

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: **Catholic Diocese of Christchurch**
(Submitter 823)

Statement of evidence of Jeremy Phillips (Planning) on behalf of
the Catholic Diocese of Christchurch

Dated: 20 September 2023

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**STATEMENT OF EVIDENCE OF JEREMY PHILLIPS ON BEHALF OF
THE CATHOLIC DIOCESE OF CHRISTCHURCH**

INTRODUCTION

- 1 My full name is Jeremy Goodson Philips.
- 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 of 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 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 the Catholic Diocese of Christchurch (*the Diocese*) (Submitter 823) 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 the Diocese.
- 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 the Diocese'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 implication for proposed changes in PC14;
 - (b) General issues of scope in terms of amendments proposed to provisions in the officer reports; and
 - (c) The relevance of strategic objectives 3.3.1 and 3.3.2 to PC14.
 - 10.2 Submissions on site-specific matters, relating to:
 - (a) The former Catholic Cathedral site at 186 Barbadoes Street and provisions specifically relating to this;
 - (b) The city block bounded by Armagh Street, Manchester Street, Oxford Terrace and Colombo Street (*the Armagh block*);
 - (c) The extent of the Specific Purpose (School) Zone for Our Lady of Assumption School;
 - (d) The new Marian College site at 2 Lydia Street, and the requirements for a Brownfield overlay.

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

- 10.3 Submissions on chapters or zone-specific provisions, including:
- (a) Chapter 13.6 - Specific Purpose (Schools); and
 - (b) Chapter 15 - Commercial Zone provisions for the City Centre Zone (CCZ) and Central City Mixed Use Zone (CCMUZ).
- 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 officer's report insofar that this relates to submissions by the Diocese. 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 the Diocese's submissions and my evidence).
- 12 My evidence does not engage on a number of detailed submission points by the Diocese 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 I have also provided evidence for Carter Group Limited (submitter #824) (CGL). To save repetition, where relevant in this evidence I refer to and rely on my evidence for CGL.
- 14 In preparing my evidence, I have reviewed:
- 14.1 The submissions filed by the Diocese (also referred to as 'the submitter');
 - 14.2 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; and
 - 14.3 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

- 15 I consider a number of further amendments to PC14 are necessary and appropriate, in response to the submissions filed by the Diocese and for the reasons expressed in my evidence.

- 16 I have general concerns with the extent to which PC14 proposes amended or new provisions that:
- 16.1 go beyond the scope of an IPI; and/or
 - 16.2 are inconsistent with strategic objectives 3.3.1 and 3.3.2; and/or
 - 16.3 duplicate operative provisions that otherwise provide for evaluation of the merits or effects of increased height or density, in regards significant trees, historic heritage, tree canopy coverage and wind.
- 17 Accounting for these concerns I consider proposed changes to the following provisions require deletion or amendment:
- 17.1 SPSZ: Proposed clause 13.6.4.2(a) regarding heritage items and settings; Rule 13.6.4.2.4 Internal setbacks; Rule 13.6.4.2.5 Height; and Rule 13.6.4.2.6 Landscaping;
 - 17.2 CCMUZ: Activity standard 15.12.1.1 P16 (Residential activity standards); Activity standard 15.12.1.3 RD4 (Urban design for >3 residential units); Built form standard 15.12.2.1 (Landscaping & trees); Built form standard 15.12.2.9 (Minimum number of floors); Built form standard 15.12.2.10 (Building setbacks); and Built form standard 15.12.2.12 (Glazing); and
 - 17.3 CCZ: refer to my evidence filed for CGL.
- 18 In terms of site specific relief sought by the Diocese, I consider that:
- 18.1 Policy 15.2.5.1, Rule 15.12.1.2 C1, and the assessment matters in 15.14.5.2 are appropriate insofar that they recognise and provide for the specific built form and functional requirements of Cathedrals in the central city. However, I consider these provisions require amendment so that they are not limited in their application to the site of the former Catholic Cathedral at 136 Barbadoes Street, and instead provide for any commercially zoned site in the central city.
 - 18.2 The proposed Central City Heritage Interface QM is not appropriate insofar that it imposes a 28m (rather than 90m) maximum building height for 129-143 Armagh Street.
 - 18.3 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.

- 18.4 Rezoning the land at 89 Sparks Road and 166-170 Sparks Road to SPS as sought by the Diocese is appropriate. However, rezoning 83A-85 Sparks Road as SPS is not appropriate, in the absence of further evaluation.
- 18.5 A Brownfield Precinct overlay for 2 Lydia Street (the new, designated Marian College campus) is appropriate for the reasons expressed in Mr Lightbody's s42a report.

THEMATIC ISSUES

- 19 My evidence for CGL addresses thematic issues relevant to their submission on PC14, which are equally relevant to the Diocese's submission. Those issues include:
- 19.1 The particular scope implications for an IPI, including the appropriateness of imposing further constraints on the status quo (as opposed to imposing constraints on intensified density standards);
- 19.2 Consistency with strategic objectives 3.3.1 and 3.3.2, particularly insofar that these seek to '*foster investment certainty*', '*minimise*' consenting requirements and costs, and ensure that '*the District Plan is easy to understand and use*'; and
- 19.3 The necessity of a number of qualifying matters ('QM') and new provisions in PC14 where they 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. That includes QM relating to significant trees and historic heritage, tree canopy provisions and wind provisions.
- 20 For brevity, I refer to and rely on my evidence for CGL in regards these matters.

SITE-SPECIFIC MATTERS

136 Barbadoes Street

- 21 Policy 15.2.5.1, Rule 15.12.1.2 C1, and the assessment matters in 15.14.5.2 recognise and provide for the individual design, form and functional requirements of Cathedrals in the Central City and their contribution to the Central City and the wider City community. These provisions are appropriate and are supported by the submitter.
- 22 However, these provisions specifically refer to the Catholic Cathedral's former location at 136 Barbadoes Street, despite that site not necessarily being redeveloped for that purpose.

- 23 Whilst the submission sought to replace references in the Plan to a Cathedral at '136 Barbadoes Street' with 'a new Catholic Cathedral within the city block bounded by Colombo/ Armagh / Manchester Streets and Oxford Terrace' the Diocese is yet to confirm its preferred or final location or plans for a replacement Cathedral.
- 24 Notwithstanding, it has expended considerable effort to date on a Cathedral proposal within the Colombo/ Armagh / Manchester / Oxford block.
- 25 In assisting the Diocese with that proposal, I have encountered challenges accommodating the unique design, form and function requirements of a Cathedral within a planning framework that is designed with typical central city buildings and activities in mind. For example, that framework contemplates active ground floor frontages, buildings built up to and along street frontage, minimum numbers of floors, and other urban design attributes that are not appropriate for Cathedrals.
- 26 For these reasons, the submitter seeks that the plan provisions relating to the Catholic Cathedral be amended, such that they are not limited in their application to 136 Barbadoes Street and instead apply to any central city site that is selected for a new Cathedral. The amendments now sought to provisions are set out as follows:

15.2.5.1 Policy - Cathedrals in the Central City

a. Provide for the individual design, form and function of new spiritual facilities and associated buildings at: 100 Cathedral Square; and at, or elsewhere as a replacement for the Catholic Cathedral buildings at 136 Barbadoes Street that:

15.12.1.2 Controlled activities

a. The activities listed below are controlled activities.

	Activity	The council's control shall be limited to the following matters:
C1	<p><i>a. Any building on the site at 136 Barbadoes Street.</i></p> <p><i>b. The built form standards in Rule 15.12.2 for the Central City Mixed Use Zone shall not apply.</i></p>	<p><i>A. Buildings at, or elsewhere as a replacement for the Catholic Cathedral buildings at 136 Barbadoes Street – Rule 15.14.5.2</i></p>

15.14.5.2 Buildings at, or elsewhere as a replacement for the Catholic Cathedral buildings at 136 Barbadoes Street

a. The extent to which the building:

27 I note that the Plan already recognises the need for a different planning framework for Cathedrals, by way of the provisions I have noted above (and the controlled activity standards and matters of control especially). Accordingly, the relief sought in the submission, and as amended above, simply seeks to provide for the policy and assessment matter to apply to a yet to be confirmed location in the Central City for a new Catholic Cathedral. Rule 15.12.1.2 C1 would still only apply to the site at 136 Barbadoes Street, on the basis that controlled activity status may not be appropriate in other central city locations. For other commercial zones within the Central City, a new restricted discretionary status would be required as follows:

[Insert in relevant restricted discretionary activity table for all central city commercial zones²]:

	<i>Activity</i>	<i>The council's discretion shall be limited to the following matters:</i>
<i>RDxxx</i>	<i>a. Any buildings proposed as a replacement for the Catholic Cathedral buildings at formerly at 136 Barbadoes Street</i>	<i>A. Buildings at, or elsewhere as a replacement for the Catholic Cathedral buildings at 136 Barbadoes Street – Rule 15.14.5.2</i>

28 I consider this relief to be within the scope of PC14 and an efficient, effective and appropriate amendment, insofar that it supports the enablement of cultural wellbeing (NPSUD objective 1), contributes to a well-functioning urban environment (NPSUD policy 1), and enables the re-establishment of a Cathedral and its specific urban form requirements within the central city. It is otherwise a modest change relative to the status quo, noting it allows for the Cathedral-specific policy and assessment matters to be considered, where required, within the central city but beyond 136 Barbadoes Street.

29 For completeness, I also record my agreement with the recommendation in the officer report to delete the heritage listing of the former Cathedral of the Blessed Sacrament at 136 Barbadoes Street from the planning maps, on the basis that this building is no longer present on the site³.

² i.e., CCZ, CCMUZ, and the CCMUZSF.

³ See para 8.1.62 of [07-Suzanne-Richmond-Section-42A-Report-final.PDF](http://www.govt.nz/07-Suzanne-Richmond-Section-42A-Report-final.PDF) (ihp.govt.nz).

129-143 Armagh Street

- 30 The Diocese has an interest in the undeveloped city block bounded by Colombo/ Armagh / Manchester Streets and Oxford Terrace, which includes the properties at 129-143 Armagh Street. Those properties are subject to:
- 30.1 the proposed Central City Heritage Qualifying Matter (QM) and 28m maximum building height in rule 15.11.2.11; and
 - 30.2 the operative/existing heritage setting for New Regent Street which encompasses the Armagh Street road reserve and the footpath adjacent to 129-143 Armagh Street.
- 31 For brevity, I refer to and rely on my evidence for CGL in regards these matters to conclude that: the reduced height limit is not appropriate and should be deleted for 129-143 Armagh Street, and the heritage setting should be removed from the Armagh Street road reserve, or, at a minimum, its northern footpath.

Our Lady of Assumption SPS Zone

- 32 The Diocese sought amendments to the planning maps in order to rezone the land identified adjacent to Our Lady of the Assumption school in Sparks Road, Hoon Hay as SPS Zone rather than MRZ as notified (see **Figure 1**). The submission noted that the Diocese has interests in the land and that the residential zoning limits the scope to establish school-related (community) activity over these sites.

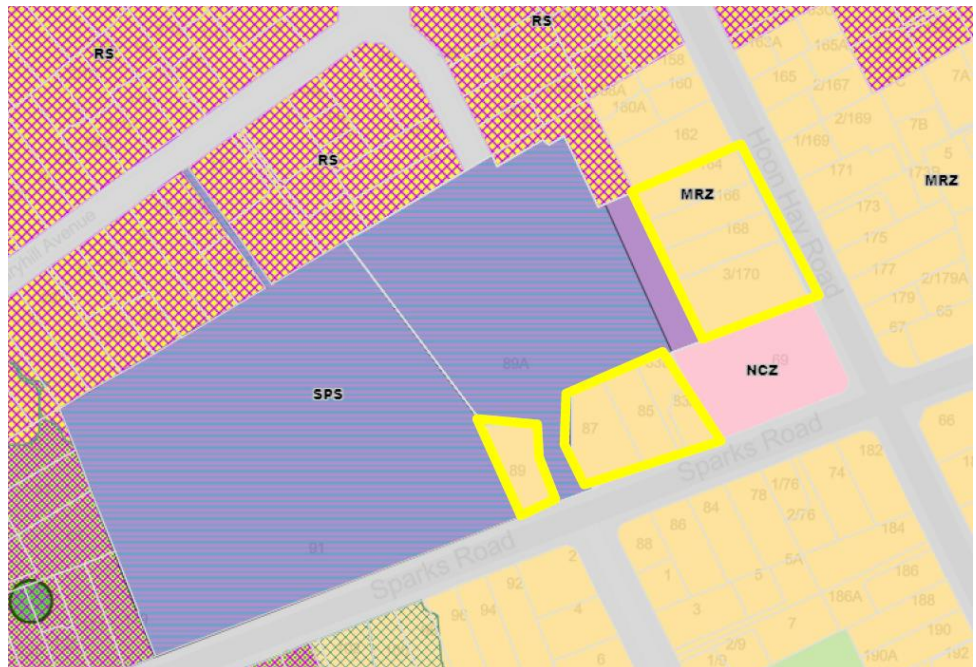


Figure 1 PC14 zoning as notified & requested SPSZ in the submission (yellow outline)



Figure 2 Aerial of locality with Diocese properties in red dash

- 33 Ms Piper’s report considers the requested relief as beyond scope, because it goes *‘beyond the requirements for the implementation of the MDRS, NPS-UD Policy 3, and the consequential changes to give effect to this’*. I do not agree, noting that NPS-UD Policy 3 (d) seeks to *‘enable... adjacent to neighbourhood centre zones... building heights and densities of urban form commensurate with the level of commercial activity and community services’*. In this case, the land is *‘adjacent to a neighbourhood centre zone’* and the submission seeks the rezoning in order to better enable *‘community services’* associated with the school.
- 34 Ms Piper otherwise opposes the submission on the basis that it:
- 34.1 Does not provide *‘full consideration of the scale and significance of the effects of these changes on the surrounding neighbours, community, and environment if sites were to be redeveloped to the zone as requested’*; and
- 34.2 *‘Impacts on the ability for current landowners to consider their development opportunities now afforded in the residential zone’*.
- 35 In response, I note that the SPS provisions are designed to effectively manage the interface between activities and built form and adjacent zones; and general city rules will similarly provide for the effective management of other potential effects (e.g. transport, noise and lighting standards).

- 36 To the extent that the rezoning request might impact upon current landowners, or 'development opportunities now afforded in the residential zone', I note firstly that the underlying residential zoning would still provide for ongoing use or redevelopment of the land for residential or any other permitted activity under rule 13.6.4.1.1 P4 should that be preferred.
- 37 To the extent that owners might be impacted, **Figure 2** shows that much of the land is already owned by the Diocese⁴. However, with reference to **Figure 2**, the extent of rezoning on Hoon Hay Road could sensibly be reduced to exclude 164 Hoon Hay Road. 89 Sparks Road could be rezoned without any impact on residential properties, noting it is an isolated residential zone surrounded by SPS zoned land. Greater care is needed with 83A-87 Sparks Road, noting this pocket of residential land is already largely isolated by zoning and land use. As such, rezoning 87 Sparks Road alone would further isolate 83A-85 Sparks. On that basis, I consider rezoning of 83A-87 Sparks may not be appropriate, in the absence of more detailed evaluation that accounts for the views of the owners of 83A-85 Sparks Road.
- 38 For the reasons above, I consider that rezoning the land at 89 Sparks Road and 166-170 Sparks Road to SPS would be more efficient and effective and have costs outweighed by benefits, relative to the status quo. I consider there are minimal risks with acting, given the underlying residential zoning would still apply. Accordingly, I consider the relief sought for those properties is appropriate. In the absence of more detailed evaluation and an understanding of the views of the owners of 83A-85 Sparks Road, I do not consider the rezoning of that land to be appropriate.

The new Marian College site

- 39 The Diocese sought a Brownfield Precinct overlay for land it owns at 2 Lydia Street which is being developed for the new Marian College campus, in accordance with a designation that applies to the land. Such an Overlay would better allow for the use of any surplus school land for residential development purposes, which might otherwise be frustrated by the Industrial General zoning that applies.
- 40 Section 10 of Mr Lightbody's s42a report⁵ addresses this submission point and states: '*I consider the relief sought is the [sic.] accords with Objective 16.2.2 and policy 16.2.2.1, while also giving effect to Policy 6.3.8 of the CRPS, which anticipates that regeneration of existing brownfield areas is encouraged. On this basis, I recommend the relief is accepted. Notwithstanding this, I consider the zoning of*

⁴ All of the subject land is owned by the Diocese, except for 83a and 83B Sparks Road (Housing NZ Ltd), 85 Sparks Road (privately owned) and 164 Sparks Road (privately owned).

⁵ See page 149 of [04-Kirk-Lightbody-Section-42A-Final.PDF \(ihp.govt.nz\)](https://www.hip.govt.nz/04-Kirk-Lightbody-Section-42A-Final.PDF).

the area requires a review in a more comprehensive manner, having regard to the surrounding land uses’.

- 41 I agree with Mr Lightbody’s evaluation and his recommendation to accept the submission point.

CHAPTERS OR ZONE-SPECIFIC PROVISIONS

Chapter 13.6 - Specific Purpose (Schools)

- 42 Recommended amendments to provisions in Ms Piper’s s42a report have addressed a number of the Diocese’s submission points.

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

43.1 Proposed clause 13.6.4.2(a) regarding heritage items and settings;

43.2 Rule 13.6.4.2.4 Internal setbacks;

43.3 Rule 13.6.4.2.5 Height; and

43.4 Rule 13.6.4.2.6 Landscaping.

- 44 These matters were addressed in my evidence for CGL and I refer to and rely on that evidence again here. However, I support the proposed amendments to Rule 13.6.4.2.5 Height for all zones (rather than just the HRZ, which was the focus of CGL’s evidence and submission), for the reasons expressed in Ms Piper’s s42a report.

Chapter 15 - Commercial zones

- 45 The Diocese has a particular interest in the Commercial zone provisions insofar that these provisions concern the CCZ and CCMUZ, which affect the undeveloped Armagh Block (described above) and 136 Barbadoes Street respectively.
- 46 My evidence for CGL addresses PC14 insofar that changes are proposed policies in Chapter 15, the CCZ rules, and assessment matters and I refer to and rely on that evidence.
- 47 For the CCMUZ, the Diocese is primarily concerned with and opposes the following new or amended activity and built form standards that are more prescriptive and disabling relative to the status quo:

- 47.1 Activity standard 15.12.1.1 P16 (Residential activity standards);
- 47.2 Activity standard 15.12.1.3 RD4 (Urban design for >3 residential units);
- 47.3 Built form standard 15.12.2.1 (Landscaping & trees);
- 47.4 Built form standard 15.12.2.9 (Minimum number of floors);
- 47.5 Built form standard 15.12.2.10 (Building setbacks); and
- 47.6 Built form standard 15.12.2.12 (Glazing).
- 48 All of the proposed changes to these rules are disabling relative to the status quo and are therefore beyond scope with reference to *Waikanae*. These provisions also conflict with strategic objective 3.3.1 and 3.3.2, insofar that they impose (rather than minimise) consenting requirements and diminish investment certainty.
- 49 For rules P16, RD4, 15.12.2.1 and 15.12.2.12 above, Ms Williams' s42a report⁶ assumes that the additional requirements proposed are necessary in order to offset an uplift in height or density, despite the changes applying to all developments in the zone rather than just those of a greater height or density than that currently permitted. Ms Williams also does not elaborate in detail why operative rules are inadequate.
- 50 To the extent that Ms Williams notes '*these provisions are also comparable to other zones anticipating higher density residential living*', this overlooks the distinction between residential and CCMU zones, where the latter provides for a much wider range of activities and building forms (including mixed use developments or adaptation and repurposing of commercial buildings over time), and different environments and amenity expectations for residents.
- 51 Rules applied in residential environments may be unachievable, impractical, or commercially undesirable in a commercial context and this does not appear to have been considered in Ms Williams' evaluation. By way of example, alterations to an established commercial site and building in order to repurpose it for residential use could not comply with rules 15.12.1.1 P16 and 15.12.1.3 RD4 and given the assessment matters and outcomes sought by these rules, obtaining resource consent would appear unlikely. I am unclear if Ms Williams' has accounted for this situation and the likely consequence that it could actively discourage or prevent that type of residential development in the CCMUZ.

⁶ <https://chch2023.ihp.govt.nz/assets/Council-Evidence-11-August-2023/58-Nicola-Williams-Statement-of-Evidence-final.PDF>.

⁷ See page 69 of [58-Nicola-Williams-Statement-of-Evidence-final.PDF \(ihp.govt.nz\)](https://chch2023.ihp.govt.nz/assets/Council-Evidence-11-August-2023/58-Nicola-Williams-Statement-of-Evidence-final.PDF).

- 52 I agree with Ms Williams that built form standard 15.12.2.9 requires a minimum of two (not three) floors. Regardless, I agree with the submitter that this new requirement *'is not 'enabling' of development or responsive to the functional or operational needs of activities and commercial/market imperatives determining their optimal location'*. As noted above, the CCMUZ permits a wide range of activities, many of which could not sensibly operate from two level buildings⁸.
- 53 I also agree with the submitter that built form standard 15.12.2.10(a) (building setbacks) is not appropriate, noting it is not enabling relative to the status quo, entails additional prescriptive control on development, and is potentially impractical or unachievable for commercial sites and developments that seek to accommodate residential activity (as described above). In regard to the new clause (b) which is proposed in the s42a report, I do not have a view on this provision other than to suggest that it may be better located under built form standard 15.12.2.2 Maximum building height.
- 54 In summary, noting my concerns as to scope and the lack of evaluation as to the adequacy of the operative provisions, or the particular functional requirements of buildings in the CCMUZ, I consider the new or amended rules listed above are not appropriate.

Conclusion

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

Jeremy Phillips

20 September 2023

⁸ For example: 15.12.1.1 P2 yard-based suppliers, P3 trade suppliers, P4 service stations, P8 recreation facilities, P9 gymnasium, P15 spiritual facilities, P18 industrial activity, P19 motor servicing facilities, P20 drive through services, etc.