

Before an Independent Hearings Panel
Appointed by Christchurch City Council

under: the Resource Management Act 1991

in the matter of: proposed Plan Change 13 to the Christchurch District
Plan

and: **Daresbury and Antonio Hall**

Legal Submissions on Daresbury House and Antonio Hall

Dated: 17 June 2025

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LEGAL SUBMISSIONS ON DARESBURY AND ANTONIO HALL

- 1 These submissions are provided to support the submissions which seek delisting of Daresbury House (*Daresbury*)¹ and Antonio Hall² from the District Plan.
- 2 These submissions are deliberately succinct as the merits of delisting have already been thoroughly examined and resolved by the elected Council through the Plan Change 14 (*PC14*) process and are simply intended to provide a high-level summary of:
 - 2.1 the relief sought, which aligns with the Christchurch City Council's (*Council*) merits decision to remove the heritage items and settings for Daresbury and Antonio Hall which is the Council's position at this hearing supported by the legal submissions of Mr Pizzey; and
 - 2.2 the legal basis for this relief to be granted through PC13.

BACKGROUND TO PC 13 & PC 14

- 3 PC13 and PC14 were notified together on 17 March 2023. The heritage provisions were notified as a package in PC13³ and duplicated across the relevant chapters in PC14 where they related to the sites and parts of the Christchurch District affected by PC14.
- 4 Submissions were made on PC14 and also explicitly on PC13 seeking the removal of heritage protections (item and setting) relating to Daresbury and Antonio Hall respectively.
- 5 The item and setting of Daresbury House and Antonio Hall were considered by the Housing and Business Choice Plan Change (*PC14*) Independent Hearing Panel (*IHP*). The IHP recommended that the item and setting for Daresbury House be retained⁴ and that the Antonio Hall setting be retained but amended.⁵

PC14 Council's Alternative Recommendation

- 6 On 2 December 2024, the Council made its decision on the IHP's recommendations on PC14 for the intensification areas required by Policy 3 of the National Policy Statement on Urban Development (NPS-UD), being intensification in and around commercial centres.

¹ Heritage listing (Item 185) and associated heritage setting (Item 602).

² Heritage listing (Item 463) and associated heritage setting (Item 203).

³ See PC13 notified rules package in the Provisions drop-down section of the PC13 webpage: Proposed Heritage Plan Change (PC13).

⁴ Recommendations Report: Part 5 – City Wide Qualifying Matters (29 July 2024) at [193].

⁵ Recommendations Report: Part 5 – City Wide Qualifying Matters (29 July 2024) at [187].

- 7 Daresbury and Antonio Hall are not within the NPS-UD Policy 3 intensification areas. However, in December 2024, elected Councillors chose to consider these sites at the same time as considering other heritage items to decide on the merits of delisting these two heritage items and their settings before making decisions on the remaining IHP recommendations for PC14.
- 8 Council's decision was to reject the IHP's recommendation and to make alternative recommendations to remove the Daresbury House and Antonio Hall items and settings (*Alternative Recommendation*). It is important to note that the Council received legal advice as to its ability to make a different merits decision to the recommendation made by the IHP and the information it could take into account.
- 9 Relevantly, the public notice recording the Council's resolution states:⁶

*The Council rejects the recommendation to retain the heritage listing for Daresbury House, alternatively recommending that Daresbury heritage listing (Item 185) and associated heritage setting (Item 602) are removed. **This is because Council considers that the house has been damaged to an extent where it is uneconomic to repair.***

And:

*Council rejects the recommendation to retain the heritage listing for Antonio Hall, alternatively recommending that Antonio Hall heritage listing (Item 463) and associated heritage setting (Item 203) is removed. **This is because Council considers that the building is significantly compromised and the site is better placed to deliver housing given its highly accessible location.***

- 10 The Council made these merits-based recommendations through logically sound, rational decision making, supported by substantive evidence. It is important to note that the Council received legal advice as to its ability to make a different merits decision to the recommendation made by the IHP and the information it could take into account in coming to in reaching a different conclusion on the evidence that the IHP received.
- 11 In relation to Antonio Hall the Press had reported that it had suffered a fire in February 2024. Reference to that fire is not in the Council's evidence in PC14 and the impacts of it have not been considered in the updated evidence now given at this hearing.

⁶ Resource Management Act 1991 Christchurch District Plan Proposed Plan Change 14 – Housing and business Choice "Council Decision Accepting or Rejecting Independent Hearing Panel Recommendations Subject to Policies 3 and 4 of the National Policy Statement on Urban Development and on Financial Contributions" (2 December 2024).

Minister's Decision on Christchurch Intensification Plan

- 12 On 6 June 2023, the Minister released his decisions on 17 of the 20 alternative recommendations referred to him by Council on PC14.⁷
- 13 The Minister has not yet made a decision on the Alternative Recommendations relating to Daresbury House, Antonio Hall and the Piko Residential Character Area stating that:

I have not made decisions on three recommendations relating to Daresbury House, Antonio Hall and the Piko Residential Character Area.

*I intend to consider these recommendations once the Council has decided on the zoning of these areas. **The Council may refer these decisions to me again ahead of deciding on the balance of Plan Change 14.***

- 14 It is counsel's understanding that the Council intends to advise the Minister now that the Council has already determined the zoning of these areas as MDRS and to seek a decision ahead of the balance of decisions on the balance of PC14. In the meantime there are no grounds on which this Panel can delay or defer making its own recommendation to the Council on the two submissions seeking delisting of Daresbury and Antonio Hall in PC13 as that would be to disadvantage the submitters.
- 15 The Minister is aware that PC13 is proceeding ahead of his decision making in respect of Daresbury. He wrote to us last week (letter attached as **Appendix 1**) and stated:

I acknowledge your desire for clarity and certainty ahead of the Plan Change (PC13) hearing process.

[...]

I encourage you to engage directly with the Council on the implications of these decisions for the Council's PC13 hearing process, as they will be best placed to provide you with this information.

- 16 While the Minister **may** make a decision on Daresbury and Antonio Hall at some stage this will likely occur well after PC13 has been heard and decided. According to the Ministers' schedule, the Council is required to announce these decisions by 12 December 2025 while the decision PC13 must be made by 17 September 2025.⁸

⁷ <https://www.beehive.govt.nz/release/decisions-christchurch-intensification-plan>.

⁸ <https://www.ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/district-plan/Proposed-changes/PC13/PC-13-and-PC-07-Public-Notice.PDF>

- 17 Furthermore, we understand that the Resource Management (Consenting and Other System Changes) Amendment Bill, which has recently been reported back to Parliament by the Environment Committee, will offer a bespoke legislative solution for Council to withdraw parts of PC14.⁹
- 18 The Bill is expected to pass into law mid-2025. Until such time, the status of the Council's decision on the balance of PC14 remains unclear and there is a real possibility that the remaining decisions on the balance of PC14 could never be made.
- 19 PC13 remains a proper process available to give effect to the relief sought in valid and live PC13 submissions to remove the heritage items and settings for Daresbury House and Antonio Hall.

PC13 SECTION 42A RECOMMENDATIONS

- 20 The Reporting Officer for PC13, Ms Suzanne Richmond has adopted the recommendations of Mr Amanda Ohs to retain the heritage item and settings for Daresbury House and Antonio Hall but reduce the Daresbury heritage setting and further amend the Antonio Hall item to better reflect the current environment.¹⁰ Ms Richmond has made these recommendations to "*address the scenario that the heritage item and setting are not removed from the heritage schedule via a PC14 [Minister's] decision*".¹¹
- 21 The Memorandum of Counsel for the Counsel dated 13 June 2025 confirms that while the Council's expert witness recommendations are providing neutral expert opinion, "*the Council's position differs from the s42A report planning recommendations*" and that "*there is no dispute between the Council position and the Daresbury submitter's position*".¹²
- 22 With respect to the views of Ms Richmond (and Ms Ohs), the recommendations do not reflect the position of the elected Council, and their evidence is not relied on by Council before you today. On that basis and given that they are not submitters in their own right my primary submission is that the evidence should be disregarded.
- 23 Alternatively, the Reporting Officer's recommendation should be afforded little to no weight. When there is an agreement between a submitter and Council on an issue, yet the section 42A report presents a differing opinion, more weight must be given to the

⁹ Hon Chris Bishop and Hon Simeon Brown "Saying yes to more housing" (press release, 11 June 2025) available at: <https://www.beehive.govt.nz/release/saying-yes-more-housing>

¹⁰ Plan Change 13 (Heritage) "Planning Officer's Report of Suzanne Amanda Richmond under section 42A of the Resource Management Act 1991" at [8.1.50].

¹¹ Plan Change 13 (Heritage) "Planning Officer's Report of Suzanne Amanda Richmond under section 42A of the Resource Management Act 1991" at [2.1.20].

¹² Memorandum of Counsel for the Christchurch City Council (13 June 2025) at [2].

agreement between the submitter and Council than the opinions of the Reporting Officer.

- 24 If the Panel reaches the view that evidence not called to support a Council's case has some sort of status itself we note that whilst there are further submitters opposing the delisting of Daresbury that the Panel needs to consider those there are no further submissions opposing the delisting of Antonio Hall.
- 25 In this particular instance, the elected Council has already deliberated and decided on the merits of scheduling the heritage items and settings taking into account essentially the same material as is in front of the Commissioners today. There is nothing new just Council officers continuing to hold a contrary view to the Council.
- 26 The overlap between the PC14 and PC13 processes has already been overly complicated and confusing for submitters, and the Submitter has been adversely affected by procedural issues caused by the Council. It would be unjust for any outcome other than giving effect to the decision the elected Council has already reached on the merits of the delistings when essentially the same material is before the Commissioners today.
- 27 In any case, on the merits it is submitted that the heritage protections for Daresbury should be removed for the reasons outlined in the evidence of **Mr Jono Clease**.¹³ In short, Mr Clease's position is that no reasonable landowner would repair the building (or even construct an equivalent build) to lose \$6.6m in those circumstances and therefore the item and setting should be removed as it meets the reasonableness 'test' in Policy 9.3.2.2.8.
- 28 I have with me **Mr Milne** (owner) and the original PC14 valuer (**Mr Shalders**) and the original PC14 quantity surveyor (**Mr Harrison**) just to update this Panel on their figures as at today. I signalled to Mr Pizzey last week that I would be bringing these witnesses just to update their numbers and I understand he does not have an issue with that evidence coming forward although of course it is for the Panel to decide whether it receives it.
- 29 Given the late addition of Christchurch Civic Trust to the speaking schedule it is submitted that these updated numbers are of assistance to the panel and ought to be allowed in.
- 30 Similarly in the case of Antonio Hall, Ms Richmond adopts the evidence of Ms Amanda Ohs and Mr Stephen Hogg. Ms Richmond accepts that the former homestead and homestead additions are beyond repair due to fire and earthquake damage and should be removed from the heritage schedule. However, the engineering

¹³ For completeness, it is noted that Daresbury Limited adopts its evidence for PC14 which is attached to the evidence of Mr Clease.

evidence of Mr Hogg indicates that it may be possible to repair the chapel and accommodation wing and Ms Richmond notes that:

[t]here is no detailed engineering or cost evidence available to demonstrate that either c.iii. or c. iv. applies to the remaining parts of the complex above which would preclude scheduling.

- 31 In the absence of this evidence from Council officers, there is then a leap in logic that parts of the complex should remain scheduled. It is difficult to comprehend how that conclusion could be reached when the Council officer has no evidence on which to rely and no explanation given as to why in the case of every other delisting submission dealt with through PC14 Council did go and obtain that evidence on order to support their conclusion but here they have not.
- 32 It was the elected Councillors conclusion on the information they had, including as we understand it a number of Councillors being aware of the fire last year and seeing or being aware of the state of the property, that the only logical conclusion that any person could reach is that it is uneconomic to reinstate or preserve any portion of the complex give the extent of the fire damage, the absence of insurance and the state of disrepair. The complex has been unoccupied since the 2011 earthquakes, is in a serious state of disrepair, and was deemed dangerous and insanitary by the Council in September 2024. Unfortunately, the owners will not in a financial position to do anything to address the dangerous state of the complex until the heritage protections are removed.
- 33 There is a witness available today to explain that the property is currently on the market and that with the retention of any heritage listing the property is unsaleable as no reasonable purchaser considers the property economic to repair and to give evidence of the buying market's assessment of that cost of repair.
- 34 As a matter of common sense the Commissioners are invited to visit the property to view it's state including last year's fire damage and make a decision themselves in the same manner as some of the Councillors appear to have done. It is noted that with Daresbury the IHP were explicitly invited to undertake a site visit by Mr Milne and never did so. With Antonio Hall there is no evidence the Commissioners visited or were aware of the extent of last year's fire and here the Panel are encouraged to visit both properties to assist in their decision making.
- 35 For completeness we note that Council's decision to remove Antonio Hall was **unanimous**. The reasons for the Council decision were summarised by Councillor Tyla Harrison-Hunt who stated that:

To be honest, the time is now. It's been a long time coming. Even though it sits outside the Policy 3 regulations, I am able to

speak on it from a position of perspective and experience within Riccarton and that is one of the [issues] within the upper and central Riccarton area. Seeing a big, rundown house which was rich in colonial architecture more than 100 years ago, is no longer that and I am extremely disappointed to see its come to this and we do understand based off of the arson attacks and also the inability to have action placed upon it, we are stuck in this position.

- 36 It is submitted that the Council has already made decision based on the factual circumstances presented to them, and the Commisioners are not able to do that here. This is effectively an assessment against Policy 9.3.2.2.1.

Lack of section 32 evaluation

- 37 The absence of a thorough section 32 (s32) evaluation in Ms Richmond's s42a report is concerning because it undermines the rigor and comprehensiveness of the planning process. Section 32 requires an evaluation of the appropriateness of objectives, policies, rules, and other methods in achieving the purpose of the Act. This includes assessing other practicable options, their efficiency, effectiveness, costs, benefits, and the risks of acting or not acting. Without this evaluation, decision-makers lack crucial information needed to make informed choices that align with sustainable management principles. Ms Richmond's reliance on Ms Ohs and Mr Hogg, without conducting her own detailed s32 analysis, creates a gap in the evaluation process, potentially leading to suboptimal outcomes that might not fully account for the range of available alternatives or their implications.

- 38 The lack of s32 evaluation and consideration of legislative implications means that the report does not fully address the complexities and trade-offs involved in urban planning decisions. Given the deficiencies in the s32 evaluation and the lack of consideration for the implications of listing decisions under relevant legislative frameworks, it is submitted that little weight should be given to Ms Richmond's recommendations. The report does not provide the comprehensive analysis necessary to support informed decision-making.

- 39 Overall, it is submitted that the assessments of the Reporting Officer are inadequate, and the Panel can take into account the merits-based assessment and decision that has already been made by Council together with updated evidence in relation to both Daresbury and Antonio Hall.

SCOPE OF RELIEF SOUGHT

- 40 The section 42A states that "*submissions on the removal or retention of protection of Daresbury and the removal of protection for Antonio Hall may be considered out of scope of PC13 as no*

changes were proposed to the protection of these heritage items and settings in the notified provisions.”¹⁴

- 41 Consideration of scope should be approached “*in a realistic and workable fashion, rather than from the perspective of legal nicety*”.¹⁵ Flexibility is important in the context of scope for changes to a proposed plan change, particularly given that a council may change a plan in many ways not necessarily anticipated as it is stepping through the statutory process (including the section 32 analysis, submissions, section 42A reports and evidence).¹⁶
- 42 The Council notified PC13 Heritage at the same time as PC14 with considerable duplication on heritage matters. All of the heritage-related submissions on PC13 and PC14 were combined and heard by the IHP. In cross examination by me at PC14 Ms Richmond herself confirmed that submitters would be given another go through PC13” It is our understanding that any submissions given effect through PC14 will not be reconsidered through the PC13 process. However, with the Minister’s decision still pending, that is not the case. We refer to the Minister’s 12 June letter in respect of Daresbury where he encourages dialogue with Council in the knowledge that PC13 is proceeding ahead of his decision.

CONCLUSION

- 43 In conclusion, the elected members of Council have already conducted a merits-based assessment, leading to a well-reasoned decision to remove the heritage listings and settings for Daresbury House and Antonio Hall.
- 44 The absence of a comprehensive section 32 evaluation in the section 42A report, coupled with a lack of consideration for the implications of listing decisions under relevant legislative frameworks, significantly undermines the recommendations made by Ms Richmond. Given these deficiencies, it is submitted that minimal weight should be afforded to the section 42A recommendations.
- 45 Furthermore, the overlap and confusion between PC13 and PC14, along with the pending decision from the Minister, emphasise the need for a coherent approach to ensure consistent outcomes for heritage management.
- 46 Until a final decision is made on the Alternative Recommendations for Daresbury House and Antonio Hall, PC13 remains the proper

¹⁴ Plan Change 13 (Heritage) “Planning Officer’s Report of Suzanne Amanda Richmond under section 42A of the Resource Management Act 1991” at [7.1.9].

¹⁵ *Albany North Landowners v Auckland Council* [2017] NZHC 138, at [115].

¹⁶ *Hawke’s Bay Fish and Game Council v Hawke’s Bay Regional Council* [2017] NZEnvC 187 at [33].

process for submitters to ask for the removal of the heritage listings and settings.

Dated: 17 June 2025

A handwritten signature in blue ink, appearing to read 'J Appleyard', is positioned above a horizontal line.

J Appleyard/M Davidson
Counsel for Daresbury Limited

APPENDIX 1

Hon Chris Bishop

Minister of Housing
Minister for Infrastructure
Minister Responsible for RMA Reform
Minister of Transport
Leader of the House
Associate Minister of Finance
Associate Minister for Sport and Recreation



CB-COR1514/CORM-3885

Jo Appleyard
By email: Jo.Appleyard@chapmantripp.com

Dear Jo,

Thank you for your letter of 7 May and your subsequent emails of 12 May and 4 June 2025 regarding my decisions on the recommendations referred to me by Christchurch City Council on Plan Change 14 (PC14). I acknowledge your desire for clarity and certainty ahead of the Plan Change 13 (PC13) hearing process.

As you are aware, the Council met on 2 December 2024 to decide on the Independent Hearings Panel's (IHP) recommendations on those parts of PC14 subject to Policies 3 and 4 of the National Policy Statement on Urban Development 2020. The Council also rejected 20 of IHP's recommendations, including two recommendations relating to Antonio Hall and Daresbury House, and referred them to me for a final decision.

I have carefully considered this matter and taken extensive advice from officials.

I have not made decisions on recommendations relating to the heritage status of Antonio Hall or Daresbury House. This is because the Council has not yet made decisions on the underlying zoning of the site. I intend to consider this recommendation once the Council has made decisions on zoning. In my letter to the Council, informing them of my decisions, I noted that they may refer this decision to me again ahead of deciding on the balance of Plan Change 14.

You can read my full announcement, as well as the reasons for my decisions, on the Beehive's website at: <https://www.beehive.govt.nz/release/decisions-christchurch-intensification-plan>

I encourage you to engage directly with the Council on the implications of these decisions for the Council's PC13 hearing process, as they will be best placed to provide you with this information.

Thank you for your correspondence on this important matter.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Chris Bishop'.

Hon Chris Bishop
Minister Responsible for RMA Reform