

Before an Independent Hearings Panel  
appointed by Christchurch City Council

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*under:* the Resource Management Act 1991

*in the matter of:* the hearing of submissions on Plan Change 14 (Housing  
and Business Choice) to the Christchurch District Plan

*and:* **Catholic Diocese of Christchurch**  
Submitter 823

Legal Submissions on behalf of the Catholic Diocese of  
Christchurch

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Dated: 24 October 2023

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## **MAY IT PLEASE THE INDEPENDENT HEARINGS PANEL**

### **INTRODUCTION AND SUMMARY**

- 1 These legal submissions are presented on behalf of the Catholic Diocese of Christchurch (*Catholic Diocese*) in relation to the Central City and Commercial Zones hearing for proposed Plan Change 14 (Housing and Business Choice) to the Christchurch District Plan (*PC14*).
- 2 These submissions serve as an overview of the Catholic Diocese's position on PC14 and address the Catholic Diocese's specific interests in the Commercial and Central City Zones hearing topic.
- 3 Counsel have also filed legal submissions for Carter Group Limited (*Carter Group*) on this hearing topic. Many of the Catholic Diocese's submission points raise the same or similar issues. Where relevant, the legal submissions for Carter Group are adopted for the Catholic Diocese.
- 4 With its relief sought, the Catholic Diocese similarly seeks to ensure that the statutory requirements for PC14 are followed, resulting in clear, workable, efficient and effective provisions.

### **STRUCTURE OF SUBMISSIONS**

- 5 These submissions:
  - 5.1 Provide a brief overview of the Catholic Diocese and its position on PC14 generally; and
  - 5.2 Outline the Catholic Diocese's interests in the Central City and Commercial Zones hearing topic.
- 6 Our legal submissions for Carter Group set out and analyse the relevant statutory framework and that content is adopted for the purposes of these submissions.

### **OVERVIEW**

#### **About the Catholic Diocese**

- 7 The Catholic Diocese is a suffragan diocese of the Roman Catholic Archdiocese of Wellington. It was formed on 5 May 1887 from a portion of the territory of the Diocese of Wellington. Michael Gielen is the current bishop.
- 8 The Catholic Diocese owns several churches and a number of schools in Christchurch and through the rest of the South Island.

- 9 As the Panel will be aware, the Cathedral of the Blessed Sacrament (commonly known as the Christchurch Basilica) was a Catholic cathedral located on Barbadoes Street. It was closed following the Canterbury earthquakes and ultimately demolished in 2021.
- 10 As outlined in **Mr Jeremy Phillips'** evidence, planning is underway for a replacement Catholic cathedral, with the Catholic Diocese's preferred or final location or plans yet to be confirmed. One site option is the central city block bounded by Colombo/Armagh/Manchester Streets and Oxford Terrace. The Catholic Diocese (led by Bishop Gielen) is undertaking ongoing consultation with parishioners as to the future of the cathedral. As a result of the current uncertainty, the Catholic Diocese is seeking appropriate flexibility in the PC14 provisions to enable a future Catholic cathedral in a central city location.
- 11 In light of the Panel's directions at paragraph 64 of the Hearing Procedures, no further detail has been provided in these submissions or in evidence of the Catholic Diocese's structure or other background. Any specific details can be provided on request.

#### **Catholic Diocese's position on PC14**

- 12 The Catholic Diocese submitted on a number of PC14 provisions and further submitted on several other submissions.
- 13 The Catholic Diocese is generally aligned with Carter Group in seeking to ensure that the PC14 provisions are clear, certain and, ultimately, enabling of intensification where appropriate.
- 14 The evidence provided for the Catholic Diocese (outlined below) focuses on key areas of concern, including where there is disagreement between the Catholic Diocese's witnesses and the position of Christchurch City Council (*Council*) witnesses.
- 15 For the purposes of this hearing, **Mr Phillips** (planning) has prepared a summary statement of his evidence in chief. This outlines where any agreement has been reached with Council through Council's rebuttal evidence, and the remaining areas in contention. **Mr Dave Compton-Moen** is also presenting evidence for the Catholic Diocese at this hearing. As his evidence is brief and focused, he has not prepared a summary statement.

#### **Where will the Catholic Diocese's submission points be heard?**

- 16 The Catholic Diocese will present its submission over two hearing appearances:
- 16.1 Central City and Commercial Zones (this hearing) – this appearance will generally cover the Catholic Diocese's

interests in the Central City and Commercial Zone provisions, including two site-specific components; and

- 16.2 Other Zones (Specific Purpose Zones) (hearing session TBC) – this appearance will generally cover the Catholic Diocese’s interests in the Specific Purpose Zone provisions relevant to the Our Lady of the Assumption school site in Hoon Hay and the new Marian College site in Papanui.
- 17 For ease for the Panel, when legal submissions are filed for each hearing topic, counsel propose to provide a copy of the statements of evidence relevant to the hearing topic, with the relevant sections highlighted. Highlighted copies of **Mr Phillips’** and **Mr Compton-Moen’s** evidence are provided as **Appendices 1 and 2** to these legal submissions.

**Evidence for the Catholic Diocese**

- 18 Evidence has been provided for the Catholic Diocese from:

18.1 **Mr Compton-Moen** – landscape and urban design; and

18.2 **Mr Phillips** – planning.

- 19 **Mr Phillips** and **Mr Compton-Moen** will appear at both hearing sessions for the Catholic Diocese.

**CENTRAL CITY AND COMMERCIAL ZONES HEARING**

- 20 The Catholic Diocese’s specific interests in this hearing topic include:

20.1 Site-specific – opposing:

- (a) Specific references in the PC14 provisions to a Catholic cathedral at 136 Barbadoes Street, with PC14 instead providing appropriate provisions that would apply to any central city site that is selected for a new cathedral;
- (b) The application of a 28m height limit on the land at 129-143 Armagh Street as part of the Central City Heritage Interface qualifying matter associated with New Regent Street (compared to 90m for the majority of the Central City Zone); and
- (c) The spatial extent of the New Regent Street heritage setting across the Armagh Street road reserve.

20.2 General – seeking changes to:

- (a) Commercial policies;

- (b) Central City Zone and Central City Mixed Use Zone rules; and
- (c) Commercial matters of discretion.

21 **Mr Phillips** and **Mr Compton-Moen** have addressed these matters in detail from a technical perspective, including responding to the Council's section 32 and 42A reports and evidence, and that detail is left to them to present.

### LEGAL MATTERS

- 22 As outlined above, our legal submissions for Carter Group set out and assess the relevant statutory framework. That assessment similarly applies to the Catholic Diocese's submission points.
- 23 In these submissions we address one additional legal matter, namely scope. The Council's position, outlined in legal submissions,<sup>1</sup> is that the changes sought by the Catholic Diocese in respect of enabling a replacement Catholic cathedral in the central city are not within the scope of PC14. This appears to be based on the position that PC14 can only relate to housing and commercial development.
- 24 To be clear, the current position is that a replacement Catholic cathedral at the Barbadoes Street site would be a controlled activity under the provisions, with assessment matters specific to this site. What the Catholic Diocese is proposing is that this regime remains, and that for any other central city site, a replacement Catholic cathedral is a restricted discretionary activity, with the same assessment matters applying that would otherwise apply to the Barbadoes Street site. This is categorised by the Council as "numerous changes", however is considered by **Mr Phillips** to be a relatively straightforward and modest change. **Mr Phillips** addresses this point at paragraph 28 of his evidence.
- 25 From a legal perspective:
- 25.1 PC14 must incorporate the MDRS and, relevantly, Policy 3 of the NPS-UD. Policy 3(a) requires the enablement of, "*in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification*".
  - 25.2 Read in the context of the NPS-UD, it is clear that the relief sought by the Catholic Diocese is consistent with "realising as much development capacity as possible" and the overall

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<sup>1</sup> Legal submissions for Christchurch City Council on Proposed Plan Change 14: Central City and Commercial Zones, 17 October 2023, paragraphs 3.23-3.24.

policy intent of the NPS-UD. This includes, in particular Objective 1 (which refers to cultural well-being) and Policy 1 (which refers to well-functioning urban environments and good accessibility to community services). Housing and commercial development necessarily go hand in hand with infrastructure and community services.

- 25.3 On this basis, the relief sought by the Catholic Diocese is “on” PC14 in *Clearwater*<sup>2</sup> and *Motor Machinists*<sup>3</sup> terms. It is within the ambit of the plan change and it is something that potentially affected persons could reasonably have contemplated and been able to respond to in further submissions. Albeit practically, rather than legally, we note that the Catholic Diocese’s search for a new central city Catholic cathedral site has been well-publicised.
- 25.4 It is unclear how the Catholic Diocese’s relief in this respect would disenable existing development rights relative to the status quo, in a *Waikanae* sense, as suggested by the Council. The relief is intended to be enabling and simply to provide flexibility for the Catholic Diocese’s future development plans, so that a new Catholic cathedral is able to be delivered to service the central city area. If the Council’s position is that the proposed relief is an inhibitor of development, we say it is effectively an alternative to (rather than replacement of) residential or commercial development on a central city site, which is a matter for the market or landowners to decide.

## CONCLUSION

- 26 Based on our legal analysis and the evidence of **Mr Compton-Moen** and **Mr Phillips**, in our submission the relief sought by the Catholic Diocese should be accepted.

Dated 24 October 2023




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J Appleyard / A Hawkins / A Lee  
Counsel for the Submitters

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<sup>2</sup> *Clearwater Resort Ltd v Christchurch CC* HC Christchurch AP34/02, 14 March 2003.

<sup>3</sup> *Palmerston North CC v Motor Machinists Ltd* [2013] NZHC 1290.