

Before the Independent Hearings Panel
At Christchurch City Council

Under the	Resource Management Act 1991 (RMA or Act)
In the matter of	proposed private plan change 23 (PC 23) to the Christchurch District Plan
And	LLM Investments 2012
	Applicant

Legal submissions in reply on behalf of LLM Investments 2012

15 June 2026

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**anderson
lloyd.**

May it please the Commissioner

- 1 These submissions in reply are made on behalf of LMM Investments 2012 Limited (the **Applicant**), which has sought Private Plan Change 23 (**PC23**) to the operative Christchurch District Plan (**CDP**).
- 2 The Applicant filed comprehensive legal submissions at the hearing (20–22 May 2026) addressing legal issues raised in the context of PC23.¹ Those submissions were not contested, and no alternative legal analysis was advanced by the Christchurch City Council (**CCC** or **Council**) or Submitters. Those submissions are not repeated here.
- 3 These closing submissions are filed in accordance with Minute 4, which records the Commissioner's direction that the parties' positions are clear and that no further information is required.² Consistent with that direction, they address only the matters of disagreement between the experts, which, in large part, the Applicant considers have been addressed through the Outline Development Plan (**ODP**) provisions. In that context, the Applicant considers that there is no basis to decline PC23.
- 4 Accordingly, these submissions are largely focused on the ODP provisions of PC23 and respond to the remaining areas of disagreement identified in the Joint Witness Statement (**JWS**) for Planning dated 8 June 2026, including:
 - (a) **Appendix One**, which records the agreed position of **Mr Clease** and **Mr Friedel**, including text also supported by **Ms Carter**, and identifies the remaining areas of disagreement between them; and
 - (b) **Appendix Two**, which sets out the ODP narrative agreed by all three planners and identifies additional amendments proposed by **Ms Carter**, which are not supported by **Mr Clease** or **Mr Friedel**.
- 5 As reflected in the material before the Commissioner and the Commissioner's directions, the remaining issues principally concern the drafting of the ODP and its implementation. The task under the Resource Management Act 1991 (**RMA** or **Act**) is to determine whether the proposed provisions give effect to the higher-order planning documents and represent the most appropriate way to achieve the purpose of the Act and the objectives of the CDP.

¹ Legal Submissions on behalf of LLM Investments 2012 dated 20 May 2026.

² Private Plan Change 23 Whisper Creek, Spencerville; Minute #4 Commissioner's Post Hearing Directions dated 2 June 2026.

- 6 This includes evaluation under section 32 of the RMA, requiring consideration of whether the provisions are the most efficient and effective means of achieving those objectives, having regard to their benefits, costs, and overall efficiency and effectiveness.

Legal Interpretation Advanced by Submitters

- 7 At the outset, we reiterate that the Applicant's legal submissions were not contested and that neither the Council nor the Submitters advanced alternative legal analysis.
- 8 While aspects of the statutory framework were discussed during the hearing, those references generally arose in the context of broader concerns about infrastructure, flooding, transport, and the sequencing or location of urban growth.
- 9 **Ms Carter**, on behalf of the Ōuruhia Residents Group, referred to relevant planning instruments and expressed views on how provisions of the NPS-UD and related documents should apply to the proposal, including the concept of a well-functioning urban environment. The Applicant considers that these matters ultimately involve statutory interpretation. While **Ms Carter** addressed these provisions from a planning perspective, her evidence should not be understood as a competing legal analysis.
- 10 The Applicant, by contrast, has provided comprehensive legal submissions on the relevant statutory instruments, supported by appendices addressing specific issues, including the urban environment, highly productive land, and the interaction between national and regional planning instruments. Accordingly, the Applicant considers that its submissions, taken in isolation, assist the Commissioner in interpreting the statutory regime.

Appendix One – PPC23 ODP Schedule of Amendments

- 11 During the hearing, the Council Officer, **Mr Friedel**, noted that the Applicant has made significant progress in addressing the priority concerns identified in paragraph 1.1.18 of the Section 42A Report.³ **Mr Friedel** concluded that, in most instances, agreement has been reached between the experts, or there are workable options to amend PC23 to resolve any remaining issues, and that the evidence has adequately addressed the rezoning concerns identified in the Section 42A Report.

³ Summary Statement of Creig Friedel, Planning, on behalf of the Christchurch City Council (21 May 2026) at [3] – [6].

- 12 This includes, to the extent necessary to ensure that PC23 is consistent with the relevant objectives and policies of the CDP, the applicable planning instruments, national directions, and RMA Part 2 matters.
- 13 **Appendix 1** of the JWS reinforces this position. **Mr Clease** and **Mr Friedel** are largely aligned on the wording of the PC23 ODP provisions, with only a few remaining areas of disagreement. The Applicant submits that, where differences arise, **Mr Clease's** position should be preferred.

8.10.31.D Development Requirements - Integration 1(c), (d) and (e)

- 14 The remaining differences in the integration provisions concern two discrete matters:
- (a) the treatment of the 800-household cap; and
 - (b) the appropriateness of additional interface controls (including height restrictions, setback restrictions, and landscape strips).
- 15 In relation to the 800-household cap, the issue in dispute is not whether that figure provides an appropriate reference point, but whether it should operate as a fixed upper limit or instead as a more flexible control linked to infrastructure capacity. In that context, **Mr Clease's** proposed amended wording to clause 1(c) appropriately adopts a capacity-based approach, enabling additional development where potable water and wastewater infrastructure can be demonstrated to be sufficient. As noted by **Mr Friedel**, this also provides flexibility to support infill development if adjacent land is rezoned.⁴
- 16 The potential for infill development north of Christchurch was discussed at the hearing and identified by the Applicant as a realistic and likely outcome. In those circumstances, constraining development to 800 households indefinitely, regardless of whether the infrastructure can support additional development, is neither sensible nor efficient as a planning outcome. It would effectively lock in what might be an outdated development limit rather than respond to actual capacity.
- 17 From a section 32 perspective, that approach would impose unnecessary constraints where the costs (in terms of foregone development capacity and reduced flexibility) are not justified by any corresponding benefits, noting that any further development effects would be assessed at subdivision

⁴ Note: **Mr Friedel's** comment re alternative wording is an early comment that has been responded to via **Mr Clease's** blue wording.

stage. The amended wording instead strikes the appropriate balance by retaining infrastructure as the controlling factor, while allowing development to respond to future change.

- 18 In relation to clauses 1(d) and (e), the issue is whether further interface controls are required to address landscape and amenity effects. The Applicant submits that **Mr Clease's** position, supported by the evidence of **Mr Compton-Moen**, should be preferred. That evidence confirms that the proposed framework, comprising larger perimeter lots, substantial setbacks from external roads, and a 3m planted buffer strip, is sufficient to mitigate potential effects at the urban–rural interface.
- 19 The imposition of additional controls, such as a 5m building height limit, increased internal setbacks, or a wider planted buffer strip, is inconsistent with the receiving environment, where rural-residential development is already anticipated. In these circumstances, the more restrictive approach advanced by **Mr Friedel** reflects an evidential preference rather than a necessity, and no section 32 analysis demonstrates that its benefits outweigh the costs and the loss of design flexibility.

8.10.31.D Development Requirements - Open space, recreation and community facilities 2(c)

- 20 The outstanding issue regarding the Neighbourhood Centre is narrow. It concerns the appropriate scale of development (GFA cap) and whether further restrictions, such as limits on supermarkets, are required. The Applicant is prepared to amend the proposal to proffer **Mr Clease's** position on the 3,000m² GFA cap and, if required, a supermarket cap of 450m² GFA.
- 21 Further, in response to concerns raised by **Mrs Schroder** that an insufficient neighbourhood centre and associated amenities will be provided,⁵ the land identified for the Neighbourhood Centre is proposed to be subject to a consent notice requiring it to be retained for commercial or community activities for 10 years following the issue of section 224(c) certificates, after which it may be developed for residential purposes if such activities have not occurred.
- 22 **Mr Colegrave** confirmed that a neighbourhood centre of this scale will operate as convenience retail serving a localised catchment and will not have a material adverse distributional effect on other centres. Importantly, the provision of a centre at this scale supports the objectives of the Neighbourhood Centre and the delivery of a well-functioning urban

⁵ Statement of Primary Evidence of Josephine Schroder on behalf of Christchurch City Council dated 10 April 2026 at [60] – [61].

environment, including local services and reduced travel, which are core outcomes of the NPS-UD.

- 23 Conversely, **Mr Yeoman** has recommended a reduction based on efficiency grounds, stating that the process required to change the use to residential would introduce unnecessary cost, rather than identifying adverse effects.⁶ This approach does not align with section 32 of the RMA, which requires an evaluation of whether provisions are the most appropriate way to achieve the relevant objectives, including an assessment of their effectiveness and efficiency, and a balancing of their benefits and costs. In this case, reducing the GFA would undermine the Neighbourhood Centre's effectiveness in providing local services and supporting a well-functioning urban environment, while delivering no corresponding environmental or planning benefits. Similarly, an express prohibition on supermarkets is unnecessary given the evidence that such an outcome is commercially fanciful. The Applicant therefore considers that no evidential or section 32 basis has been established to justify a smaller GFA or restrictions.

8.10.31.D Development Requirements - Access and Transport 3(c) and (f)

- 24 The Applicant supports **Mr Clease's** position that transport-related matters are more appropriately addressed at the consenting stage, rather than embedded in the ODP. The remaining transport-related disagreements between **Mr Clease** and **Mr Friedel** are narrow and relate to two drafting issues:
- (a) whether to expressly require Safe System Audits (**SSAs**) within the ODP; and
 - (b) whether to include restrictions on construction traffic (particularly heavy vehicles) in the ODP narrative.
- 25 In both cases, the question is not whether these matters should be addressed, but whether they belong in the ODP. No other ODP in the CDP includes such requirements, including for comparable or more sensitive greenfield developments. There is no evidential basis for treating PC23 differently.
- 26 In relation to clause 3(c), while there is agreement that SSAs will be undertaken, the issue concerns plan drafting and the appropriate level of detail. SSAs are a standard part of subdivision and roading design processes and are routinely imposed through consent conditions. The ODP

⁶ Joint Witness Statement for Economics, dated 13 May 2026 at [7].

already provides an appropriate framework, with further refinement expected to occur through subdivision consenting. Including prescriptive SSA requirements would introduce unnecessary duplication and rigidity into what is intended to be a high-level framework.

- 27 The same reasoning applies to clause 3(f). Restrictions on construction traffic, including heavy vehicle movements, are inherently detailed, site-specific matters that depend on the subdivision's staging and design. These matters are typically addressed through traffic management plans and consent conditions for subdivision and earthworks activities. While such controls are likely to be imposed in practice, their inclusion in the ODP is neither necessary nor consistent with standard plan-drafting practice.

Appendix Two – PPC23 ODP Schedule of Amendments

- 28 **Appendix Two** of the JWS records several additional amendments sought by **Ms Carter**, which are not supported by either **Mr Clease** or **Mr Friedel**. The Applicant submits that these amendments should be rejected in their entirety.
- 29 As outlined above, the areas of disagreement remaining between the experts are narrow and relate primarily to the appropriate drafting and implementation of the ODP provisions. In that context, it is significant that **Mr Clease** and **Mr Friedel** have reached a substantial level of agreement on the appropriate wording of the ODP narrative, with only limited and discrete differences remaining.
- 30 The amendments proposed by **Ms Carter** depart from her counterpart's position in many respects. They introduce additional provisions and drafting changes that are not supported by the relevant expert evidence and, in several instances, extend beyond the scope and purpose of an ODP within the CDP. Rather than resolving identified effects, these amendments tend to introduce additional prescription and complexity into what is intended to operate as a high-level framework guiding future subdivision and development.
- 31 The changes sought by **Ms Carter** broadly fall into three categories:
- (a) provisions lacking an evidential foundation;
 - (b) provisions that reflect advocacy rather than objective planning requirements; and
 - (c) provisions that introduce a level of detail inconsistent with the purpose and function of an ODP.

Provisions Lacking Evidential Foundation

- 32 Under the RMA framework, it is well established that decision-makers must base their findings on the evidence before them. The relevant expert evidence does not support the amendments advanced by **Ms Carter**; rather, it reflects submitter's comments and positions rather than conclusions derived from technical analysis.
- 33 Assertions of significant adverse effects, particularly where they relate to highly technical matters, must be supported by appropriate expert evidence before a decision maker may place material weight upon them. In *Warburton v South Wairarapa District Council*, the Environment Court held that persons must provide evidence based on specialised knowledge; otherwise, the Court would be burdened with evidence of no value.⁷ This principle carries particular force where serious or potentially significant effects are alleged in technical areas beyond the decision-maker's expertise.
- 34 For example, in *Shirley Primary School v Christchurch City Council* (**Shirley Primary School**), the Environment Court held that opponents of a proposed cell tower could not rely on dire claims about catastrophic health and social effects without providing reliable expert evidence to support them. While the submitter (i.e., the school) warned of serious risks such as cancer, psychological harm, and financial ruin, it provided no scientifically credible material. In contrast, the applicant's expert evidence showed no such risks. The Court rejected a 'no-risk approach' as logically impossible. The Court held that applicants need not prove absolute safety, particularly when alleged harms are unproven or speculative, even when those harms have high potential impact.⁸
- 35 In many instances, **Ms Carter's** proposed amendments seek to introduce additional and more prescriptive requirements based on material advanced by submitters for inclusion in the ODP. However, submitter views do not constitute probative technical evidence sufficient to support ODP provisions. By way of example, **Ms Carter** proposes additional wastewater assessment requirements based on material prepared by **Mr Messerly**. **Mr Messerly** is not an expert witness, and his views do not constitute probative technical evidence. In contrast, the Council's wastewater modelling and

⁷ *Warburton v South Wairarapa District Council* ENC Wellington W079/09, 15 October 2009 at [26].

⁸ *Shirley Primary School v Christchurch City Council* ENC C136/98, 14 December 1998; see also *Trans Power New Zealand Limited v Rodney District Council* A085/94 [1994] NZPT 297 (14 November 1994) at 22; *Telecom New Zealand Ltd v Christchurch City Council* [1996] ELHNZ 416 at 9.

assessment framework was advanced by qualified experts, tested, and defended through the hearing process.⁹

- 36 In those circumstances, the proposed amendments lack an evidential foundation. They have not been shown to be an appropriate, efficient, or effective response to adverse effects, nor do they reflect a balanced assessment of costs and benefits. Rather, they would introduce additional controls without supporting evidence.

Provisions that Reflect Advocacy Rather than Objective Planning Requirements

- 37 A further difficulty with the amendments advanced by **Ms Carter** is that they reflect advocacy positions. As noted above, the assessment required under the Act must be grounded in objective, expert analysis of effects and appropriate responses. Where provisions are advanced without that foundation or in context, they cannot properly inform the ODP.
- 38 This is reflected in the caucusing outcomes. While **Ms Carter** raised a range of matters, they were not agreed through the Joint Witness Statement processes and/or were not demonstrated to be necessary to address identified effects. Nor were they developed or assessed within the wider expert context established and discussed throughout the hearing. In the absence of that foundation, such amendments do not assist in achieving the purpose of the Act or the objectives of the CDP.
- 39 By way of illustration, the proposed requirements for additional transport modelling and the emphasis on a connection to Lower Styx Road extend beyond the agreed position of the relevant experts and reintroduce matters that were not substantiated as an available option through expert evidence.

Level of Detail Inconsistent with the Purpose and Function of the ODP

- 40 The ODP narrative must be read as part of the wider CDP and legislative framework, rather than as a standalone or exhaustive code governing development of the Site. Its role is to identify the key spatial outcomes, connections, and overarching development principles, with more detailed matters to be addressed through subsequent subdivision and land-use consenting stages.
- 41 In that regard, many of the amendments advanced by **Ms Carter** introduce unnecessary and inappropriate levels of detail. Matters such as SSA, construction traffic management, infrastructure modelling, vesting

⁹ Summary Statement of Michele Ann Macdonald, Wastewater and Water Supply, on behalf of Christchurch City Council, dated 20 May 2026; Council's draft Pūharakekenui-Styx Catchment Stormwater management Plan; Council's global stormwater discharge consent decision from Environment Canterbury.

arrangements, and cost allocation are inherently detailed and proposal-specific. They are more appropriately resolved through later stages. As discussed above, such matters are typically addressed through consent conditions, engineering approvals, infrastructure provider agreements, and development contributions processes, once the details of the development are known.

- 42 The CDP already contains a comprehensive suite of provisions that apply at the subdivision and land-use stage, including rules on subdivision design, earthworks, stormwater management, and natural hazards. These provisions, together with the associated matters of discretion, provide a robust framework for managing effects and ensuring appropriate outcomes. Related Council processes and policies, including the development contributions policy and infrastructure funding and delivery mechanisms, also support this framework. The ODP must therefore be understood as one component within this broader regulatory regime, rather than as the sole mechanism for controlling development.
- 43 **Ms Carter's** amendments do not reflect this framework. They assume the ODP must address matters in detail, leading to duplication, premature issue resolution, and unnecessary prescriptions. This departs from standard plan-drafting practice and, from a section 32 perspective, introduces additional cost and complexity without corresponding benefits in terms of efficiency or effectiveness. Appendix 1 provides the more appropriate approach by setting a clear framework and leaving detailed matters to the consenting stage.

Conclusion

- 44 PC23 is an appropriate and necessary plan change that directly addresses identified capacity constraints and delivers positive urban, environmental, and infrastructure outcomes. It is carefully formulated to give effect to higher-order planning instruments and to integrate coherently and efficiently with existing and planned infrastructure.
- 45 In these circumstances, there is no defensible or evidential basis upon which PC23 could properly be declined. The Commissioner is therefore respectfully requested to approve PC23 with the Applicant's recommended ODP provisions.

Dated: 15 June 2026

A handwritten signature in black ink, appearing to read 'J M Appleyard', written in a cursive style.

J M Appleyard / T B Parker
Counsel for LLM Investments 2012