

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)

Summary statement of Jeremy Phillips (Planning) on behalf of
Carter Group Limited

Dated: 25 October 2023

Reference: Jo Appleyard (jo.appleyard@chapmantripp.com)
Annabel Hawkins (annabel.hawkins@chapmantripp.com)

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SUMMARY STATEMENT OF JEREMY PHILLIPS ON BEHALF OF CARTER GROUP LIMITED

INTRODUCTION

- 1 My full name is Jeremy Goodson Phillips.
- 2 I provided a statement of evidence in relation to the relief sought by Carter Group Limited (*Carter Group*) on proposed Plan Change 14 to the Christchurch District Plan (*PC14*) dated 20 September 2023 (*Evidence in Chief*). My qualifications, experience and confirmation I will comply with the Code of Conduct for Expert Witnesses (Part 9, Environment Court Practice Note 2023) are set out in my Evidence in Chief and I do not repeat those here.
- 3 This statement is intended to provide a brief summary of my evidence in relation to the Central City and Commercial Zones hearing topic. This includes updates where relevant in light of the rebuttal evidence filed for Christchurch City Council (*Council*).

THEMATIC ISSUES

- 4 As set out in my primary evidence, I have general concerns with the extent to which PC14: goes beyond the scope of an IPI; and/or is inconsistent with strategic objectives 3.3.1 and 3.3.2; and/or duplicates operative provisions that otherwise provide for evaluation of the merits or effects of increased height or density either partly or fully.
- 5 In regards scope, I defer to the legal submissions filed on behalf of Carter Group, which I agree with. However, as noted in my evidence, PC14 imposes further constraints to the status quo in a number of cases.
- 6 I consider PC14 introduces a number of changes that are inconsistent with objectives 3.3.1 and 3.3.2, insofar that these objectives seek to foster investment certainty and minimise consenting requirements and prescriptiveness.
- 7 In regards qualifying matters (QM) and new provisions introduced by PC14, my evidence concludes that operative Plan provisions (as currently drafted or subject to minor amendments) would more efficiently and effectively manage the effects of increased height or density, where such management is necessary. For this hearing, I consider that the existing height and urban design rules framework that applies throughout the Central City and commercial zones provide a more effective, efficient and appropriate framework for assessing the design attributes and effects of greater density or taller buildings than new prescriptive rules in PC14. Specifically, these require urban design assessment/consent for essentially any development in the CCZ and CCMUZSF and otherwise specify maximum height and road wall height limits that trigger

discretionary activity consent and include broad matters of discretion for direction. Where those standards are breached, proposals are assessed on their merits with regards to relevant design considerations. In short, my evidence concludes that a number of new rules or amendments introduced by PC14 could simply be incorporated into this framework with greater simplicity, efficiency and effectiveness, greater alignment with objective 3.3.1 and 3.3.2, and in compliance with the obligations in the NPS-UD and Amendment Act.

SITE-SPECIFIC MATTERS

184 Oxford Terrace

- 8 Since finalising my evidence, the urban design experts agreed in their JWS *'that there is a case for changing the site height control [from 45m] to 90m'*. I understand that Mr Willis also supports this amendment.

129-143 Armagh Street

- 9 Firstly, I note that the Chair of the hearings panel posed a number of questions to Ms Richmond on 24 October, regarding the operative height rules and matters of discretion as they relate to New Regent Street or other heritage items and I have set out answers to those questions in **Attachment 1** to this summary statement.
- 10 In terms of my evidence, the 28m height limit for this property is proposed to avoid the potential adverse effects of 90m high buildings on New Regent Street and its heritage values, associated with increased shading and visual dominance. My evidence notes that Council's own sun studies indicate that any shading from taller buildings will be of a limited extent and duration accounting for the existing buildings that front and already shade New Regent Street in morning and afternoon periods given the north-south alignment of the street. Ms Richmond's rebuttal evidence acknowledges this and at paragraph 67 acknowledges that at 90m the shading would affect *'the northern half of the street in the middle of the day'*. Given this short duration and modest length of additional shading, I remain unconvinced as to the benefit vs. costs of the rule in regards shading effects.
- 11 In regards visual dominance, Mr Compton-Moen's evidence describes the positive rather than negative effects taller buildings could have in defining New Regent Street, which I accept. Otherwise, at paragraph 69 of her rebuttal, Ms Richmond responds to my concern that the *significance* of adverse visual dominance effects has not been adequately addressed, by reiterating the potential impacts cited by Ms Ohs (e.g. contrasts of scale, draught and impacting on contextual heritage values). However, it is the *significance* of those effects rather than their potential existence that I have questioned, noting that the proposed

28m height rule will clearly impose costs and it is important to understand the significance of the corresponding benefits. Again, I remain unconvinced that the proposed constraint on height is justified on the basis of visual dominance effects.

- 12 I note that the s42a report recommends additional urban design assessment matters in rule 15.14.2.6 that would provide further scope for assessing the impacts of buildings above 28m in height. Whilst I have reservations about the specific wording of these amendments, they illustrate the point that taller buildings at 129-143 Armagh Street (or elsewhere) can be assessed on their merits on a case by case basis in accordance with these matters or the operative matters that I have highlighted in **Attachment 1** to this evidence, and that a blunt reduction in maximum building height is unnecessary to manage this issue.
- 13 For completeness, I note that the urban design JWS has not engaged on this submission point.

CHAPTERS OR ZONE-SPECIFIC PROVISIONS

Chapter 3- Strategic Directions

- 14 I note that Ms Oliver's rebuttal evidence supports my suggested amendment to the wording of strategic objective 3.3.8(a)(vi), as detailed in paragraph 127 of my evidence.

Chapter 15 – Commercial Zones

- 15 My evidence recommends moderation of the wording in subclauses (xi), (xiv) and (xv) of policy 15.2.4.2(a) to ensure these matters are weighed in the balance, rather than imposed as prescriptive requirements.
- 16 My evidence recommends deletion of a number of specific CCZ and CCMUZSF activity standards or built form standards where I consider these are disabling relative to the status quo, or, are better addressed by rules and assessment matters that would otherwise apply. This includes:
- 16.1 Amended activity standards for residential units for both CCZ and CCMUZ;
 - 16.2 Amendments to the urban design controlled activity standard in the CCZ;
 - 16.3 New tower rules for both CCZ and CCMUZ;
 - 16.4 The existing maximum road wall height rule for the CCZ;
 - 16.5 A new rule requiring a minimum of 2 floors in the CCMUZ; and

- 16.6 A new rule requiring minimum glazing percentages in the CCMUZ.
- 17 In regards the provisions above, Ms Gardiner’s rebuttal evidence does not engage on why the operative plan provisions (and the urban design rule especially) do not adequately address the matters above. To the extent that Ms Gardiner concedes at paragraph 32 of her rebuttal that *‘the package of provisions may not provide for every scenario’*, I consider that is exactly why the urban design evaluation of proposals on their merits is a preferable approach to prescriptive design rules.
- 18 At paragraph 36 of her rebuttal, Ms Gardiner disagrees with my suggestion that wind assessments should only be required for ‘particularly tall’ buildings. I accept that this term is subjective and I am open-minded to alternative wording. However, I oppose a general rule requirement for wind assessments for the reasons set out in my evidence and I am wary that in the absence of some qualification or direction, a wind-related assessment matter would essentially become a rule requirement with wind assessments routinely required for any/all buildings subject to that assessment matter. As set out in my evidence, I favour an assessment matter (and ideally non-statutory guidance on wind effects) that allows for applicants, consent planners and decision makers to address wind effects as is appropriate to the particulars of the site and building proposal.
- 19 With regards to the constraints on offices and commercial services in the CCMUZSF in **rule 15.13.1.1 P3**, I note that Mr Willis and I agree with the per tenancy cap of 500m² GLFA. Mr Willis now also supports deletion of the cumulative limit of these activities per site or per land area, in part for the reasons expressed in my evidence, but otherwise noting that no such limit applies outside the central city in TCZ and the perversity of imposing greater constraint on this activity within the central city where it is primarily sought.
- 20 My evidence on the commercial matters of discretion suggests nuanced changes to a number of matters are required to ensure these provisions are weighed in the balance as to their relevance and importance, rather than being applied as ‘tests’ for all applications.

Jeremy Phillips

25 October 2023

Attachment 1: Responses to Questions from the Panel Chair to Ms Richmond on 24/10/2023

Question: To what extent does the existing 28m height rule consider impacts on heritage items?

Answer: Exceeding height or road wall height rules in the operative CCBZ ('CCZ' in PC14) would require resource consent as a (fully) discretionary activity. Accordingly, heritage effects are currently open to consideration.

Notwithstanding the discretionary activity status, the operative Plan includes matters of discretion (in 15.13.3.1 and 15.13.3.17 as listed below) that would also be relevant and provide direction to applications exceeding height. Matters that would be particularly relevant to the relationship of development at 129-143 Armagh Street with New Regent Street are highlighted below. These do not explicitly refer to heritage values/attributes but do consider the effects of concern to CCC (e.g. shading, visual dominance, wind, impacts on public open space, etc).

15.13.3.1 Maximum building height [matters of discretion]

(a)...

(vii) Results in adverse effects on adjoining residential zones or on the character, quality and use of public open space;

(viii) Contributes to the visual dominance of the building when viewed from the surrounding area, having regard to the anticipated scale and form of buildings in the surrounding environment.

15.13.3.17 Commercial Central City Business Zone - Sunlight and outlook for the street

(a) Any effect on the sense of openness and/or the admission of sunlight to the street.

(b) The dominance of buildings on the street environment and the incidence of wind funnelling effects at street level.

The operative Plan also includes an urban design rule for the CCZ that would apply to (essentially) any development as a controlled activity for applications that are certified, or a restricted discretionary activity otherwise. This invokes the urban design assessment matters in 15.13.2.6 (below) which are also highlighted as relevant to the relationship of development at 129-143 Armagh Street and New Regent Street.

15.13.2.6 Commercial Central City Business Zone urban design

(a) *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 having regard to the relationship of Ngai Tūāhuriri/ Ngai Tahu with Ōtautahi as a cultural element, consideration should be given to landscaping, the use of Te Reo Maori, design features, the use of locally sourced materials, and low impact design principles as is appropriate to the context.

(iii) 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;

(iv) takes account of nearby buildings in respect of the exterior design, materials, architectural form, scale and detailing of the building;

(v) is designed to emphasise the street corner (if on a corner site);

(vi) is designed to incorporate Crime Prevention Through Environmental Design (CPTED) principles, including encouraging surveillance, effective lighting, management of public areas and boundary demarcation; and

(viii) incorporates landscaping or other means to provide for increased amenity, shade and weather protection.

Question: Is there an overlay in the operative plan applying to 129-143 Armagh Street?

Answer: No, the site is subject to the conventional rules that apply to the balance of the block. Note also that the operative heritage setting for New Regent Street extends over the Armagh Street road reserve, but not the privately owned land to the north.

Question: For a building >28m at 129-143 Armagh Street, would a heritage assessment (on the New Regent Street item and setting) be required under the operative Plan?

Answer: Not necessarily. As noted above, above 28m buildings require consent as a fully discretionary activity, meaning heritage effects could be considered if/as relevant to the context.

Question: Why not provide for assessment of potential heritage impacts by way matters of discretion?

Answer: I would recommend that and consider that would better align with objective 3.3.2. That approach would also allow for judgement and consideration of heritage effects from taller buildings as appropriate to the context. For example, a 40m cathedral spire or 29.5m high conventional building may not necessitate a heritage assessment.

Attachment 2: Possible framework for managing building height in the CCZ

In preparing for this hearing, I have given further thought as to how the existing height and urban design framework in the Plan could be applied to allow for and manage the greater heights and densities required by NPS-UD Policy 3. Whilst I have not had the opportunity to consider this in detail, I would envisage the approach I describe in paragraph 7 of my summary to entail:

1. Modification of the existing policy framework (particularly the policies under objective 15.2.4 regarding urban form, scale and design outcomes) to recognise and manage the higher and denser form of development enabled. This policy suite currently provides the basis for the urban design and height rules and corresponding assessment matters.
2. The existing urban design rules largely unchanged, with
 - (a) Controlled activity status for applications certified by an independent urban designer (status quo);
 - (b) Restricted discretionary activity status for applications that are not certified (status quo);
 - (c) Urban design assessment criteria similar to the status quo, but with refinement to account for matters that might warrant particular consideration for higher or denser forms of development.
3. A tiered approach to maximum building height rules, with:
 - (a) Permitted activity status for buildings up to 28m (status quo);
 - (b) Controlled activity status for buildings above 28m and up to a moderate height (e.g. 45m) with new matters of control to allow for conditions to be imposed to manage specific height-related effects of buildings at these moderate heights;
 - (c) Restricted discretionary activity status for buildings above that moderate height with either no further threshold (i.e. any building above that height is a restricted discretionary activity), or with a further (fully discretionary) threshold for buildings above 90m as is proposed.
 - (d) Assessment matters refined to specifically address the issues relevant to taller buildings.

Annabel Hawkins

Subject: FW: comparison of height and UD rules

From: Jeremy Phillips <jeremy@novogroup.co.nz>

Sent: Wednesday, October 25, 2023 12:46 PM

To: Jeremy Phillips <jeremy@novogroup.co.nz>

Subject: comparison of height and UD rules

	Status quo	As notified	S42a
Max height	28m, then DA	>90m =RDA >20m building base = DA Other DA triggers (e.g. New Regent St) Otherwise RDA	>90m =DA >20m building base = DA Other DA triggers (e.g. New Regent St) Otherwise RDA
Road wall height	21m, then DA	Per status quo (21m and DA), but 28m for corner sites.	(As for s42a)
Street boundary recession plane	45 degrees at 21m, then RDA	Per status quo, but limited application to 28m and exemption for street corners	(as for s42a but N/a to towers setback >6m)
Urban design	CA with certification RDA with no certification	Per status quo, but CA and certification only available to buildings compliant with street recession plane and road wall height	(As for s42a)
Tower rules	N/A	Tower rules apply (not detailed here)	Tower rules apply (not detailed here)

Jeremy Phillips

Director + Senior Planner

D: 03 365 5588 | M: 029 2611 310 | O: 03 365 5570

E: jeremy@novogroup.co.nz | W: www.novogroup.co.nz

Level 1, 279 Montreal Street | PO Box 365 | Christchurch 8140

Council Records for 125-137 Armagh Street

Having reviewed the relevant Council property files, we note that there are a number of building consents, resource consents and permits that have been obtained for various activities on the site. This includes:

- For **125-127 Armagh Street**, approved (1978) building consent plans detail the basement, ground and 1st-5th floor layouts, and building elevations. Whilst the decision is not on Council's file, the LIM report notes that a resource consent was approved in August 1978 for cash in lieu of 4 car parking spaces and a dispensation on one car parking space for the 6 storey building. Sign permits providing for signage on building facades are also documented on the property file.
- For **129 Armagh Street**, resource consent was approved in March 1981 for non-compliant on-site turning for two car parks adjacent to Oxford Terrace, where the balance of the site (adjacent to Armagh Street) was to be developed as an extension to 125 and 131 Armagh Street. A copy of the decision and a site plan is documented on the property file. Signage permits are also documented on the file.
- For **131 Armagh Street (aka 230 Oxford Terrace)**, a LIM report obtained in 2013 notes no resource consents are recorded for the property. However, the LIM refers to building permits being issued in 1977 for alterations to the office building, and the corresponding building consent plans on the file partially illustrate the floors and elevations of the building existing as at 1977, plus the proposed addition which was subsequently constructed.
- For **133-137 Armagh Street**, various records exist of the planning consent applications, approvals and plans for the building (1983) and subsequent signage (1992 and 209).

Aerial, isometric and 'streetview' imagery showing the pre-existing buildings and signage on site are included as **Attachment 1** and this is consistent with the plans and documentation described above.

The Council's records and the information described above are not complete, however they are likely to be sufficient to demonstrate lawful establishment of the pre-existing activities on-site. We anticipate that you may hold other information that would provide additional evidence of pre-existing activity on the site, should that be required by Council (e.g. lease agreements, BOMA surveys, plans, engineering assessments, etc).

Applicable Rights for 125-137 Armagh Street

Noting the records on Council property files, the key elements of the pre-existing development are summarised below, with aspects that are likely to offer useful existing or resource consent rights for any new development proposal emphasised in bold text:

125-127 Armagh Street

1. A six level building (including ground floor), plus basement, and lift/machine room at rooftop.
2. A total building height of 22.2m (incl machine room) and parapet or road wall height of 18.7m.

3. **Vehicle access from Oxford Terrace, to a basement car park of 8 spaces and ground level car park (adjacent to Oxford Terrace) of 5 spaces. No identified disabled carpark, cycle parking or loading.**
4. **A ground level floor to ceiling height of 3.0m adjacent to Oxford Terrace, and 3.75m adjacent to Armagh Street.**
5. **Various signage, including veranda signage and 2 x 1200mm x 1200mm illuminated signs on the building's east and west parapet.**
6. A total gross floor area of approximately 1,890m² based on approximately 315m² GFA on each of the six floors.

129 Armagh Street

1. A two level building approximately 188m² gross floor area.
2. **Two at-grade car parks with access from Oxford Terrace and no onsite turning, no landscaping, and no cycle parking or loading spaces.**
3. **Various signage, including above-veranda signage.**

131 Armagh Street / 230 Oxford Terrace

1. A building of three 'full' floors plus part upper floor, built up to both road frontages.
2. **A ground level floor to ceiling height of 3.0m adjacent to Armagh Street.**

133-137 Armagh Street

1. **An 11 level building (including ground floor), plus basement, and lift/machine room at rooftop.**
2. **A total building height of 39.5m (incl machine room). Note- the road wall height was approximately 7.8m, however the building would intrude the 45 degree recession plane measured from the 21m road wall height.**
3. Vehicle access from Oxford Terrace, to a basement car park of 17 spaces. No identified disabled carpark, however 27 cycle parking spaces are shown, and a **loading dock accessed directly from the road is shown adjacent to the landscaped courtyard adjacent to Oxford Terrace.**
4. **A ground level floor to ceiling height of 3.8m**
5. A total net floor area of approximately 3,843m².

In our view, the rights summarised above will be relevant to any new site development in terms of:

- a. Enabling a building of an equivalent height and form to that pre-existing at 133-137 Armagh Street, where it would otherwise be confined to a 29m height limit.
- b. Enabling buildings to be setback from Oxford Terrace, where they are otherwise required to be built to the road frontage.



CHRISTCHURCH CITY COUNCIL

P.O. BOX 237 CHRISTCHURCH NEW ZEALAND P10/3

IN REPLY PLEASE QUOTE: TP/8/254/139
IF CALLING PLEASE ASK FOR: Mr Millar
Ext. 669

5 May 1983

Powell, Fenwick Partnership,
P.O. Box 25108,
CHRISTCHURCH.

Att: R.B. Ramsay

Dear Sir,

-9.MAY83 004173

NOTIFICATION OF DEVELOPMENT NO. 3/254/139
SECTION 293 LOCAL GOVERNMENT ACT

With reference to your Notification of Development dated 20 April, 1983 relating to a five storey office building at 133-139 Armagh Street the following conditions are attached to this development and are to be complied with prior to the issue of a Building Permit -

(a) Reserve Contribution

\$1,290 based on a value of \$2,580,000.

(advised Ramsay by phone that r.c was \$12900 not \$1290 20.7/5/83)

You are advised that prompt payment will ensure less delay in issuing a Building Permit as administration formalities can take some days to complete.

(b) Roads, Widening, Access

A total of 18 car park spaces and 12 bicycle spaces are required for stage one. Spaces 16, 17 and 18 are inaccessible for a 90 percentile design motor car. The loading dock vehicle crossing is less than 7.5m from the car park access ramp and therefore does not comply.

Insufficient details of the basement carparking area prevents comment on headheight, however it would appear that headheight is inadequate over spaces 12 through to 17.

Vehicle clearance over the lower change of gradient on the vehicle access ramp may be inadequate. Although shown as 2.3m, the effective height in terms of a 90 percentile design motorcar is less than 2.2m. The lower change of gradient appears to be too severe and should be provided with a transition. The transition between the vehicle access ramp and the footpath is too short and should be at least 3.5m in length.

.../2

(c) Water Supply, Drainage, Electricity, Gas Supply

All water supply is to comply with Bylaw 107 and stormwater drainage is to be carried out in accordance with City Council Stormwater specifications.

(d) Preservation of Trees, Planting and Buildings of Historic Interest

The setback from Oxford Terrace is to be paved and landscaped in accordance with the District Planning Scheme. Specific planting details should be provided for approval before the issue of a building permit.

Additional comments for your information and guidance are as follows -

- i) The two certificates of title must be amalgamated.
- ii) Stage one complies with the recession planes from Oxford Terrace and Armagh Street, however the top two levels of stage two will intrude into the 65° recession plane constructed from Oxford Terrace.

Would you please note that further requirements relating to these and other matters pursuant to the Bylaws and the District Planning Scheme, will need to be complied with, prior to, or at the time of the issue of a Building Permit.

Yours faithfully,



CITY PLANNER



Town and Country Planning Act 1977
Christchurch City Council

Report on application for non notified planning consent



T/8/254/133		
97	83	DT

Applicant Bank of New Zealand Address 133 Armagh St.

Application for consent to a loading dock access less than 7.5m from vehicle ramp crossing

Site inspected by _____ on _____

Will the dispensation or waiver encourage better development of the site or why is it not practicable or reasonable to enforce the provision in respect of the site? The slope of the site and ramp slope make it unreasonable to place the loading dock anywhere else.

Will the dispensation or waiver detract from the amenities of the neighbourhood? No.

and will the dispensation or waiver have town planning significance beyond the immediate vicinity of the land? No.

Will any person or body be prejudiced by the approval of the dispensation? No.

Conditions of Approval: 1. That the loading dock be clearly identified as such and not used for casual parking.
2. That the minimum height of 2.2 metres over spaces 12 to 15 ~~be~~ not be reduced.

Recommendation approved/declined Liza Macklaid.

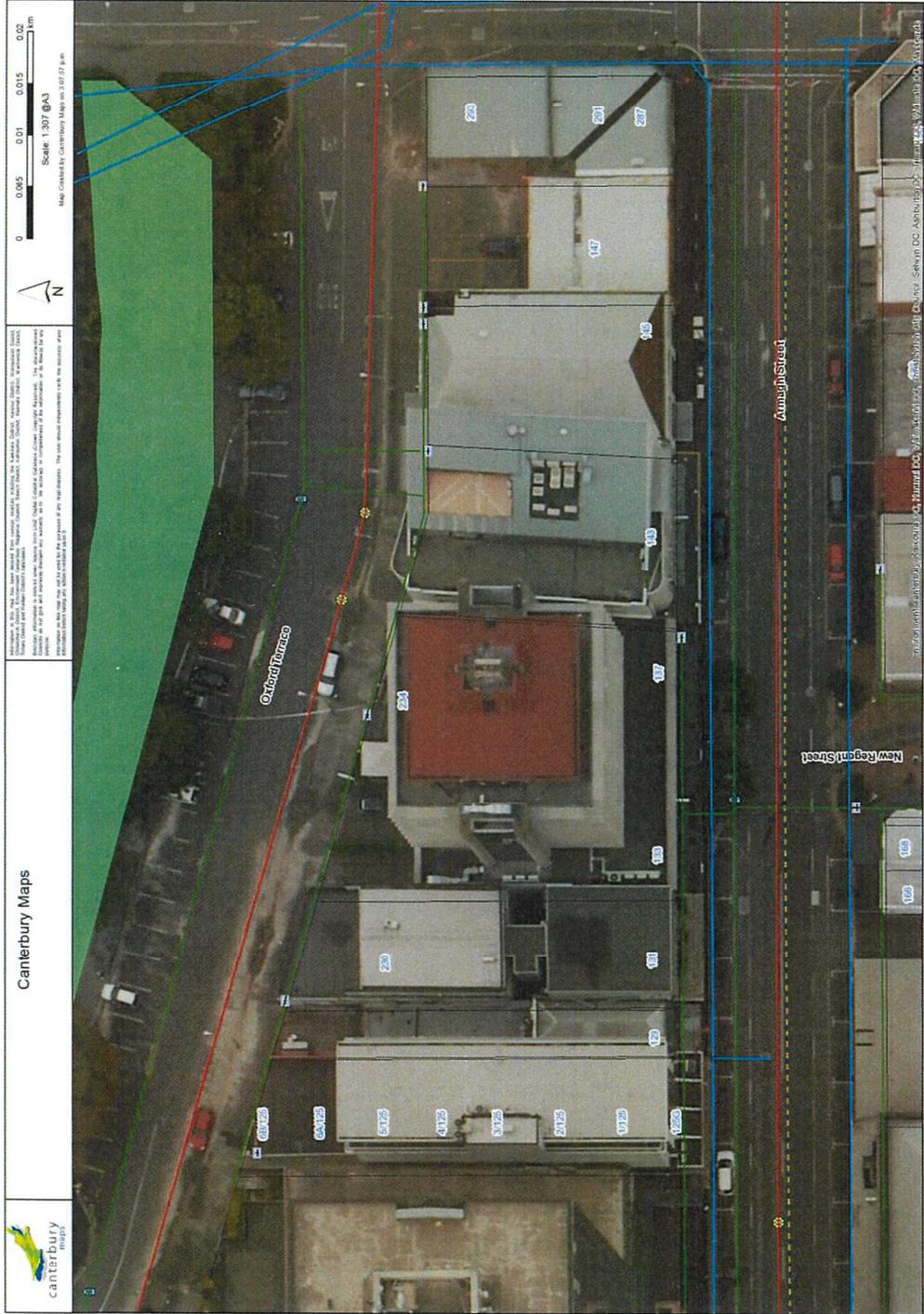
Date: 29/7

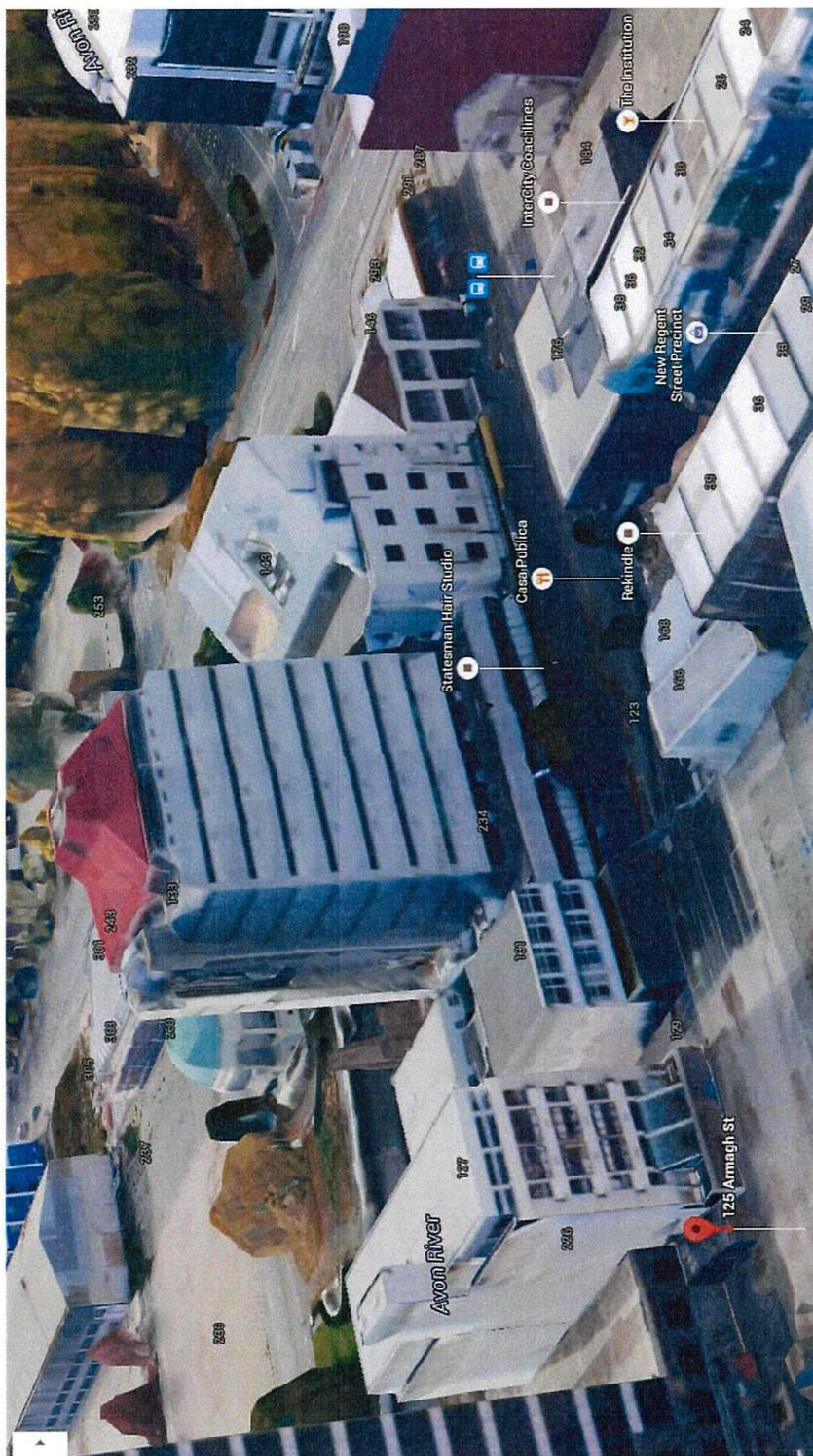
Application is approved/declined [Signature] City Planner

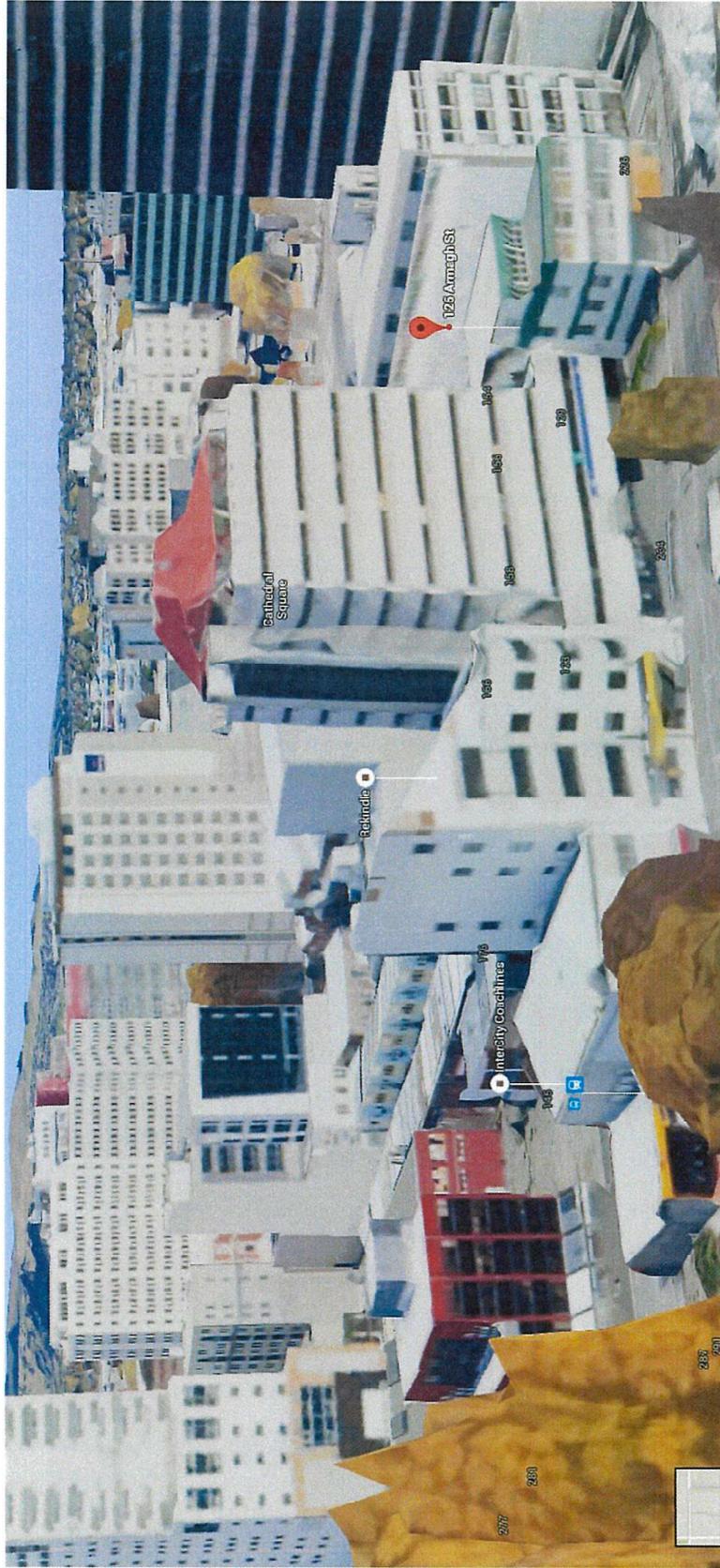
Date: [Signature]

[Signature] Deputy General Manager

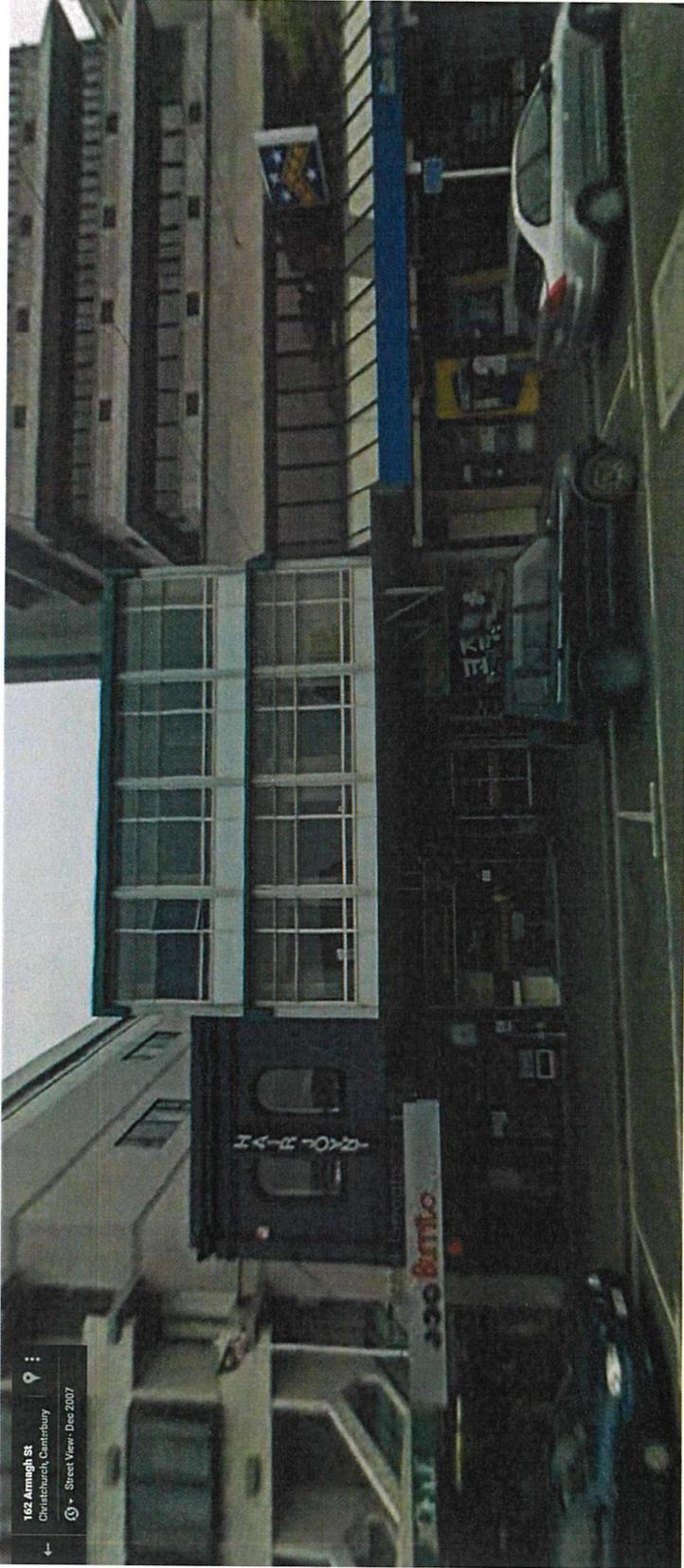
Chairman, Town Planning Committee











←
102 Amagh St
Christchurch, Canterbury
📍 Street View, Dec 2007



19 October 2012

Kiwi Property Holdings Ltd
C/° Ellis Gould Solicitors
P O BOX 1509
AUCKLAND 1140

ATTENTION: JULIE GOODYER

Dear Julie,

**EXISTING USE CERTIFICATE RMA92020943
119 ARMAGH STREET – FORMER PWC BUILDING**

I refer to your request (comprising plans and associated information) for an Existing Use Certificate pursuant to Section 139A of the Resource Management Act 1991, which was received from you on 27 September 2012.

The Resource Management Officer Sub-committee has resolved that the use of the land at 119 Armagh Street (legally described as Lot 1 DP60020), that being a building with:

- A maximum height of 77m.
- 22 building levels including:
 - one basement level; and
 - one rooftop level with decorative cap housing equipment.
- 18 floors of office activity (15,434m²), 3 partial floors of car parking, part ground floor retail and part basement gymnasium.
- A net floor area of about 16,080m² or a plot ratio of 5.314.
- 160 off street car parks with vehicle access off Oxford Terrace.
- A landscaped building setback from Armagh Street of approximately 4.5m to the terrace and approximately 10m to the main building, and various setbacks from Oxford Terrace of between 3 – 10m (for the basement and car parking areas).

was allowed by Section 10 of the Resource Management Act 1991 on the date of issue of this certificate. A copy of the associated report / decision is attached for your information.

Yours faithfully



Revell, Clare
19/10/2012 2:00 PM
Senior Planner

Resource Management Officer Sub-Committee:



O'Connell, Nathan
24/10/2012 2:30 PM
Planning Team Leader 



Gibson, John
24/10/2012 3:57 PM
Planning Administration Manager 

RC950291/1

