

UNDER

the Resource Management Act 1991 ("**RMA**")

AND

IN THE MATTER

of Proposed Plan Change 14 to the Christchurch City
Plan ("**PC14**")

**LEGAL SUBMISSIONS ON BEHALF OF
SCENTRE (NEW ZEALAND) LTD**

17 OCTOBER 2023

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1. OVERVIEW

- 1.1 These submissions are presented on behalf of Scentre (New Zealand) Ltd ("**Scentre**")
- 1.2 Scentre is part of the Scentre Group (which owns the Australian and New Zealand businesses formerly known as the Westfield Group), a vertically integrated shopping centre entity that undertakes development, design, construction, property management, leasing and marketing activities. In New Zealand, Scentre has interests in, and operates, five shopping centres, which comprise assets worth approximately \$2.8 billion and provide over 900 retail outlets. For the year ending June 2023, these centres attracted some 43 million visitors.
- 1.3 Scentre owns and operates the Riccarton shopping centre ("**Westfield Riccarton**"), approximately 3 kilometres from the Christchurch Central Business District ("**CBD**"). Westfield Riccarton is Christchurch's oldest and largest shopping centre and is the third largest shopping centre in New Zealand (by retail space). It offers nearly 200 stores, including specialty retail, entertainment, food and hospitality, commercial services, community / education services, health facilities, and a vibrant "mainstreet" environment along Rotherham Street. It also provides integrated and predominantly weather-protected car parking facilities, on-site cycle parking facilities, along with taxi stands and public transport stops on immediately adjacent roads.
- 1.4 Scentre was actively involved in the development of the Christchurch District Plan ("**District Plan**"). Scentre lodged a submission on PC14 which sought to identify Riccarton as a Metropolitan Centre (under PC14 it is identified as a larger Town Centre), increase the maximum building height in Riccarton to 50m, and provide for office tenancies of any size as a permitted activity in Metropolitan Centres or the larger Town Centres. In our submission, the amendments sought by Scentre are necessary to give effect to Policy 3 of the National Policy Statement for Urban Development ("**NPS-UD**") in Riccarton.

2. KEY ISSUES

- 2.1 The key matters which these legal submissions address are:
 - (a) The classification of Riccarton as a Metropolitan Centre; and
 - (b) amendments to the height restrictions and size of office tenancies in Metropolitan Centres (or larger Town Centres).

3. RICCARTON AS A METROPOLITAN CENTRE

Statutory framework

3.1 PC14 provides for the realignment of the commercial centres framework in the District Plan to the framework of centres set out under the NPS-UD. The NPS-UD centres framework sets out that each individual centre zone should be identified as one of the following on a tiered basis:¹

- (a) City Centre;
- (b) Metropolitan Centre;
- (c) Town Centre;
- (d) Local Centre; and
- (e) Neighbourhood Centre

3.2 In relation to the intensification anticipated for each of these centres, Policy 3 of the NPS-UD provides:

Policy 3: In relation to tier 1 urban environments, regional policy statements and district plans enable:

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
- (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
 - (i) existing and planned rapid transit stops
 - (ii) the edge of city centre zones
 - (iii) the edge of metropolitan centre zones; and
- (d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

¹ NPS-UD, Clause 1.4 (Interpretation), and Policy 3.

3.3 Council has identified Riccarton as a "larger" Town Centre (along with Papanui and Hornby) in PC14. There are no Metropolitan Centres identified under PC14. It is Scentre's firm view that Riccarton is aligned with the definition of Metropolitan Centre rather than a Town Centre.

3.4 Metropolitan Centre is defined in the National Planning Standards as:

Areas used predominantly for a broad range of commercial, community, recreational and residential activities. The zone is a focal point for sub-regional urban catchments.

3.5 The evidence of Dr Fairgray and Mr Smith support the position that Riccarton is more appropriately identified as a Metropolitan Centre in PC14.

3.6 In particular, the evidence of Dr Fairgray considers that Riccarton has a substantial role in servicing the Christchurch population and business sector and has a wide draw within the community, providing for household needs across a significant catchment.² Dr Fairgray states that:³

The Riccarton centre has important roles within the Christchurch economy. It is a substantial hub of economic activity, especially in but not limited to retail and service activities, and it has a sub-regional role in terms of the population and catchment areas served.

3.7 The size of the Riccarton Centre aligns with the size of Metropolitan Centres within Auckland when considering the corresponding scales. The goods and services offered by the Riccarton Centres and its respective role within the economy is equivalent to some Metropolitan Centres.⁴

3.8 Dr Fairgray is also clear that due to the CBD's substantial recovery, there is no longer a need to constrain growth unnecessarily to other centres such as by keeping the status of the Riccarton Centre below the Metropolitan Centre Zone.⁵

3.9 The evidence of Mr Smith considers that, for the same reasons highlighted by Dr Fairgray (ie size, function and catchment served), Riccarton is fulfilling the role of a Metropolitan Centre:⁶

I consider it is appropriate for Riccarton to be identified as a Metropolitan Centre as that status recognises the centre's

² Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [4.4].

³ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [4.2].

⁴ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [4.7].

⁵ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [5.7].

⁶ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [1.8].

important role in the centres' hierarchy, anticipates and enables ongoing growth and intensification both within and adjacent to the centre, enables the improvement of public transport services, and supports an increased height limit.

- 3.10 Metropolitan Centres are the focal point for sub-regional urban catchments, this is the catchment size the Riccarton Centre services.⁷
- 3.11 Mr Smith outlines there is a gap in the hierarchy envisaged by the National Planning Standards as no Metropolitan Centres are identified in Christchurch. The gap could be remedied by giving the Riccarton Centre this status.⁸
- 3.12 Scentre maintains that a Metropolitan Centre is the appropriate classification for Riccarton, having regard to the size, function, and catchment served, and significance of the centre to the region.

4. HEIGHT AND OFFICE TENANCY PROVISIONS IN METROPOLITAN CENTRES / TOWN CENTRES

- 4.1 Irrespective of whether or not Riccarton is identified as a "larger" Town Centre or Metropolitan Centre, the Council still has a duty to give effect to Policy 3 of the NPS-UD in all non-residential zones in accordance with section 77N of the RMA.
- 4.2 We submit that in order to give effect to Policy 3 of the NPS-UD, the provisions applying to the Riccarton centre must, at a minimum, enable building heights and densities of urban form commensurate with the level of commercial activity and commercial services (Policy 3(d)). For the reasons set out in the evidence of Dr Fairgray and Mr Smith, Scentre considers that they currently fall short of that requirement, in particular regarding maximum building height and the restrictions on office tenancy size.

Height

- 4.3 Scentre has sought an amendment to Rule 15.4.2.2 to increase the maximum building height in Riccarton to 50m.
- 4.4 Under PC14, Rule 15.4.2.2 sets a maximum building height of 20m for Town Centres generally, and 22m for Riccarton, Hornby, and Papanui. As explained by Mr Smith, this height is inadequate as it is only an increase of 2m which will provide very little opportunity for increased intensification.⁹ Mr Lightbody, in

⁷ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.9] – [5.10].

⁸ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.8].

⁹ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.18].

his s42A Report, has recommended acceptance of a 32m permitted height at Riccarton, Papanui and Hornby on the basis that this would "achieve both intensification commensurate to the centres while not undermining the primacy of the City Centre Zone".¹⁰

4.5 Dr Fairgray considers that while the Christchurch CBD is a critical component of the urban and regional economy, "the other centres all have their own major roles in that economy and contribute significantly to the well-functioning urban environment".¹¹ In particular, Dr Fairgray states:¹²

An important part of the centres-based approach is recognition of the efficiencies of the multi-nodal urban form, in which development is enabled across the network of centres. This includes the CBD but is not limited to the centre, because it is common for different activities to opt for non-CBD locations, as well as to operate from several locations in a city. Those location imperatives commonly see businesses establish in centres as well as or instead of the CBD, especially in centres which are the next level down from the City Centre. That combination of development in the CBD and other centres typically sees relatively efficient patterns of business activity across the centres network, to service the overall economy.

4.6 As explained by Dr Fairgray, centres' roles expand as they increase in size. An allowance for greater maximum heights will allow this progression to take place, and for the Riccarton Centre to increase its growth in office activities where that centre is the most appropriate place for that office activity.¹³

4.7 Mr Smith, in his evidence, considers a maximum building height of 50m would provide for even more intensification and would make multilevel development more viable than with a lower height limit applying, while still providing differentiation with the City Centre where there is a 90m maximum height.¹⁴

4.8 In our submission there is clear justification for increasing the height limit to 50m in Rule 15.4.2.2, and we respectfully request Scentre's submission be accepted by the Panel.

Office tenancy size

4.9 Scentre in its submission sought permitted activity status for office tenancies of any size in Metropolitan Centres (or larger Town Centres).

¹⁰ Planning Officer's Report of Kirk Joseph Lightbody (section 42A) at [8.3.4].

¹¹ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [3.4].

¹² Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [3.13].

¹³ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [3.19].

¹⁴ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.21].

- 4.10 In the District Plan, Rule 15.4.1.1. provides for office tenancies under 500m² as permitted activities.
- 4.11 Mr Lightbody, in his s42A Report, stated that the provisions limiting the size of office tenancies were introduced to limit the potential adverse effects of dispersed large scale-office activity on the regenerating Central City.¹⁵
- 4.12 The evidence of Mr Smith does not consider that a rule limiting the floor area of offices is justified in Metropolitan Centres or larger Town Centres, and considers that allowing office tenancies of any size as a permitted activity would not challenge the primacy of the City Centre.¹⁶
- 4.13 Mr Smith raises a concern over the effects of Rule 15.4.1.1 on the increasingly popular "shared space" offices where office areas of various sizes are leased or licenced to individuals.¹⁷ Mr Smith considers that if Rule 15.4.1.1 is retained, an exclusion should be made for shared space tenancy, which could be accomplished through the addition of the following words to Rule 15.4.1.1:¹⁸
- In the case of a tenancy being sublet to multiple individual subtenants (e.g. "shared space") this floor area limitation shall apply to the sub-tenants, not to the primary tenancy.
- 4.14 Mr Fairgray outlines that office space vacancy is at 5.8% which is the lowest it has been since December 2009.¹⁹ As businesses have relocated back to the CBD, it is now appropriate to look to expand office space into other centres within Christchurch.
- 4.15 Scentre submits that it is appropriate to remove the rule restricting office tenancies and allow for office tenancies of any size in Metropolitan Centres or the larger Town Centres. However, if this is not accepted by the Panel then Scentre respectfully seeks that Rule 15.4.1.1 is amended as set out in the evidence of Mr Smith.

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¹⁵ Planning Officer's Report of Kirk Joseph Lightbody (section 42A) at [8.5.8].
¹⁶ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.25].
¹⁷ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.26]-[5.27].
¹⁸ Evidence of Vaughan Smith (planning) dated 20 September 2023 at [5.28].
¹⁹ Evidence of Douglas Fairgray (planning) dated 21 September 2023 at [5.3].