

BEFORE THE PANEL CONVENER

IN THE MATTER of the Fast-track Approvals Act
2024

AND

IN THE MATTER of an application by Carter Group
Limited for the Ryans Road
Industrial Development (FTAA-
2504-1054)

Memorandum of counsel for the Christchurch City Council responding to Minute 3

24 July 2025

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If the Panel Convener Pleases:

1. This memorandum of counsel for the Christchurch City Council (Council) responds to Minute 3 to assist the Panel Convener achieve the objectives of the Convener Conference on Monday 28 July 2025.
2. The purpose of the memorandum is to:
 - 2.1 Explain the application topics that have been explored between the Applicant and Council;
 - 2.2 Provide the Council's understanding of those topics on which the Council is awaiting further information or responses from the Applicant;
 - 2.3 Explain the two "Planning/Legal Issues" that are unresolved and the Council's view on the way to resolve them;
 - 2.4 As a result of the above, provide an indication of the issues that may be time consuming or complex for the Panel to address; and
 - 2.5 Provide the Council's suggestion for further engagement before the Panel is appointed.

Context

3. Minute 3 indicates that the Panel Convener has an incomplete appreciation of the substantive and ongoing engagement between the Council and the Applicant. That is an unfortunate result of Ms Appleyard's memorandum of 18 July 2025 stating, with regard to "*Planning/Legal Matters*", that the Council "*has not been willing to engage substantively on these matters*". That statement, without further explanation, created a false impression. There has been respectful and constructive engagement between the Council and Applicant on all issues.
4. Minute 3 refers to the Applicant's memorandum of 18 July 2025. That memorandum says:
 - 4.1 The discussions between the Applicant's expert consultants and *the councils* have generally been constructive and productive¹. The Council agrees with that statement;

¹ Paragraph 5.

- 4.2 That the Applicant is undertaking work to assess and refine options and to continue dialogue with *the councils* and that practical solutions can be reached². The Council shares the Applicant's understanding that that is what the Applicant is doing and agrees with that statement. The Council is waiting to hear back from the Applicant on several matters. This is further described in paragraphs 9, 12, 17 and 18 below;
- 4.3 The discussions to date have been productive and have identified possible solutions to the issues ³. The Council agrees with that statement;
- 4.4 That regarding "Planning/Legal Issues":
"The Applicant has made genuine attempts to engage in discussions in relation to the planning and legal issues, but CCC has not been willing to engage substantively on these matters, and as a result, there has been no meaningful progress towards resolution".
5. It is correct that there has been no meaningful progress towards resolution of two planning/legal matters. This is further described in paragraphs 6.5 and 23-28 below.

Actions in substantive engagement between the Applicant and the Council

6. Engagement has included:
- 6.1 Council representatives, including technical specialists, met with representatives of the Applicant and technical specialists to discuss issues relating to:
- Three waters and civil infrastructure – 27 June 2025
 - Urban design – 2 July 2025
 - Transport – 2 July 2025
- 6.2 After those meetings Council specialists provided additional condition wording, commenced technical assessments, and are awaiting responses from the Applicant in relation to the matters raised at the meetings;
- 6.3 Council's planner Francis White and the Applicant's planner Clare Dale visited the site on 7 July 2025. Other Council specialists (including ecology and urban

² Paragraph 6.

³ Paragraph 13.

design/landscape architecture) have visited the vicinity of the site to assist their understanding of this application;

6.4 No attempts by the Applicant's lawyers to engage with Council's lawyers on any legal issues;

6.5 Emails from the Applicant's planner Jeremy Philips asking:

(a) The Council position on the spatial extent of the urban environment for Greater Christchurch. The Council's substantive engagement with Mr Philips on that question explained that there is no point in answering it as the answer is irrelevant to this application ⁴. Mr Philips clarified last week that he wants to know whether the Council considers that the application site is in the "urban environment"; and

(b) Whether the Council agreed with the Applicant's interpretation that the site is not highly productive land as defined in the NPS-HPL. The Council's response was that it did not agree. Mr Philips (and presumably the Applicant) possesses the Council's legal opinion on this. The Applicant has shared a draft legal opinion with the Council. At this stage the parties simply have a difference of legal opinion and the Panel will determine its preferred opinion.

7. Counsel for the Applicant confirmed on 23 July 2015 that their reference to "Planning/Legal Issues" in the Applicant's memorandum of 18 July 2025 is confined to those "urban environment" and NPS-HPL matters.

Council's understanding of current position on application topics

8. Subdivision engineering: Council's Senior Subdivision Engineer has reviewed the application in relation to earthworks, civil design, and geotechnical matters. The engineer has not raised concerns with regard to the level of assessment provided or nature of the proposal.

9. Stormwater: Council's Senior Stormwater Engineer has informed the Applicant that the application is sufficient for assessment of effects on stormwater, flooding and groundwater, with the exception of the assessment of groundwater effects, which has

⁴ The Panel Convener expressed a similar uncertainty in Minute 2.

only analysed infiltration system effects on water supply bores and wells within 500m of the site. Council had first identified this to the Applicant at the first Panel Convener's conference. The experts discussed it at the meeting of 27 June 2025. The Applicant has informed the Council that the Applicant's specialists are undertaking those assessments; however, they have not yet provided the assessments to the Council. These issues can be readily resolved.

10. Council's Senior Environmental Health Officer has reviewed the application concerning contamination, noise, glare, and light spill, and has not raised concerns with the Applicant's assessment or conclusion. She has recommended to the Council's planner that there be additional conditions relating to soil disposal and accidental discovery of contaminated material. It is business as usual to have conditions such as those imposed on resource consents relating to contaminated soil. There is a standard form for those conditions. The Council considers that this is not a significant issue and can be readily addressed between the planners when engaging on the conditions as a whole.
11. The Council has asked for comments from its experts in avifauna, herpetology, and botany. None of these experts have raised substantive issues with the proposal or identified shortfalls in the Applicant's proposed conditions.
12. The Council's Principal Waterways Ecologist has raised a concern about the effects of the proposed piping of the water race. Discussions between Council's ecologist and representatives of Environment Canterbury have occurred, and these concerns have been conveyed to the Applicant by Environment Canterbury. The Applicant subsequently indicated that it may change the proposal (see paragraph 22 below) seeking that the waterway be retained. This will need further assessment if the Applicant amends the application.
13. Effects potentially impacting the operation of the Christchurch International Airport are birdstrike, glare/light spill and building heights. These are relevant effects under the District Plan. Council staff will defer to Christchurch International Airport Ltd to comment on those matters when commenting as an adjacent landowner ⁵. Council engineers will assist them with regard to stormwater management systems.
14. Standards for infrastructure assets to vest: The Applicant and Council have discussed the requirements of the Council's Infrastructure Design Standards that apply if developers wish to vest infrastructure assets in the Council. It is important for the Council that assets that the Council will own are constructed to the Council's standards. There is nothing out of the ordinary about how those standards apply to this proposed activity.

⁵ Section 53(2)(h).

The Council's requirements here are business as usual. However, it is not yet clear whether the Applicant is going to propose to design assets to that standard and will agree to conditions setting out a certification process to demonstrate that those standards have been met.

15. Council has drafted a Water Supply and Wastewater Servicing Report and will provide it to the Applicant following internal review. That is likely to be within 1-3 days. This servicing report will include Council's proposed conditions setting out these standards as they relate to water supply and wastewater infrastructure.
16. The Council considers that this issue should be readily resolved. However, if it is not, resolved, it has potential to significantly add to the complexity of the decision making process and the evidence that the Panel might want to see or hear.
17. Transport network connections: Transport experts have engaged. They have a difference of opinion regarding whether transport network improvements will be needed if the development proceeds. Council's experts consider that they do, and that development should not proceed past a certain point unless network improvements are made. Council's understanding is that the Applicant's experts are considering and responding to the Council on these issues.
18. Landscape/visual effects interface with the rural zone: The proposal is to enable industrial activity next to rural activity. The application proposes some landscape buffer treatment to road frontages intended to mitigate adverse landscape and visual effects. The Council's landscape expert considers that the Applicant ought to prepare a cross-section so as to aid assessment of the effectiveness of this mitigation. Additionally, Council's landscape expert recommended further conditions concerning building bulk and the landscape width, species and placement. These matters were constructively discussed at the meeting on 3 July 2025. It was there agreed that the Applicant would further consider it and then respond to the Council. The Applicant has not yet provided this response.
19. Consent condition details: There are miscellaneous other drafting detail matters that the planners for the Council and Applicant have acknowledged, but not yet substantively engaged on. Council's planner intends to work with the Applicant's planner on these comprehensively after the Applicant responds on the matters arising from the meetings of 27th June – 2nd July. The Council's planner Francis White agrees that these should be readily resolved and that unresolved matters would not have material impact on decision making timeframes.

20. Council wishes to flag that one of these matters still being worked through is when a development contribution under the Council's Development Contribution Policy is levied. In particular, the issue is whether:
- 20.1 A contribution will be levied at the time a service connection to the development as a whole to Council infrastructure is granted; or
- 20.2 No contribution will be levied until the individual lots are further developed. In this case, the allotments will be created without a Household Unit Equivalent credit being applied.
21. If the latter, the Council view is that this needs to be set out in consent conditions and consent notices on titles. This is in part a legal issue regarding the Council's Development Contributions Policy and the Council is preparing an opinion on that which it will share with the Applicant. This appears though to be a matter that can be readily addressed in consent conditions if that is the outcome.

An imminent amended application

22. On 21 July 2025 the Applicant's planner informed the Council that the Applicant is considering amending the application to retain the water race extending along the frontage and installing culverts for individual vehicle accesses rather than piping the waterway for the full extent of the frontage. This change would have implications for the road frontage, potentially requiring revised ecological, transport, servicing, and landscape assessments. The Applicant has not yet provided any draft revised plans or assessment to Council.

"Legal/Planning Issues"

- (a) **The spatial extent of the urban environment for Greater Christchurch and for the application site**
23. As noted in paragraphs 5 and 6.5, communication between the Applicant and the Council on this matter could be improved. The Council's planner is unclear why the Applicant's planner is asking this question, as:
- 23.1 The answer to the question about the extent of the urban environment for Greater Christchurch is not relevant to this application;
- 23.2 If the site is developed as proposed it will then be part of the urban environment – but that is not relevant to determining this application; and

23.3 The Council's team has not gleaned from the Applicant's communications why a Council view on whether the application site is currently part of the urban environment is relevant to this application.

24. It might clarify matters if the Applicant was to explain what issue for the application the question about the "urban environment" stems from. I am of course available to discuss this with the Applicant's counsel at any time or counsel might wish to clarify the Applicant's understanding of this issue in reply memorandum.

(b) Whether the application site is highly productive land as defined on the NPS-HPL

25. This is relevant because the transitional definition of highly productive land (Clause 3.5 (7)) only applies to land that is both zoned general rural or rural production (as defined in the National Planning Standards) and Land Use Capability 1, 2, or 3. The Christchurch District Plan has not been amended to implement the Zone Framework Standard of the National Planning Standards, and Clause 1.3(4)(b) requires that any reference to a **zone** be a reference to the nearest equivalent zone.

26. Council has shared with the Applicant its legal opinion on the nearest equivalent zone matter by barrister David Caldwell. Council has been relying on that opinion for resource consent decision making for several years.

27. Council's legal opinion will be available to the Panel. Council's comments on the application under ss53-54 can also assist the Panel by providing a planning assessment that covers both of the possible NPS-HPL interpretations.

28. The application includes an assessment of the productive capacity of the land, concluding that the exemption under Clause 3.10 of the NPS-HPL applies, as the land is subject to long term or permanent constraints, in particular water allocation and nutrient budgets. The Council does not employ a person qualified to peer review that assessment of productive capacity and has not commissioned an expert to undertake such an assessment. The Council would of course do so if the Panel Convener considers that this would assist the process.

Commencement date

29. As a result of the matters described above, it appears to the Council's experts that the FTAA process will be assisted if the Panel Convener was to not set the commencement date until after:

29.1 The Applicant changes to the application, if it is going to do so; and

29.2 The Council and Applicant further engage seeking resolution of, or narrowing of, the following issues:

29.2.1 Assets to vest, and attendant conditions – these matters relate to the suitability of infrastructure and ability for Council to accept infrastructure; and

29.2.2 Transport matters.

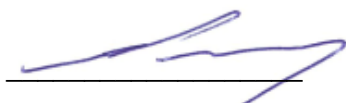
Council's estimated timeframe for the steps in Minute 3 Schedule 1

30. Counsel here confines comments to the steps in which the Council may be involved.

31. The amount of time that the Panel provides to relevant parties to comment on the applications (ss 53-54): the 20 working days indicated in Schedule 1 seems appropriate.

32. Any other procedural steps between the close of time for the Applicant's comments (s55) and decision writing: This is difficult to estimate in the context of the uncertainties described above about what issues will remain live for the Panel's determination. The current uncertainties described in paragraph 29 above could have a significant impact on the time needed.

33. The time provided for participants to comment on draft conditions, following which the Applicant has 5 working days to comment: The Council suggests that 10 working days is appropriate for the participants to comment. That time would enable the participants and Applicant to engage on any issues arising and seek to resolve any drafting matters.



BK Pizzey

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24 July 2025