significant natural, heritage and cultural features'*. The introduction to the residential design principles also specifically notes that *'The relevance of the considerations under each residential design principle will vary from site to site and, in some circumstances, some of the considerations may not be relevant at all. **For example, c.ii. is likely to be highly relevant to a development***

⁸ For example, assessment matters: 15.13.1 Urban design (for Commercial Core zones) and 15.13.2.6 Commercial Central City Business Zone urban design

⁹ HDR Rule 14.6.1.3 RD2 and RMD Rule 14.5.1.3 RD1 – both of which require assessment of the residential design principles in Rule 14.15.1

adjacent to heritage items; whereas c.ii. might be less relevant to a development in an area void of heritage items’.

- 44 The provisions above do not predetermine that taller buildings or higher density developments will necessarily result in adverse outcomes on the areas they are located within, nor should they. Rather, they require proposals to be evaluated on their urban design merits, with specific consideration given to the relationship of the development to any notable heritage or architectural characteristics in the area.
- 45 For PC14, four or more residential units in the MRZ or HRZ will require consent with regard to the residential design principles (assessment matters) in rule 14.15.1. Accordingly, subject to the design principles for these zones (where RHA are proposed) retaining discretion regarding the architectural or heritage characteristics of the receiving environment, I consider the operative framework to be more efficient and effective than the RHA rule proposed.
- 46 I otherwise question the extent to which the RHA are supported by a robust evidence base that justifies RHA as historic heritage in and of itself that qualifies under section 6(f) of the Act (as opposed to areas that feature atypical characteristics or a greater proportion of older buildings). I elaborate on these concerns below with regards to 32 Armagh Street / 325 Montreal Street and the questionable categorisation of the former CGHS Tuck Shop as a ‘contributory’ building that ultimately supports the identification of an RHA and its associated provisions.
- 47 In my view, robust justification for the RHA is especially important given that the constraints on building height and intensification that are proposed in reliance on this QM are significant relative to those that would otherwise apply, as summarised in the table below:

Table 1: Comparison of built form standards for the Inner City West RHA			
Density provision:	Operative RCC zone	PC14 HDR	Per RHA QM
Base zoning	RCC (HDR)	HDRZ	MDRZ
Minimum net site area (subdivision)	N/A (<u>minimum</u> density of 200m ² is required)	300m ²	450m ²
Maximum building height	14m	14m	11m
Maximum number of residential units per site	N/A	N/A	2
Setbacks	2m front	1.5m front	3m-5m front

	1.8m side/rear	1m side/rear	1m and 3m side 3m rear
Building coverage	N/A	50%	40%
Outdoor living space	24m ² & 4m dimension	20m ² & 3m dimension	50m ²

- 48 For the reasons above, I consider the RHA provisions are not appropriate, should be deleted in their entirety and are not justified as a QM that limits the height or density of development contemplated by MDRS or Policy 3.
- 49 As stated above, should individual sites or buildings within RHA hold specific heritage values worthy of protection, I consider they should be scheduled. Otherwise, urban design provisions adequately allow for the consideration of surrounding context when assessing new development proposals.

Residential heritage area interface provisions

- 50 Proposed Rule 9.3.4.1.3 RD8 requires consent for *'Any new building (except buildings of less than 5 metres in height) on a site in the High Density Residential Zone or Residential Visitor Accommodation Zone which is located outside a Residential Heritage Area but shares a boundary with a site or sites in a Residential Heritage Area'*. As this rule is disenabling relative to the status quo and is not consequential on the MDRS or NPSUD Policy 3, I consider it is ultra vires for the reasons given in *Waikanae*.
- 51 That aside, for these RHA interface areas, the s32 report reasoning is that *'they are part of the wider surroundings of the historic heritage which is sought to be protected. Historic heritage is noted in the RMA S6 as a matter of national importance. The qualifying matter is incompatible with permitted development specified in the MDRS and policy 3 of the NPSUD because it is necessary to control development affecting sites of historic heritage to ensure that the historic value of these sites is protected'¹⁰.*
- 52 This explanation does not explain why otherwise permitted development is necessarily incompatible, especially where sites subject to the interface overlay adjoin sites or buildings that are within a residential heritage area but of no particular heritage significance or value.
- 53 Regardless of the concerns above, I consider that the operative urban design rules and assessment matters that apply in the HDR

¹⁰ See 6.13.5 of [Plan-Change-14-HBC-NOTIFICATION-Section-32-Qualifying-Matters-Part-2.pdf \(ccc.govt.nz\)](#)

and RVA zones¹¹ (as I have described above) also provide a suitable method for managing development adjacent to heritage areas, irrespective of its scale.

- 54 For the reasons above, I consider proposed Rule 9.3.4.1.3 RD8 should be deleted.

Tree canopy provisions

- 55 In my view these provisions are beyond the scope of PC14, accounting for their dis-enablement relative to the status quo and the reasoning in *Waikanae*. Regardless, I consider the appropriateness of these provisions in further detail below.
- 56 In defining the problem, or issues, that the tree canopy and financial contributions provisions are intended to address, the s32 report¹² states these as follows:

'ISSUE 1- Loss of tree canopy cover through development/urban intensification and insufficient replacement tree planting, particularly in residential zones.'

ISSUE 2- Insufficient and/or inappropriate tree planting on residential development sites and in the future road reserves of new subdivisions in the greenfield or brownfield development areas.

ISSUE 3 – Inadequate soil volume/ tree pits to allow trees to grow healthily to maturity while avoiding damage to infrastructure, and poor tree maintenance

ISSUE 4 – Diminishing number of trees and canopy cover in urban environment contributes to the following adverse effects of urban intensification:...'

- 57 Whilst established tree canopy may be lost to allow for redevelopment and intensification, that is an accepted consequence of implementing the statutory direction in the Act and NPSUD. Otherwise, as to the extent, adequacy and appropriateness of replacement tree planting that can re-establish tree canopy cover over time, I consider this is already addressed by operative District Plan provisions, including:

57.1 Operative residential objectives and policies, including objective 14.2.4 for high quality residential environments and policy 14.2.4.4 which seeks significant opportunities for landscaping.

57.2 Residential rules, including:

¹¹ HDR Rule 14.6.1.3 RD2 and RVA Rule 14.11.1.3 RD4 – both of which require assessment of the residential design principles in Rule 14.15.1

¹² Pages 11-15: [Plan-Change-14-HBC-NOTIFICATION-Section-32-Tree-canopy-Financial-Contributions-with-no-appendices.pdf \(ccc.govt.nz\)](https://ccc.govt.nz/plan-change-14-hbc-notification-section-32-tree-canopy-financial-contributions-with-no-appendices.pdf)

- (a) Building site coverage, outdoor living space and building setback rules for residential zones¹³ which require areas of unbuilt open space (some or all of which may be available for planting and tree canopy provision);
- (b) Minimum landscaping and tree planting requirements for multi-unit development in residential zones, which typically specify a minimum landscaping requirement of 20% of the site area, and minimum tree planting requirements¹⁴; and
- (c) Other rules which impose landscaping or tree planting requirements¹⁵.

57.3 Residential assessment matters, including residential design principles, those relating specifically to landscaping rules, and those related to other amenity related rules¹⁶.

57.4 Subdivision objectives and policies¹⁷; subdivision guidance documents including Infrastructure Design Standards, Construction Standards Specifications, and Waterways, Wetlands and Drainage Guides; and to a limited extent the matters of control¹⁸.

57.5 Resource consent conditions and monitoring requirements, imposed in respect of tree planting and landscaping.

58 Section 3.2 of the s32 report¹⁹ examines the current Christchurch District Plan provisions of relevance to this issue and whilst it considers some policy provisions, it fails to consider the range of *methods* described above (including those that apply to single and multi unit dwelling development) or the extent to which these adequately provide for *replacement* planting.

59 Accounting for the above, I consider the tree canopy cover and financial contributions should be deleted in their entirety (including

¹³ For example, rules 14.4.2.4 Site coverage, 14.4.2.5 outdoor living space, and 14.4.2.7 internal boundary setbacks.

¹⁴ For example, rule 14.4.2.2 Tree and garden planting.

¹⁵ For example, rule 14.4.2.9 road boundary setbacks.

¹⁶ For example, rule 14.15.18 Minimum building, window and balcony setbacks

¹⁷ For example, objective 8.2.1 which references the natural heritage objectives and policies including those regarding significant and other trees in Chapter 9, policy 8.2.2.4(a) which requires subdivision to incorporate and respond to site features including trees; and policy 8.2.3.3(b) which seeks to enable street landscaping and trees.

¹⁸ For example, rule 8.7.4.4 regarding landscaping in transport networks.

¹⁹ <https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/district-plan/Proposed-changes/2023/PC14/Section-32/Plan-Change-14-HBC-NOTIFICATION-Section-32-Tree-canopy-Financial-Contributions-with-no-appendices.pdf>

associated references to the same in the subdivision and residential chapters).

- 60 Whilst I have not considered the matter in great detail and therefore do not rely on it for my conclusion above, I also question whether the Council's assessment of costs associated with the proposed financial contributions fully accounts for the impact on affordability, where contributions for a shortfall in canopy cover or the development costs (in terms of reduced development yield) are likely to be passed on directly or indirectly to purchasers. By way of example, using Council's online calculator, a 5% shortfall in the 20% tree canopy for CGL's site at 32 Armagh Street would require a financial contribution of approximately \$430,000, or \$15,358 per unit assuming 28 units were developed at the current minimum density of 200m² per unit. Imposing such additional cost has implications in terms of the NPS-UD objective to improve housing affordability.

Wind rules

- 61 CGL support the amendments (in the s42a report) to provisions for wind in chapter 6.13, insofar that these do not apply to commercial development in the central city where tall buildings (and associated wind conditions) are expressly anticipated.
- 62 CGL's submission otherwise opposed these provisions on the basis that they will impose uncertainty, cost and practical challenges to those affected by the rules. Those concerns remain.
- 63 I share those concerns, based on the wording of the provisions and my experience with other operative rules in the Plan that require specialist technical input in order to determine or demonstrate compliance, with associated cost, time and resourcing implications.
- 64 As worded, proposed rule 6.13.4.1.1 P1 requires evaluation of complex wind speed calculations by a suitably qualified professional and applications that do not comply with this standard will also require a specialist/expert assessment of the matters of discretion in rule 6.13.5.1. This does not accord with objective 3.3.2 generally, or its specific objective that the District Plan is '*easy to understand and use*'.
- 65 At a practical level, I am concerned at the availability and cost of obtaining specialist assessments from suitably qualified professionals. A google search of 'wind impact consultants New Zealand' directed me to firms or webpages associated with wind energy (rather than wind impacts per se) and the New Zealand Wind Energy Association website only identified four consultancies

providing wind modelling and meteorological services in New Zealand²⁰.

- 66 From first hand experience, I have encountered challenges with the availability, timeliness, and cost of experts to address District Plan rules that require specialist expertise in order to determine or demonstrate compliance, including:
- 66.1 Acoustic engineering experts required to address compliance with rules for acoustic insulation for buildings;
 - 66.2 Lighting experts to address compliance with rules for digital billboards and sports lighting; and
 - 66.3 Urban design experts on a council approved list for urban design certification.
- 67 Whilst I accept that in some instances expert determination of compliance with rules may be unavoidable, I caution against this where the rule may apply to a considerable number of activities and the pool of expertise is limited, as is potentially the case here.
- 68 For the reasons above, I hold reservations regarding the efficiency, costs relative to benefits, and appropriateness of the provisions in chapter 6.13.5.1. Whilst I have not considered alternatives in significant detail, I question whether wind impacts could be more appropriately managed through policy and assessment matters (and possible design guidance) that enables assessment of buildings that are considerably taller than what is anticipated by the applicable zoning or which are likely to have demonstrable wind impacts, rather than all buildings.

Other urban design or built form rules

- 69 My evidence below on provisions in the residential and commercial chapters elaborates on, and provides specific examples of, new or amended rules and assessment matters in PC14 that results in unnecessary duplication and fails to '*minimise...the number, extent, and prescriptiveness of development controls and design standards in the rules, in order to encourage innovation and choice*' as sought by objective 3.3.2.
- 70 For the residential and commercial zones where intensification is enabled and most likely to occur, urban design standards are ubiquitous and provide an effective and efficient means of assessing the wide variety of buildings, sites and surrounds in a way that is appropriate to the context. Whilst the potentially broad scope of urban design assessment matters requires tempering to avoid a quasi-discretionary activity status, I consider they provide an

²⁰ <https://www.windenergy.org.nz/our-members/directory/industry-directory/wind-resource-modelling/-/meteorological-services>

effective method for: ensuring buildings are generally appropriate to their context; prompting assessment of any key issues; and, still encouraging innovation and choice.

SITE-SPECIFIC MATTERS

184 Oxford Terrace

- 71 The 90m building height limit recommended in the officer's report²¹ for the majority of the Central City Zone in 15.11.2.11 is generally supported by CGL. However, the 45m height limit within the proposed 'Cathedral Square Height Precinct' is opposed to the extent that it encompasses 184 Oxford Terrace which is owned by CGL (see **Figure 1**). This property is situated adjacent to Oxford Terrace and the Avon River precinct and is separated by from Cathedral Square by other commercial sites and buildings.

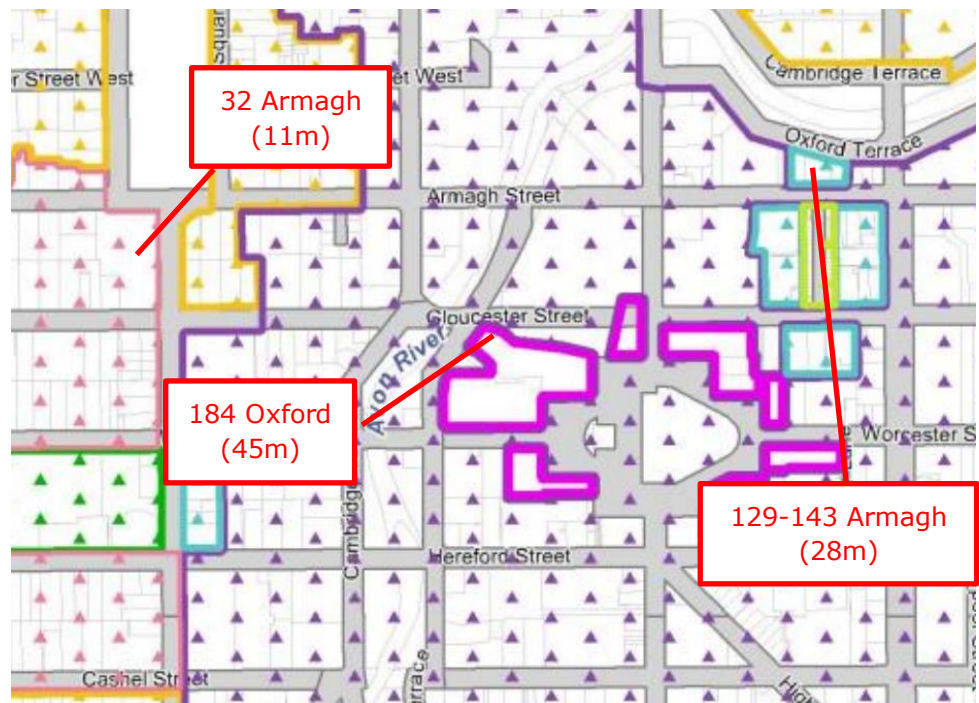


Figure 1: Extract of proposed height limits map²²

- 72 I understand from the section 32 reports²³, that the rationale for a height limit of 45m in this location is to limit shading effects on Cathedral Square.

²¹ See page 47 of [02-Andrew-Willis-Section-42A-Report-final.PDF \(ihp.govt.nz\)](#)

²² Ibid

²³ [Plan-Change-14-HBC-NOTIFICATION-Section-32-Commercial-and-Industrial.pdf \(ccc.govt.nz\)](#) and [PC-13-14-Central-City-Heritage-Height-Limits-S32-Heritage-Advice-final.pdf \(ccc.govt.nz\)](#)

- 73 Whilst shading diagrams were prepared for the height limits associated with New Regent Street and the Arts Centre I have been unable to locate equivalent shading analysis for Cathedral Square.
- 74 However, Mr Compton-Moen has provided evidence for CGL on this matter, which includes sun studies showing the shading on Cathedral Square associated with physically existing buildings (e.g. Rydges Hotel), authorised but yet to be developed buildings (e.g. Convention Centre precinct hotels on the north and northwest edges of Cathedral Square) and otherwise permitted buildings accounting for the proposed 45m height limit adjacent to Cathedral Square. Based on his evidence and graphic attachments, enabling 90m high buildings at 184 Oxford Terrace would not result in any greater shading effects on Cathedral Square, than would otherwise occur with the proposed 45m Height Precinct overlay. In simple terms, that is because the shading of Cathedral Square is determined by the intervening sites and buildings.
- 75 Given that analysis, the attractiveness of 184 Oxford Terrace for intensive development (given its northwest frontage, aspect and views over Oxford Terrace and the Otakaro Avon River precinct), and the imperative to maximise height and density in NPSUD policy 3, I consider this overlay should be deleted for this property.

129-143 Armagh Street

28m Height Limit

- 76 The submitter has an interest in the undeveloped city block bounded by Colombo/ Armagh / Manchester Streets and Oxford Terrace. This land includes the properties at 129-143 Armagh Street, which are subject to a 28m maximum building height in rule 15.11.2.11 (see **Figure 1**) on the basis of the Central City Heritage Interface Qualifying Matter associated with New Regent Street.
- 77 The heritage advice underpinning the s32 evaluation of this proposed height limit states:

'urban development enablement involving buildings up to 90m high (as per the proposed City Centre zone height limit) in and adjacent to New Regent Street would be inappropriate. Continuation of the operative 28m height limit for sites to the east, west, north and south of New Regent Street will provide sufficient protection of this Heritage item from development of an inappropriate height, which could cause inappropriate contrasts of scale, and downdraughts, as well as impacting the architectural and contextual heritage values. Sun studies have shown that while there is some reduction in shading effects from continuing to reduce permitted height to 28 metres on sites surrounding New Regent Street, modelling demonstrates that the greater benefit from the lower 28 metre height limit is a

reduction in visual dominance effects from those anticipated by permitted zone heights of 45 to 90 metres on these sites²⁴.

- 78 As acknowledged in the statement above and shown in the sun studies referred to²⁵, a reduced building height achieves 'some' reduction in shading to New Regent Street. More specifically, in equinox periods the shade from a 90m building at 129-143 Armagh Street will start to fall on New Regent Street from 11am, and depart at about 2pm (see **Figure 2** below). The greatest impact is around noon-1pm, when the shade will extend approximately midway along New Regent Street. The sun studies provided by Council do not show the extent of shading on New Regent Street caused by the buildings fronting the street itself, which I presume would be determinative of shading in morning and afternoon periods when the sun is lower, and to the east and west respectively. Nor do the sun studies show the extent to which 90m high buildings to the east or west of 129-143 Armagh Street might be determinative of shading on New Regent Street. The photo in **Figure 3** below illustrates this point, insofar that it shows the shading caused by the tram and verandas due to the angle of the sun which appears to be in late morning, mid-summer given the short shading to the west. At later times of day or at other times of year, I would expect longer shadows to be cast by the tram or building facades in the same photo.
- 79 Accounting for the above, I do not consider there is sufficient evidence to justify a reduced building height limit on the basis of shading effects on New Regent Street.



Figure 2: Extract of CCC sun studies (equinox)

²⁴ [PC-13-14-Central-City-Heritage-Height-Limits-S32-Heritage-Advice-final.pdf \(ccc.govt.nz\)](#)

²⁵ [PC-13-s32-Appendix-16-Qualifying-Matter-Central-City-Heritage-Interface-Arts-Centre-and-New-Regent-Street.pdf \(ccc.govt.nz\)](#)



Figure 3: Image of New Regent Street depicting shading

- 80 To the extent that the s32 report considers, on the basis of the modelling, that *'the greater benefit from the lower 28 metre height limit is a reduction in visual dominance effects'* it does not elaborate on the significance of those effects, or why tall buildings in the vicinity will necessarily affect New Regent Street's heritage values. Mr Compton-Moen's evidence elaborates on this and the manner in which tall buildings can successfully co-exist with smaller buildings, including those of heritage value. Mr Compton-Moen also specifically addresses why taller buildings around New Regent Street would help define, rather than negatively affect, the space and the buffer that is otherwise provided by the Armagh Street road corridor. I accept Mr Compton-Moen's advice in this regard.
- 81 Given the above, I do not consider sufficient justification has been provided to warrant a height limit of 28m at 129-143 Armagh Street, relative to the 90m limit otherwise proposed for the balance of that block or the wider CCZ.

Spatial extent of New Regent Street heritage setting

- 82 129-143 Armagh Street also adjoins that part of the (existing) heritage setting for New Regent Street, which extends across the Armagh Street road reserve. CGL seeks that the heritage setting be removed from all or part of the Armagh Street road reserve.
- 83 Given that the Armagh Street road reserve is owned and managed by Council as the road controlling authority and will be subject to the typical operational and functional requirements expected in a central city roading corridor, I consider the heritage setting is of limited importance or consequence – to either the future development and use of the land at 129-143 Armagh Street or to the protection of New Regent Street's heritage values.

- 84 However, a consequence of the heritage setting's northerly extent is the consenting requirements imposed on features such as verandas and signage protruding from the south facing façade of buildings on the north side of Armagh Street. Such features would fall within the heritage setting and require resource consent under the corresponding heritage rules.
- 85 These features are managed by other rules (urban design, signage rules, etc) and are unlikely to affect the heritage values of New Regent Street given their nature, scale, separation from listed buildings and the intervening non-listed/modern buildings that bookend New Regent Street. Any structures overhanging the footpath are also subject to Council approval as the landowner and roading authority, under its structures in streets policy.
- 86 On this basis, I consider a consenting requirement would be unnecessary (generally and in terms of heritage objectives in the Plan) and inconsistent with strategic objective 3.3.2. Whilst I consider that removal of the heritage setting from the Armagh Street road reserve in its entirety would be appropriate for these reasons, it would suffice to remove it from the northern half or the road, or simply from the northern footpath on Armagh Street (noting structures would not extend beyond this into the carriageway).

32 Armagh Street / 325 Montreal Street

- 87 CGL owns approximately 5600m² of land at 32 Armagh Street / 325 Montreal Street, being the former Christchurch Girls' High School site. That land is predominantly metalled and used for car parking, with the exception of:
- 87.1 the 'Blue Cottage' building (being listed heritage item number 390)
 - 87.2 an unlisted 1970's concrete block building (the 'CGHS tuck shop building'); and
 - 87.3 two listed trees in the northwest corner of the site.
- 88 Per the various s42a reports for PC14, the following zoning and overlays are recommended for the site:
- 88.1 Existing Specific Purpose Schools ('SPS') zoning with underlying High Density Residential ('HDR') zoning to remain²⁶;

²⁶ [10B-Clare-Piper-section-42A-report-final.PDF \(ihp.govt.nz\)](#)

- 88.2 Existing scheduling of the heritage item and setting for the Blue cottage to remain²⁷;
- 88.3 Proposed Residential Heritage Area (RHA) overlay for the southern part of the site, to encompass the heritage setting and item (assessed as 'defining') and the CGHS tuck shop building (assessed as 'contributory') and the RHA Interface Overlay proposed to apply to that part of the site not within the RHA²⁸.
- 88.4 Existing scheduling of 2 x significant trees (Appendix 9.4.7.1) to remain, but proposed to be classified as QM trees²⁹.
- 89 The submitter supports the proposed SPS zoning (and underlying HDR zoning) of the land but seeks deletion of the notations or overlays in paragraphs 88.2-88.4 above, on the basis that they will limit intensification opportunities for the site, provide benefits that are outweighed by costs, are not justifiable on merit, and are therefore not appropriate. I consider these matters in turn below.

Heritage listing of Blue Cottage

- 90 In evaluating CGL's submission seeking delisting of the blue cottage in the context of these criteria, Ms Richmond relies on the evidence of:
- 90.1 Ms Ohs³⁰ as to the heritage values of the building.
- 90.2 Mr Stanley³¹, who estimates a cost of \$259,000 cost to repair the building.
- 90.3 Ms Caponi³², as to the extent of repair works required and engineering factors relevant to the listing of the building; and
- 90.4 Mr Holmes³³, as to repair methodologies and opportunities for adaptive reuse.
- 91 Having reviewed the Council's evidence, the applicant has obtained evidence of a similar nature from:

²⁷ [07-Suzanne-Richmond-Section-42A-Report-final.PDF \(ihp.govt.nz\)](#)

²⁸ I note that the figures in Appendix C of Ms Dixon's s42a report do not clearly show the amended boundaries of the RHA, however it is clear from paragraph 8.3.7 that this is intended. See [06-Glenda-Dixon-Section-42A-Report-FINAL.PDF \(ihp.govt.nz\)](#)

²⁹ [50-Hilary-Riordan-Statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

³⁰ [45-Amanda-Ohs-Statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

³¹ [chch2023.ihp.govt.nz/assets/Council-Evidence-11-August-2023/53-Gavin-Stanley-Statement-of-evidence-final.PDF](#)

³² [16-Clara-Caponi-Statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

³³ [32-Tim-Holmes-statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

- 91.1 Mr William Fulton, as to the condition of the building;
- 91.2 Mr David Hill, as to redevelopment options for the site, adaptive reuse of the building and building upgrade requirements;
- 91.3 Mr Kyle Brookland, as to the building condition;
- 91.4 Mr Tom Chatterton, as to the costs of repairing the building;
- 91.5 Mr David Compton-Moen, as to the spatial/development implications of the heritage item and setting.
- 92 Accounting for the evidence above and based on the statement of significance³⁴ (as referenced in Ms Oh's evidence) the building clearly has *some* significance to the Christchurch District and evidently meets a number of the heritage values in Appendix 9.3.7.1. However, that statement does not demonstrate how the historic heritage meets '*at least one of the heritage values³⁵ in Appendix 9.3.7.1 at a significant or highly significant level*' where those values are at a 'significant level' as is required by policy 9.3.2.2.1(b)(i)(A), rather than simply being 'of significance'.
- 93 In this regard, the statement of significance concludes:
- 'The former dwelling and its setting have **overall significance** to the Christchurch District, including Banks Peninsula. The building has historical **significance** as a c.1875 colonial cottage, the former home of Ernest Empson, and for its association with Christchurch Girl's High School. The former dwelling has architectural **significance** due to the authenticity of its exterior and retention of some of its original interior detailing. As a small colonial cottage this building has landmark **significance** within the inner-city's historic western precinct. It has further contextual **significance** as it stands as a reminder of the style, scale and materials that once dominated the city's colonial built environment. The dwelling and its setting has archaeological **significance** in view of its 19th century construction'.*
- 94 I consider this distinction is important, insofar that something "being of significance" is often context-dependent and subjective, while "being significant" implies a more objective, absolute and substantial level of importance or impact.
- 95 Whilst the statement (and conclusion) above refers to the *significance* of the building, it fails to conclude that the relevant

³⁴ [HID 390.pdf \(ccc.govt.nz\)](#)

³⁵ The values set out in Appendix 9.3.7.1 for assessing significance are: Historical and social value, Cultural and spiritual value; Architectural and aesthetic value; Technological and craftsmanship value; Contextual value; and Archaeological and scientific significance value.

values will be met at a 'significant or highly significant' level³⁶. On this basis, I consider the building currently fails to meet the criteria for scheduling.

- 96 Regardless of its qualification for scheduling, part (c) of policy 9.3.2.2.1 provides exemptions from scheduling as follows:

...c. Schedule significant historic heritage as heritage items and heritage settings where each of the following are met:

- i. the thresholds for Significant (Group 2) or Highly Significant (Group 1) as outlined in Policy 9.3.2.2.1 b(i) or (ii) are met; and*

unless

- iii. the physical condition of the heritage item, and any restoration, reconstruction, maintenance, repair or upgrade work would result in the heritage values and integrity of the heritage item being compromised to the extent that it would no longer retain its heritage significance; and/or*

- iv. there are engineering and financial factors related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item.*

- 97 As to the physical condition of the building, this is described by Ms Caponi for Council, and Messrs Fulton, Hill and Brookland for the submitter.

- 98 Ms Caponi's evidence relevantly notes:

'deferred maintenance works have significantly accelerated the deterioration of the building exteriors [since 2015]. The damage has particularly worsened the condition on the South-West Elevation where most of the weatherboards are now beyond salvage due to mould, rot or borer issues. In certain areas, the damage or partial removal of the cladding system has also exposed the inner timber structure to the natural elements potentially causing the onset of mould and moisture in the building materials'. (para 28)

'the volcanic stone units used for the ring beam foundation on the North-East and North-West Elevations are in advance state of decay and most of them are beyond salvage' (para 30).

³⁶ The statement only uses the term 'significant' when noting that "325 Montreal Street was purchased by Ernest Charles Empson (1880-1970), an Ashburton-born pianist and piano teacher who later gained an international reputation and made a **significant** contribution to the city's music scene"

'the deferred maintenance works might have also adversely affected the building's structural and non-structural internal components. Leaking issues in the wall external fabric and roof cladding might have allowed penetration of rainwater within the internal structures causing the onset of mould and rot issues' (para 31).

'If intrusive investigations prove the damage to the inner structures to be minimal and no trace of lead based paint is found on the weatherboard, only standard repairs and maintenance works would be required to reinstate the building to a good condition. On the other hand, if the damage to the inner structures is proven to be extensive and traces of lead-based paint are found in the weatherboard coating, substantial repairs and strengthening works would be required to retain the cottage and loss of a significant part of the original heritage fabric should be expected' (para 38).

- 99 Mr Brookland's evidence and inspection report describes extensive damage and the need for substantial repairs and replacement of parts of the building. Notably and with reference to Ms Caponi's evidence regarding the implications of lead based paint being present, Mr Brookland's inspection confirms the presence of such paint extensively on the exterior of the building.
- 100 Mr Fulton's evidence provides similar conclusions to those of Ms Caponi and Mr Brookland, concluding that the building is in poor condition, albeit Mr Fulton advocates a repair strategy that takes a Conservation approach accounting for the building's heritage listing. Mr Fulton otherwise agrees with Mr Holmes for Council that the building is *'capable of repair'*.
- 101 Mr Hill's evidence similarly records extensive damage to the building, stating that *'the building is deteriorated to a such an extent that it would have to be totally rebuilt. The original building elements that still exist and are in a state that can be reused, are minimal. To rebuild in this manner will result in a 'replica' of the original of very limited heritage value and would be an expensive exercise'*.
- 102 Based on the evidence above, I understand repair and reinstatement of the building is *possible*, but such works will likely be significant and costly and therefore call into question whether there are *'financial factors related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item'* per clause (c)(iv) of the policy.
- 103 I am unclear from the evidence whether the exemption from listing in clause (c)(v) of the policy would also apply, insofar that *'the physical condition of the heritage item, and any restoration, reconstruction, maintenance, repair or upgrade work would result in the heritage values and integrity of the heritage item being*

compromised to the extent that it would no longer retain its heritage significance'.

- 104 As to whether financial factors make scheduling unreasonable or inappropriate, I note the evidence of Mr Holmes suggests there are *'a wide range of uses that the restored building could be put to'*, including residential or commercial activity, with the latter including consultancies, retail, tourism, hospitality, museums, or galleries etc). I disagree with Mr Holmes that such activities are a given.
- 105 From a planning perspective, the site is zoned SPS which permits education activities and education facilities, or activities permitted by the underlying RCC/HDR zoning. That being the case, non-residential activities (other than education activities) above 40m² are not permitted. To the extent that Mr Holmes suggests residential use, that is also uncertain insofar that operative and proposed rules would potentially require resource consent³⁷.
- 106 From a Building Code perspective, Mr Hill's evidence describes the extensive upgrades that would be required for the building in order to repurpose it for permitted education or residential use.
- 107 From a financial perspective, the evidence of Mr Chatterton provides a detailed estimate of costs to make good the building of \$1.452 million, which is substantially higher than Mr Stanley's estimate of \$259,000.
- 108 Lastly, Mr Compton-Moen's evidence describes the spatial implications of retaining the building and heritage setting, in terms of the opportunity cost of otherwise enabling unfettered development and additional household capacity in this location. Based on his previous master planning of the site, the heritage building and setting required the loss of 8 residential units (15%) from a total of 54 units that could be established on the site.
- 109 In summary, accounting for the above, I consider that:
- 109.1 The building currently fails to meet the criteria for scheduling in policy 9.3.2.2.1, on the basis that the assessment/ statement of significance does not demonstrate that the building meets at least one of the heritage values in Appendix 9.3.7.1 at a 'significant' or 'highly significant' level.
- 109.2 Based on the evidence of Ms Caponi for Council and Mr Brookland and Mr Fulton from CGL, it is clear that the building is in poor condition and substantial works would be required to remediate the building. However, it is unclear whether the

³⁷ E.g. Proposed rule 14.6.2.8 requiring 20% of the street facing façade in glazing; compliance with outdoor living space and minimum unit size requirements would need to be demonstrated; external sound insulation of the building would be required for its use for a sensitive activity in proximity to Montreal Street under rule 6.1.7.2.1.

required restoration, reconstruction, maintenance, repair or upgrade works would result in the heritage values and integrity of the heritage item being compromised to the extent that it would no longer retain its heritage significance, per clause (c)(v) of the policy.

109.3 Based on the evidence Mr Hill, Mr Chatterton and Mr Compton-Moen (and that of Ms Caponi, Mr Brookland and Mr Fulton) the cost and opportunity cost of repairing the building for uncertain future use constitutes a *'financial factor related to the physical condition of the heritage item that would make it unreasonable or inappropriate to schedule the heritage item'* per clause (c)(iv) of the policy. I note that this would also be a particularly relevant factor when considering the merits of demolition under policy 9.3.2.2.8.

110 Given the above and the implications for realising the intensification otherwise sought by the Act and Policy 3, I consider the heritage listing of the Blue Cottage item and setting is not appropriate and should be deleted.

The Inner City West RHA

111 As set out in my evidence above on RHA's generally, I consider insufficient evidence has been provided to justify RHA as constituting historic heritage of a national importance level, rather than being an area of more pronounced character than the norm or one which simply includes a number of listed heritage items.

112 In the case of the Inner City West RHA and 32 Armagh Street specifically, PC14 as notified classified the entire site as a 'defining' site. Ms Dixon's s42a report has since acknowledged an error in the classification of this site, suggesting that the listed heritage item be classified as 'defining', the former tuckshop building be classified as 'contributory' and the significant majority of the balance of the site be identified as 'intrusive' and therefore removed from the RHA. Ms Dixon's report also notes other errors and reclassifications of sites within the same RHA, such as the very large YMCA site which was reclassified from 'defining' to 'neutral' and 'intrusive', and is therefore to be removed from the RHA.

113 Whilst I am not a heritage expert, having walked and observed the Inner City West RHA I question the rigour or objectivity of the mapping and classification of sites. For example, sites with frontages dominated by garaging and high walls (e.g. 275 Montreal Street or 16 Armagh Street), modern townhouse developments (e.g. 29-31 Gloucester), sites subject to consents for demolition (e.g. extensive Christs' College landholdings), and sites with undeveloped areas that could be readily redeveloped (e.g. 277 Montreal or 21 Gloucester) are classified as 'defining' or 'contributory'.

- 114 I understand that the threshold for classifying an area as an RHA is that at least 50% of the sites/buildings are assessed as 'contributory' or 'defining'. Accordingly, reclassifying sites or redefining the boundaries/extent of the RHA (as is proposed by Ms Dixon) calls into question the validity of these areas. By way of example, the Inner City West RHA as notified north of Gloucester Street would no longer appear to meet the 50% threshold following the reclassification now proposed by Ms Dixon, if the focus were on that area alone.
- 115 In terms of the RHA applying to the southern part of 32 Armagh Street specifically, the former CGHS tuckshop building is classified as a 'contributory' building, despite being a utilitarian concrete block structure from circa 1970, with no notable relationship to Gloucester Street (see **Figure 4** below), and in a position that will not be visible from Armagh or Montreal Street when the balance of the site is developed. The site evaluation report underpinning the classification concedes that the building itself has no particular heritage values of significance, with the reason for rating the building as 'contributory' being that it is *'the only school building to survive from the campus of Christchurch Girls' High School'*. All other reasons given in the site listing relate to the wider area. On this basis, I do not consider that the building is 'contributory', or that the RHA overlay should apply to that part of 32 Armagh Street occupied by the former tuckshop.



Figure 4. 'Contributory' CGHS tuck shop building (Google Maps)

- 116 To the extent that the Blue Cottage is relevant to the RHA, if this building were removed (as is sought by the submitter), then this part of the site would presumably be reclassified as 'intrusive' as is the case for other undeveloped land and would warrant removal from the RHA like the balance of the site to the north. Otherwise, this item and setting is already protected in the District Plan and the RHA is unnecessary as it does not afford any additional protection or benefit to this land.
- 117 In summary, I do not consider sufficient evidence has been provided to confirm that the Inner City West RHA as a whole is an item of historic heritage that warrants the regulatory protection proposed,

as a matter of national importance. For 32 Armagh Street, I consider Council's own evaluation of the former CGHS tuckshop building warrants its reclassification as a 'neutral' or 'intrusive' building. The Blue Cottage is currently a listed heritage item that is afforded protection which makes the RHA redundant, and in the event that its listing is removed (as sought) it would no longer justify inclusion in the RHA. For these reasons and otherwise noting my earlier evidence on RHA generally, I consider the RHA should not apply to 32 Armagh Street.

The RHA Interface Overlay

- 118 Whilst Ms Dixon proposes that the undeveloped area of 32 Armagh Street (presently used for car parking) should be removed from the RHA, she proposed that it be subject to the RHA Interface Overlay.
- 119 As noted earlier in my evidence, the consequence of this Overlay is to require resource consent under proposed Rule 9.3.4.1.3 RD8 for *'Any new building (except buildings of less than 5 metres in height) on a site... [that] shares a boundary with a site or sites in a Residential Heritage Area'*.
- 120 The rule is not limited to a distance from a boundary with a RHA, nor does it provide any distinction for sites that adjoin buildings in the RHA of a lower classification (e.g. intrusive, neutral, contributory). 32 Armagh Street borders modern townhouse developments along the majority of its western boundary with the RHA (neutral or contributory), with its southwest corner adjoining a defining site and building at 33 Gloucester Street (see **Figure 5** below). At its widest point, the site is some 65m from the RHA boundary. As a result, the rule will apply to and affect development of those parts of the site that are distant from the RHA and have no direct impact on adjacent sites, or buildings, particularly those assessed as making a defining contribution to the RHA. Imposing this consenting requirement would be disabling relative to the status quo, contrary to objectives 3.3.1 and 3.3.2, and unnecessary given the urban design (and other) rules that I have described earlier that specifically manage the effects of development in this location on adjacent sites and areas.
- 121 Given the above and my evidence opposing RHA generally and in this location especially, I do not consider this interface overlay and rule Rule 9.3.4.1.3 RD8 are appropriate for the site.



Figure 5: 32 Armagh interface

Building Height Limit

122 As shown in **Figure 1** above, the proposed planning maps for building height limits (as appended to Mr Willis' s42a report) have not been amended to revise the height limit for that part of 32 Armagh Street that is proposed to be removed from the RHA. On the basis of this land no longer being within the RHA, and the underlying zoning being HDR, a height limit of 32m should apply as otherwise applies to the HDR zone in the surrounding area.

Significant Trees

- 123 CGL's submission sought the removal of the two listed trees in the northwest corner of the site given the constraint they impose on development of this part of the site.
- 124 I am unaware of any evidence that the trees are in poor state of health that would warrant their delisting. Accordingly, I consider the merits of scheduling or delisting/removing the trees is a function of weighing the public benefits of these trees with the private costs imposed on the landowner through reduced development flexibility and opportunity. Mr Hill's evidence notes that the northwest corner of the site is the best part of the site for residential or mixed use development given its orientation for sun and its distance from the busy Montreal / Armagh St corner and the trees will reduce development flexibility and opportunity and otherwise shade any

buildings that are built close to them. Mr Compton-Moen's evidence refers to the master planning he previously undertook for the site and notes that the trees required the removal of 6 (11%) of the 54 units planned for the site. I agree with Mr Hill's observations and accept Mr Compton-Moen's advice and consider these clearly represent costs. However, I acknowledge I have no economic evidence to quantify the benefits of retaining the trees as a counterpoint to the costs of their removal.

- 125 In the event that the trees are to remain in the Plan, it is appropriate that further consideration of their removal be provided for by policy 9.4.2.2.7 (which provides guidance for the felling of scheduled trees). As worded, that policy only refers to 'significant trees', not 'qualifying matter trees'. As stated earlier in my evidence, I am unclear on the reason or need for this distinction, but if it is to remain, I consider policy 9.4.2.2.7 should be amended to refer to '*the felling of significant or qualifying matter trees*'.

CHAPTERS OR ZONE-SPECIFIC PROVISIONS

Chapter 3 - Strategic directions

- 126 CGL sought amendments to objective 3.3.8(a)(viii) which have been adopted in the s42a report. To the extent that additional changes are proposed to objective 3.38, these are generally supported.
- 127 However, proposed objective 3.3.8(a)(vi) seeks an urban environment that "*(vi) Ensures the protection and/or maintenance of specific characteristics of qualifying matters*". Given that the characteristics and significance of qualifying matters will vary in different contexts, and will require different responses in those contexts, more nuanced wording is required and I consider this objective should instead seek to 'recognise and provide for' the specific characteristics of QM, rather than necessarily 'ensure protection or maintenance', as follows:

(vi) ~~Ensures~~ Recognises and provides for the protection and/or maintenance of specific characteristics of qualifying matters.

Chapter 6.10A – Tree Canopy Cover

- 128 For the reasons stated above in this evidence, I consider the provisions in this chapter should be deleted in their entirety.

Chapter 7 - Transport

- 129 CGL's primary submission point on the proposed changes to Chapter 7 transport is that the proposed provisions in their entirety '*are onerous and unnecessary and are not necessary for the purposes of implementing the NPSUD or EHS Act*'. I agree, and accounting for my earlier evidence on scope for an IPI per *Waikanae*, I consider the changes proposed to Chapter 7 should be rejected on this basis.

130 I also note that a number of changes to transport provisions (especially those changes proposed following the notification of PC14) may be prejudicial to those who have not submitted and participated in PC14 because they are not within relevant residential or non-residential zones. However, the transport provisions apply to all forms of land use across all zones in the District and therefore changes proposed in PC14 will have far reaching, unintended and prejudicial consequences.

131 In regards to CGL's submission points on policy 7.2.1.9 (pedestrian access), and other transport rules and assessment matters, I rely on and agree with the evidence of Ms Lisa Williams who addresses those provisions in detail.

Chapter 8 - Subdivision

132 For the reasons set out in more detail in my evidence above on the Tree Canopy and Heritage provisions, and otherwise noting my evidence on the limited scope of an IPI, I agree with CGL's submission points and requested relief seeking:

132.1 Deletion of those provisions in Chapter 8 related to urban tree canopy cover and financial contributions³⁸; and

132.2 Deletion of amendments to Rule 8.6.1 Table 1 – Minimum net site areas – residential, insofar that this specifies minimum net site areas for residential heritage areas.

Chapter 9.3 – Historic Heritage

133 CGL's submission opposed heritage areas and all associated provisions relating to heritage areas. I agree with that relief, accounting for my evidence above regarding specific concerns with the merits of heritage areas which I do not repeat here.

134 However, I do stress concerns with amendments to policy 9.3.2.2 (which provides the basis for heritage areas), given this provides no framework or guidance as to how buildings or features are assessed as being of '*defining or contributory importance to the heritage area*'. This is a key criteria for identifying heritage areas and imposing significant regulatory constraint, yet there is no framework within the policy that provides for the robust identification, assessment and classification of 'contributory buildings' and 'defining buildings' (e.g. in the same manner that policy 9.3.2.2.1 does for heritage items). Whilst 'contributory building' and 'defining building' are defined terms in the Plan, the definitions do not provide that framework either. Whilst I consider heritage areas and all associated provisions should be deleted for the reasons stated earlier in my evidence, if such areas are to remain, I consider policy

³⁸ Objective 8.2.6 and policies 8.2.6.1-8.2.6.3, Rule 8.3.1 (e) and (f), Rule 8.3.3 (b), Rule 8.3.7, and Rule 8.7.12 Tree canopy assessment matters

9.3.2.2 requires amendment to better provide for the identification, assessment and classification of contributory and defining buildings.

- 135 Policy 9.3.2.2.8 relates to the demolition of heritage items. I agree with CGL's submission that the amendments to clause (a) of the policy should be deleted on the basis that heritage areas are generally inappropriate, and that the effect of this change would be to elevate the importance of defining or contributory buildings by requiring the same tests to be met for demolition as listed 'heritage items', despite not meeting the criteria for listing. If the demolition of defining or contributory buildings in RHA is to be regulated, then a more nuanced policy framework is required to recognise their different status.
- 136 I also agree with the submitter's request to delete the amendments in clause (a)(ii) of the policy, on the basis that it would introduce a new 'test' for evaluating the demolition of historic heritage that presents an unreasonable and inappropriate threshold that materially changes and undermines the policy. By way of example, the proposed wording may preclude the otherwise justifiable demolition of heritage items that are significantly (physically) compromised, on the basis of one or more (non-physical) heritage values (e.g. historical/social or cultural/spiritual value) remaining. Such a change is not consequential on the MDRS or Policy 3 and is therefore also beyond the scope of the IPI.
- 137 CGL opposed the removal or reduction of exemptions from rules in Appendix 9.3.7.4, on the basis that these are an important tool for incentivising the adaptive reuse and ongoing protection of heritage items. In response, Ms Richmond's s42a report³⁹ states that *'proposed changes to this appendix are not for the purpose of reducing exemptions for heritage items and settings. The proposed changes are to improve consistency and fairness to applicants by adding exemptions to rules which fall within the intended scope of the "type of exemption" applied in the operative plan but were omitted in error for particular residential and commercial zones covered by the existing appendix'* and *'The intention is that the same types of exemptions currently applied are consistently provided across residential and commercial zones to support a wider range of uses in heritage buildings while balancing this against other environmental effects of allowing these activities'*. Appendix 9.3.7.4 was not included in Council's updated provisions or in Ms Richmond's s42a report and I have been unable to locate these provisions otherwise. However I support Ms Richmond's suggestion that the proposed changes 'are not for the purpose of reducing exemptions' for the same reasons expressed in CGLs submission.

³⁹ See para 8.1.139 of [07-Suzanne-Richmond-Section-42A-Report-final.PDF \(ihp.govt.nz\)](#)

- 138 For completeness, I note that my earlier evidence has otherwise addressed those parts of sub chapter 9.3 relating to specific heritage items and areas.

Chapter 13.6 - Specific Purpose (Schools)

- 139 Recommended amendments to provisions in Ms Piper's s42a report have addressed a number of CGL's submission points.

- 140 However, concerns remain insofar that other amendments to provisions that are proposed to remain in PC14 are disenabling relative to the status quo and are ultra vires, per *Waikanae*. Specifically, the submitter opposes and my evidence addresses the following provisions:

140.1 Proposed clause 13.6.4.2(a) regarding heritage items and settings

140.2 Rule 13.6.4.2.4 Internal setbacks

140.3 Rule 13.6.4.2.5 Height

140.4 Rule 13.6.4.2.6 Landscaping

140.5 Rule 13.6.5.1 (e) and (i) assessment matters

Clause 13.6.4.2(a)

- 141 The SPS provisions as notified include an explanatory note in 13.6.4.2(a) which states that the built form standards '*do not apply to those parts of school sites occupied by heritage items and settings*' and '*Development of heritage items and/or settings is controlled by Chapter 9.3 Historic Heritage*'.
- 142 CGL opposes this provision on the basis that '*built form standards remain a relevant basis for establishing permitted built form, given that the heritage provisions in chapter 9.3 will otherwise provide a framework for determining whether that built form is appropriate in the context of relevant heritage values*'.
- 143 At para 8.9.21 of Ms Piper's s42a report, the relief is rejected on the basis that this would mean that '*school sites containing heritage items and settings would need to comply with both Chapter 9.3 built form standards, and the Chapter 13.6.4.2 built form standards*'. Ms Piper otherwise refers to the rationale in Part 8 of the s32 report, albeit that simply notes that the intent is to control built form in SPS zones by way of the heritage rules.
- 144 With respect, Ms Piper misses the point that the heritage provisions in chapter 9.3 on their own provide no guidance as to what is anticipated in terms of the scale or density of development for that locality generally. For example, I am unclear how a property owner,

architect, neighbour, or Council consent planner would establish what an appropriate building height, site coverage and boundary setbacks might be based the provisions in chapter 9.3.

- 145 In my view, the built form standards for the SPS zone must apply in order to provide a frame of reference for built development. I agree with the submission that whether a building that complies with these is appropriate in terms of heritage values will then be a matter separately determined by the heritage provisions.
- 146 I note that other zones (in the operative Plan and as proposed in PC14) do not include an equivalent advice note setting aside built form standards for sites containing heritage items and settings. As such, CGL's requested relief is consistent with the approach adopted in other chapters and I do not see any reason to treat the SPS zone differently.

Rule 13.6.4.2.4 Internal setbacks

- 147 The s42a report proposes a new 'continuous building length' rule 13.6.4.2.4(iv) in order to '*mitigate potential adverse visual dominance of bulk of long and continuous building facades adjacent to HRZ*' and '*help ensure there is a degree of modulation and a scale compatible with the residential zone adjacent (which typically have a finer grain of architectural detail)*⁴⁰.
- 148 As worded, the rule would apply to any building regardless of its relationship or orientation relative to adjacent residential boundaries. Given the purpose of the rule, I consider the rule should be amended as follows, or in a similar format:

a. ~~The building~~The wall of any building which is parallel to, and within 6m of a boundary with a residential zone, shall either:

Rule 13.6.4.2.5 Height

- 149 As noted in paragraphs 8.9.43-8.9.44 of the officer's report CGL support the notified changes made to the maximum building heights, in that they are increased from the status quo. The officer notes '*As these submissions do not seek any changes and are supportive of the changes as notified, I recommend they are accepted*'.
- 150 For the SPS zone at 32 Armagh Street, PC14 as notified proposed a height limit of 14m within 10m of an internal boundary, and otherwise a height limit of 32m applies.

⁴⁰ Paragraph 8.9.12 [10B-Clare-Piper-section-42A-report-final.PDF \(ihp.govt.nz\)](#)

- 151 The officer's report now recommends a height limit '*as specified on the Central City Maximum Building Height Planning Map*'. As described above, the revised building height planning map appended to Mr Willis' s42a report still shows the site with an 11m height limit that reflects the original/notified extent of the RHA. As stated above (and with reference to Mr Compton-Moen's evidence) this map should be amended to show a 32m height limit, consistent with the surrounding residential area.

Rule 13.6.4.2.6 Landscaping

- 152 No landscaping requirement currently applies to the SPS zone. Accordingly, the introduction of new requirements for landscaping in proposed Rule 13.6.4.2.6 (as notified, and as amended in the s42a report) entails further constraint to the status quo which is not consequential on the MDRS or Policy 3 and is therefore beyond the scope of an IPI.
- 153 Scope issues aside, the extent of landscaping required by the proposed rule (10% and tree planting requirements to boundaries) does not appear onerous or inconsistent with the requirements of residential zones that typically surround SPS zones.

Chapter 14 - Residential zones

14.2 Residential policies

- 154 CGL's submission opposed a number of policies in the residential chapter, insofar that they stipulate prescriptive design requirements that are not otherwise required by, or are inconsistent with, the NPS-UD and Amendment Act. Those policies of concern that remain in the amended provisions accompanying the s42a reports include:

- 154.1 Policy 14.2.3.7 insofar that this states that increased buildings heights should 'only' be provided for where the matters listed in i-v. of the policy are achieved. Whilst the listed matters are relevant considerations for such proposals, they should not be the *only* considerations. I consider the following (or similar) nuanced wording is appropriate:

'a. Within medium and high density zoned areas, ~~only~~ provide for increased building heights beyond those enabled in the zone or precinct where the following is achieved:

- 154.2 Policy 14.2.5.1 which stipulates site layout and building design requirements (in clauses (a)(i)-(vii)), in a prescriptive and inflexible manner that conflicts with objective 3.3.2. The policy should be amended to make these considerations or desirable outcomes rather than *requirements* or quasi-rules, as follows or with wording of similar effect:

a. Provide for individual developments in all residential areas (as characterised in Table 14.2.1.1a), which contributes to a high quality environment ~~through~~ and promotes a site layout and building design that:

154.3 Policy 14.2.5.3 which has the same issues as policy 14.2.5.1 above and requires similar moderation as follows:

a. Residential developments of four or more residential units contribute to a high quality residential environment through site layout, building and landscape design ~~to achieve that~~ promotes:

14.5 MDR Zone Rules

155 In terms of MDR zone rules, accounting for *Waikanae*, I agree with the submitter that rules that conflict with or are less enabling than the mandatory MDRS and/or impose additional constraints relative to the status quo require deletion or amendment. Those rules include:

- (a) Rule 14.5.2.13(b) – regarding storage space, and
- (b) Rule 14.5.2.17 – regarding the location of mechanical ventilation, and
- (c) Rule 14.5.2.19 – regarding building length,

which all unnecessarily prescribe design requirements, impose greater regulatory obligations than the status quo, are not required in response to MDRS or Policy 3, and conflict with objective 3.3.2.

156 Rule 14.5.2.2 (an advice note referencing provisions for tree canopy cover and financial contributions) is also inappropriate for the reasons expressed on that chapter earlier in my evidence.

157 Rule 14.5.3.1.3 RD15 is an area-specific restricted discretionary activity for activities not meeting one or more built form standards for RHAs in Rule 14.5.3.2⁴¹. For the reasons expressed earlier in my evidence regarding RHAs I oppose rule RD15 and the associated built form standards that are specific to RHAs.

14.6 HDR Zone Rules

158 Like the MDR zone rules above and for the same rationale, I also oppose the proposed HDR zone rules that are unnecessarily prescriptive, impose greater regulatory obligations than the status

⁴¹ Being Rules: 14.5.3.2.3 Building Height, 14.5.3.2.7 Residential units per site; 14.5.3.2.8 Setbacks; 14.5.3.2.9 Building coverage and 14.5.3.2.10 Outdoor living space per unit

quo, are not required in response to MDRS or Policy 3, and/or conflict with objective 3.3.2. Those rules include:

- (a) Rule 14.6.2.5 which imposes building separation requirements that among other things are disabling relative to the status quo (no such rule applies).
- (b) Rule 14.6.2.6 which replaces existing fencing and screening rules with more onerous and prescriptive requirements than the status quo.
- (c) Rule 14.6.2.12 which introduces a building coverage limit of 50%. Whilst this change is depicted in red text in PC14 as a mandatory change per the MDRS minimum standard, this amendment is disabling to the status quo where no site coverage limit applies.
- (d) Rule 14.6.2.11(b) (storage areas), Rule 14.6.2.15 (location of mechanical ventilation) and Rule 14.5.2.19 (building length) all of which are unnecessarily prescriptive and impose greater regulatory obligations than the status quo.

159 For Rule 14.6.2.1, I oppose clause (b) and (c) on the basis that it is unnecessarily prescriptive in a manner that is contrary to objective 3.3.2 being neither clear, concise or easy to understand. To the extent that the rules endeavour to achieve a given design outcome, I question whether that is necessary, and if so, suggest it is better achieved through the urban design rule and principles that otherwise apply to development in this zone.

14.15 Residential assessment matters

160 CGL's submission sought an amendment to assessment matter 14.15.3 concerning impacts on neighbouring property to reference 'planned urban built character' which is accepted in the Council's revised provisions. The submission also sought deletion of the matters in clauses (i)-(xi), however these remain and I consider they are appropriate.

161 I also support the specific assessment matters in clause (c) relating to height breaches, subject to:

161.1 Deletion of the words '*mitigation of the effects of additional height*' in clause (c), on the basis that not all of the subsequent matters are mitigating factors, so they simply need 'considering' as is otherwise prompted by the clause.

161.2 Deletion or simplification of clauses (c)(iii) and (x) noting these are both unnecessarily prescriptive, complex, unclear and seek a multitude of different things.

Chapter 15 - Commercial zones

15.2 Commercial Policies

162 A number of the commercial objectives and policies were supported by CGL, or have been modified in s42a reports in response to CGL's submission points. To the extent that CGL still opposes provisions, I address these below.

163 CGL opposed clauses (a)(x)-(xv) of Policy 15.2.4.2 insofar that these policy requirements are uncertain, unreasonable, and/or do not support the purpose of PC14. I consider these provisions are well intentioned and generally appropriate, and consistent with my evidence above, I consider such provisions can offer a suitable alternative to prescriptive rules (by providing guidance to decision makers and those undertaking urban design or planning assessments of applications). However, the following clauses require amendment to ensure they appropriately frame the outcomes sought:

163.1 Clause xi - Consistent with my evidence above on wind provisions and moderating that framework to manage wind impacts through policy (rather than rules) that is targeted at particularly tall buildings relative to that anticipated (rather than all buildings), I consider clause (xi) should be refined as follows (or with wording of similar effect):

xi. ensuring that the design of development that is distinctly higher than anticipated mitigates the potential for adverse wind-related effects;

163.2 Clause xiv requires moderation given that mixed use zones have mixed character with multi purpose buildings that are designed to accommodate or adapt to a range of uses over time, including residential activity. In this context, a 'high quality of residential development' may be an unrealistic and unreasonably high bar that serves to discourage residential development in mixed use zones. Revised wording as follows would temper the policy without undermining its intent:

xiv. recognising that mixed use zones are in transition and promoting ~~require~~ a high quality of residential development ~~to be achieved~~ to mitigate and offset...

163.3 Clause xv. also requires moderation to avoid it being prescriptively imposed as a rule, particularly given that the term 'large scale developments' is subjective and the lanes, greenways and pedestrian connections sought may not always be practicable or desirable. Again, I consider minor wording changes would be appropriate as follows:

xv. for larger scale developments in Mixed Use Zones, encourage ~~provide for~~ future access lanes, greenways and mid-block pedestrian connections, that will contribute to a finer grain block structure that supports walking.

15.11 CCZ Rules

- 164 The new or amended residential activity standards in rule 15.11.1.1 P13 (e), (f), (h) and (i) are disabling relative to the status quo and are therefore beyond scope per *Waikanae*. They are otherwise inappropriate with reference to objective 3.3.2. As such, these amendments should be deleted.
- 165 Amendments to rule 15.11.1.2 C1(iii) are also disabling relative to the status quo. The amendments are otherwise unnecessary, noting that if the rules referred to in clause (iii)⁴² are breached, they will necessitate resource consent and evaluation under separate rules and assessment matters that deal with distinct matters. Whether a building complies with these standards or not, does not diminish the relevance of the urban design outcomes in rule 15.14.2.6 or the appropriateness of the urban design certification pathway provided for by rule 15.11.1.2 C1. The amendments to this rule should be deleted.
- 166 Rule 15.11.1.3 RD5(m) and the corresponding built form standards referred to in Rules 15.11.2.14 (tower setbacks), 15.11.2.15 (tower dimensions/coverage), and 15.11.2.16 (tower separation) are unnecessarily prescriptive, are not necessary or appropriate for the purposes of promoting intensification and conflict with objective 3.3.2. To the extent that these rules seek to manage the design of taller buildings, I consider the operative urban design rules⁴³ and corresponding matters of discretion⁴⁴ provide sufficient scope to assess and manage these issues. These are further bolstered by existing and proposed policies for the commercial zones which are relevant considerations for resource consents and provide further guidance on the outcomes sought or encouraged in regards taller buildings. For these reasons, and with objective 3.3.2 in mind especially, I consider these provisions should be deleted.
- 167 I am unclear on the distinction between Rule 15.11.1.3 RD11 and Rule 15.11.1.4 D1 insofar that these both appear to relate to

⁴² Rule 15.11.2.3 Sunlight and outlook for the street; and Rule 15.11.2.12 Maximum road wall height

⁴³ 15.11.1.2 C1 and 15.11.1.3 RD1

⁴⁴ 15.13.2.6, which relevantly considers '*The extent to which the building or use: (i) recognises and reinforces the context of a site, having regard to the identified urban form for the Commercial Central City Business Zone, the grid and diagonal street pattern, natural, heritage or cultural assets, and public open spaces; ... (ii) in respect of that part of the building or use visible from a publicly owned and accessible space, promotes active engagement with the street, community safety, human scale and visual interest; (iii) takes account of nearby buildings in respect of the exterior design, materials, architectural form, scale and detailing of the building*'

activities breaching the specific height limits in the vicinity of New Regent Street and Cathedral Square. For the reasons expressed earlier in my evidence on site specific submissions by CGL, I do not support either of these rules insofar that they apply to 184 Oxford Terrace or 129-143 Armagh Street. In the event that such rules were retained, I consider they are most appropriately provided for as restricted discretionary activities given the specific purpose and focus of the rules is sufficiently covered by the matters of assessment listed in RD11.

- 168 The submitter opposes Rule 15.11.2.12, on the basis that retaining a maximum road wall height rule is at odds with the purpose of PC14 and accordingly this rule should be deleted. I share the submitter's concerns given my experience of the road wall height rule either: acting as a proxy for overall building height given the inefficiencies and challenges of setting upper levels of buildings back from the road wall; or, entailing a significant consenting risk and obstacle given the minimal tolerance for non-compliant road wall heights. Acknowledging that without the rule high road wall heights could eventuate, I favour the management of this issue through the resource consent process by way of the urban design assessment matters described above and other policy provisions.

15.13 CCMUZSF Rules

- 169 CGL sought that the total allowance (per site or land area) for offices and commercial services in rule 15.13.1.1 P3 be deleted, such that only the maximum tenancy size (of 450m² GLFA) applies. The submission acknowledged the desirability of directing large floor plate offices and larger tenants to the CCZ, whilst providing greater scope to accommodate smaller tenants within the CCMUZSF.
- 170 The revised provisions increase the maximum tenancy size limit (from 450m²) to 500m² per site or per 500m² of land area. Whilst this modest change is not explicitly addressed in the s42a reports, Mr Heath's s42a report⁴⁵ does describe the critical importance of tenancies above 500m² to the CCZ and the potential for significant adverse effects if larger tenancies than this were permitted outside the CCZ. Ms Gardiner's s42a report also echoes Mr Heath's concerns about large scale office tenants leaking from the core area of the CBD⁴⁶.
- 171 However, the requested relief does not seek to enable larger tenancies, it seeks to enable a greater number of smaller tenancies. On the basis that neither Mr Heath nor Ms Gardiner raise any concerns with smaller tenancies, I consider this amendment to be appropriate. I consider there to be limited risk of acting in response to this submission, given that: the requested relief would only apply to a relatively small area of the CCMUZSF that is between the

⁴⁵ See paras 9-10 of [27-Tim-Heath-Statement-of-evidence-final.PDF \(ihp.govt.nz\)](#)

⁴⁶ See 8.2.9 of [03-Holly-Gardiner-Section-42A-Report-final.PDF \(ihp.govt.nz\)](#)

Innovation and Health precincts (where no limits apply to offices or commercial services); there are limited number of undeveloped sites in this location; and the constrained building height and density standards that apply to the zone would limit the extent to which smaller commercial tenancies could establish.

- 172 The new or amended residential activity standards in rule 15.13.1.1 P13 are opposed for the same reasons described above for the CCZ. Namely, they are disabling relative to the status quo and are therefore beyond scope per *Waikanae* and they are otherwise inappropriate with reference to objective 3.3.2. As such, these amendments should be deleted.
- 173 Similarly, the prescriptive requirement in rule 15.13.2.8 for a minimum of 2 floors is a new requirement that is disabling relative to the status quo and beyond scope. Further, such a requirement is impractical for a mixed use zone that permits a wide range of activities, many of which could not sensibly operate from two level buildings⁴⁷.
- 174 Rule 15.13.2.12 is also a new, disabling and prescriptive rule requiring minimum glazing that is inappropriate and should be deleted on the basis that it is beyond scope per *Waikanae* and is otherwise contrary to objective 3.3.2.
- 175 Consistent with my evidence above, I also consider that rules 15.13.2.10 – tower setbacks and 15.13.2.11- tower site coverage should be deleted on the basis that such matters are able to be addressed through the resource consent process by urban design rule 15.13.1.3 RD1 and policies.

15.14 Commercial Matters of discretion

- 176 Rule 15.14.2.6 sets out the urban design assessment matters for the CCZ and CCMUZs. Matters (a)(i)-(vii) are essentially unchanged from the relatively succinct operative provisions and are supported. However, new matters proposed in the Council's revised provisions include (viii) concerning wind and (ix) concerning various matters for buildings over 28m height.
- 177 For the reasons stated earlier in regards to wind rules, and the policies in the commercial chapter concerning wind I generally support the assessment of wind effects where that is warranted, and as an alternative to imposing a blanket rule that is onerous or difficult to apply. However, consistent with that earlier evidence I consider the wording of this assessment matter requires amendment, so as to direct its attention towards buildings that are particularly tall (relative to that anticipated) and to not expressly require technical expertise in the form of wind modelling and

⁴⁷ For example: 15.14.1.1 P5 recreation facilities, P6 gymnasium, P10 Preschool, P12 spiritual facilities, P15 tertiary education and research facilities.

analysis which is likely to be costly and difficult to procure. Non statutory guidance documents that sit outside the District Plan regarding wind impacts and mitigation could complement this assessment matter and enable wind effects to be assessed and managed, where relevant, without relying on technical input to evaluate the assessment matter and its advice note.

- 178 Matter (ix) requires that proposal 'demonstrate' achievement of clauses (a)-(e) which follow. Whilst I acknowledge and support the intent of these provisions insofar that they seek to further guide the assessment of taller buildings, I consider they are unnecessarily prescriptive and subjective and concern matters that may be difficult to confirm or assess at the early stage that a resource consent application is made (e.g. signage, lighting, rooftop plant, cumulative effects with other developing buildings nearby). On my reading, the provisions imply that buildings above 28m height will necessarily have adverse effects that need to be managed through exemplary design, which is to be encouraged, but in my view undermines the desire to enable intensification in the NPS-UD and the acknowledgement in Policy 6 that this may have some consequential (but accepted) impacts on amenity. I otherwise consider these provisions are contrary to objective 3.3.2. On this basis, I consider clause (ix) should be deleted or considerably simplified, to simply prompt consideration of how the effects of tall built form have been addressed and managed.
- 179 Noting the above, I do not support clauses (viii) or (ix) or the related advice note as proposed. I consider that the two clauses could be simplified and amalgamated to simply require the assessment of parts of buildings above 28m height to demonstrate how its potential urban design effects are appropriately managed. That approach could include prompts for specific matters including wind effects, building form and massing, and architectural quality.
- 180 Assessment matter 15.14.3.1 applies to breaches of maximum building height. I support the operative and proposed matters in clause (a), but consider the proposed new matters in clause (b) have the same issues as I have outlined above for proposed urban design matter (ix). That is, the matters: are unnecessarily prescriptive; technical (e.g. requiring assessments of wind or reflected heat); and may be difficult to fully satisfy despite being a necessary consequence of enabling the greater height and density sought by NPS-UD Policy 3 and its effects as recognised by Policy 6. If the rules permitted generous heights as a starting point, these matters may be appropriate for exceptionally tall buildings. However, on the basis that the permitted height limits are not exceptional, I consider these assessment matters require simplification, or amendment so that they are directed in many cases to buildings that are demonstrably higher than the planned built form.

181 Consistent with my evidence on the corresponding rules, I consider assessment matters for: 15.14.3.35 upper floor setbacks, tower dimension and site coverage; 15.14.3.37 glazing; and 15.14.3.38 outlook spaces are unnecessarily prescriptive and the urban design rule and assessment matters that will otherwise apply provide sufficient discretion to address these matters.

CONCLUSION

182 In conclusion, I consider a number of further amendments to PC14 are necessary and appropriate, in response to the submissions filed by CGL and for the reasons expressed above.

Jeremy Phillips

20 September 2023