

**Before Independent Hearing Commissioners appointed by Wellington
City Council**

In the matter of the Resource Management Act 1991 (**RMA**)

And

In the matter of hearing of submissions on the Proposed Wellington City District
Plan

Between

Argosy Property No 1 Limited

and

Wellington City Council

Legal submissions on behalf of Argosy Property No 1 Limited
(submitter 383)

Dated 5 May 2023

MinterEllisonRuddWatts.

PO Box 105 249 Auckland City 1143

T +64 9 353 9700

Solicitor acting: Amy Dresser | amy.dresser@minterellison.co.nz

Partner responsible: Bianca Tree | bianca.tree@minterellison.co.nz

901295399:1

MAY IT PLEASE THE COMMISSIONERS

INTRODUCTION

1. Argosy Property No 1 Limited (**Argosy**) lodged submission 383 on the Proposed Wellington District Plan (**Proposed Plan**).
2. These legal submissions will:
 - (a) Provide some background information on Argosy;
 - (b) Address the amendments sought to make the Notable Trees provisions in the Proposed Plan more practical;
 - (c) Explain how Rule HH-R9 relating to demolition of heritage buildings is onerous and uncertain; and
 - (d) Seek to ensure that the viewshaft provisions are justified.
3. In addition to these legal submissions, David Spencer has prepared a statement of arboricultural evidence in support of Argosy's submission in relation to the Notable Trees chapter of the Proposed Plan.

BACKGROUND

4. Argosy is a commercial property ownership company that owns a portfolio of quality industrial, office and retail properties predominately in Auckland and Wellington.
5. Argosy maintains a diversified portfolio of quality properties and builds its portfolio around a mix of core and value add properties. Argosy is listed on the NZX and the value of Argosy's property portfolio across New Zealand is approximately \$2.2 billion.
6. Argosy identifies properties with a view to ensuring strong long-term demand. As Argosy continues to reinvest in its portfolio, it seeks to ensure that the Proposed Plan appropriately balances the amenity benefits and values of notable trees and built heritage; with the practical and functional needs and rights of landowners who own sites which contain these features.

7. In Wellington city, Argosy owns:
- (a) The office site at 7 Waterloo Quay. Argosy is currently preparing to revitalise this building which is in close proximity to the Central Railway Station, Wellington CBD and Parliament buildings. This site includes Notable Trees 242, 243 and 244 (all Pohutukawa), listed in the Proposed Plan.
 - (b) The retail and office site at 8-14 Willis Street and 360 Lambton Quay. The office tower is a recent 11 level development, utilising the existing building footprint at Stewart Dawson Corner. This site includes two heritage buildings: the 'Equitable Building and Investment Co. Building' (ref 191.1) and 'Stewart Dawson's Corner' (ref 191.2).
 - (c) The office site at 143 Lambton Quay. This is the former Tower Insurance Building, which retains its heritage values while functioning as an 11 level office building. This building is heritage building reference 181 and is subject to a heritage order.
 - (d) The retail and office site at 147 Lambton Quay. This building provides ground floor retail and office accommodation, prominently located on the corner of Lambton Quay and Waring Taylor Street in Central Wellington.
 - (e) The office site at 15-21 Stout Street. This building is an eight level office block located in the heart of Wellington's CBD, which balances the protection of heritage values with the need to increase sustainability. This building is heritage building reference 23.

AMENDMENTS ARE REQUIRED TO MAKE THE NOTABLE TREES PROVISIONS IN THE PROPOSED PLAN MORE PRACTICAL

8. Argosy's site at 7 Waterloo Quay includes three notable Pohutukawa trees. Argosy values the contribution that these trees make to the amenity of the Wellington CBD. However, it is seeking amendments to the Proposed Plan to enable it to appropriately maintain these trees and manage the buildings and infrastructure that surround these trees, while still retaining and protecting them in situ.

9. David Spencer has provided arboricultural evidence to inform and support the relief sought by Argosy. We address some of the key relief sought by Argosy below.

Root Protection Area definition

10. The definition of “root protection area” in the Notable Trees chapter of the Proposed Plan is based on a methodology that involves identifying the dripline or canopy dimensions of notable trees. This approach aligns with other district plans in the Wellington region; however, it is not the most accurate measure of the root area; there is an alternative methodology which is widely used by arborists in New Zealand and accepted as best practice which should be applied instead.
11. Argosy’s submission sought that the definition be amended to reflect the methodology most commonly used by arborists in New Zealand to identify root protection areas, which is based on an Australian Standard.¹ Using this methodology, the root protection area is mathematically calculated by multiplying the diameter of the tree’s trunk (1.4m above the ground) by 12.² Other factors including topography and drainage also need to be taken into account.³
12. The Council Officer rejected this submission point on the basis that this approach “necessarily requires measurement of the stem diameter and in the case of a tree located on a neighbouring property would require access to private property to do so.”⁴ By using the notified definition the Council Officer’s view is that “neighbouring landowners can essentially eyeball the root protection area (especially for spreading canopies) and [it] offers a more efficient methodology overall.”⁵ The Council Officer also preferred the notified approach because it aligns with the approach taken in other district

¹ AS 4970-2009 - Protection of trees on Development sites.

² A separate calculation is applied for multi-stemmed trees.

³ As further explained in the Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [16].

⁴ Council Officer’s Section 42A Report – Hearing Stream 3 – Historic Heritage, Site and Areas of Significance to Māori and Notable Trees, dated 6 April 2023 (**Council Officer’s Report**), at [1334].

⁵ Council Officer’s Report, at [1334].

plans and he considers it to be more efficient for arborists and planners to know that there is a common methodology.⁶

13. While efficiency is important, it should not be the only relevant consideration. The purpose of identifying the root protection area is to determine the area from the trunk which should be set aside for the protection of the tree's root area and crown to provide for the viability and protection of the tree. In our submission, the methodology that is applied to define a "root protection area" should be the one that is the most accurate, because it is critical to the health of the tree.
14. We consider that amending the definition to align with the Australian Standard is necessary and appropriate for the following reasons:
 - (a) As further explained in the arboricultural evidence of Mr Spencer, updating the Proposed Plan methodology would be consistent with up-to-date research and best practice (as recognised in international standards in Australia, the UK, and America).⁷
 - (b) As Mr Spencer explains in his evidence, using the 'dripline' or canopy dimension approach as a measure of the root protection area will not necessarily give an inaccurate measure of the root protection area.⁸ Argosy's approach is more likely to reflect the actual extent of the root network that may be affected by disturbance (which is to be protected).
 - (c) We appreciate that it is difficult for neighbours to identify the root protection area if a mathematical formula is applied, however, the suggested methodology provides more certainty. The mathematical calculation involved in determining the area is clear and simple which generally avoids interpretational disputes. In Mr Spencer's view it is much simpler to wrap a measuring tape around a tree and measure its diameter using the Australian Standard.⁹

⁶ Council Officer's Report, at [1335].

⁷ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [13] and [18].

⁸ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [17].

⁹ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [21].

(d) Argosy's approach is supported by the Council's Park Services Manager, Mr William Meville.¹⁰

15. It is not appropriate to avoid changing the definition of "root protection area" and perpetuate an outdated approach for the sake of consistency with other district plans. Evidence has been presented which explains that use of this methodology is not the most accurate or current.
16. Overall, an amendment is required to the definition of "root protection area" to align with the methodology which is widely used by arborists in New Zealand and accepted as best practice and to avoid the risk of detriment to Wellington's most significant trees.¹¹

TREE-R1 Trimming and pruning of notable trees

17. In the Notable Trees chapter of the Proposed Plan, the Council has enabled the trimming and pruning of notable trees without the need to obtain a resource consent where the work is necessary to prevent interference of the tree with footpaths, property or network utilities, where the works involve the removal of broken branches, deadwood and diseased vegetation, where the tree is causing an imminent threat to people or property, and where it is necessary to comply with the Electricity (Hazards from Trees) Regulations 2003.¹²
18. Argosy's submission sought that an addition be made to this rule, TREE-R1, to enable the trimming and pruning of notable trees where "*the works will maintain or improve tree health and TREE-S1 is complied with*". The purpose of this proposed amendment was to allow the general trimming and pruning of notable trees, without a resource consent, where it would maintain and improve the overall health of the tree.
19. The Council Officer does not recommend any amendments to this rule.¹³
20. We consider that the Proposed Plan should recognise that it is appropriate to enable the general trimming and pruning of notable trees, beyond the

¹⁰ Council Officer's Report, at [1332] and Statement of Evidence of William Melville, dated 6 April 2023, at [11] – [13]

¹¹ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [43].

¹² Rule TREE-R1.

¹³ Council Officer's Report, at [1398] - [1400], and HS3-Rec351.

removal of deadwood, where that work is undertaken in accordance with arboricultural best practice because:

- (a) Sufficient controls have been proposed; to be in accordance with TREE-S1 and comply with the permitted activity standards, the works will need to be undertaken by a Works Arborist.
- (b) There is a risk that these trees will not be regularly pruned or trimmed simply because of the need for and cost of obtaining a resource consent. As explained in Mr Spencer's evidence, it would be onerous to require a resource consent for the pruning and trimming of notable trees which is undertaken in accordance with arboricultural best practice, supervised by a Works Arborist, and only undertaken after prior notice is given to the Council.¹⁴
- (c) Other District Plans allow for the general trimming and alteration of notable trees where appropriate. For example, the Auckland Unitary Plan allows for the general trimming and alteration of notable trees as a permitted activity, subject to compliance with relevant standards relating to best practice.¹⁵
- (d) Mr Spencer supports general best practice trimming and pruning as a permitted activity, in addition to the trimming and pruning provided for in TREE-R1 as this provides flexibility for these works to be undertaken in other appropriate situations.¹⁶
- (e) The amendment sought is consistent with Policy TREE-P4 (which relates to "other trimming and pruning") where it can be demonstrated that it will not compromise the values or long-term health of the tree and is consistent with best arboricultural practice.

¹⁴ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [30].

¹⁵ The relevant standards include that the maximum branch diameter must not exceed 50mm at severance, no more than 10% of live growth may be removed in any one calendar year, all works must meet best arboricultural practice and all trimming or alteration must retain the natural shape, form and branch habit of the tree.

¹⁶ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [30].

TREE-R2 Activity and development within the root protection area of notable trees

21. All provisions relating to Notable Trees should be located within the same chapter of the Proposed Plan to ensure that provisions are not overlooked. However, the Council Officer has recommended deleting part of TREE-R2 relating to activities and development within the root protection area of notable trees because it relates to works for the maintenance and repair of roads, footpaths and other infrastructure. In the Officer's view, this would be managed by the provisions in the 'Infrastructure – other overlays' chapter.¹⁷
22. We consider that it is appropriate to have all of this rule in the Notable Trees chapter to ensure that it does not get overlooked. As explained in Mr Spencer's arboricultural evidence, there is no issue in duplicating the rule so that it is in both chapters.¹⁸ Argosy seeks that TREE-R1(1)(b)-(c) be retained in the Proposed Plan in accordance with its submission.

ARGOSY SUPPORTS ENABLING THE ADAPTIVE REUSE AND ONGOING FUNCTIONALITY OF HERITAGE BUILDINGS

23. Argosy owns three sites which contain heritage buildings, and each building has been developed over time to enable adaptive reuse to support the retention of the heritage values. Argosy supports the direction of the Proposed Plan to enable the appropriate adaptive reuse of heritage buildings. This approach ensures the ongoing use of these buildings and has benefits for amenity and for retaining embodied carbon.

Ongoing functionality

24. Argosy sought amendments to clarify that enabling a sustainable long-term use of a heritage building includes enabling its adaptive reuse.¹⁹
25. In response to other submissions, the Council Officer has recommended amendments to this policy, PHH-P4, which Argosy supports.
- (a) Argosy supports the Council officer's proposed amendment to Policy HH-P4, to state "Enable works to built heritage that ... support

¹⁷ TREE-R2(b) in the Proposed Plan as notified.

¹⁸ Statement of Arboricultural Evidence of David Spencer, dated 14 April 2023, at [34].

¹⁹ In Policy HH-P4.

providing a sustainable long-term use or the ongoing functionality of the building.”

- (b) Argosy also supports the similar amendment which has been proposed to the policy for “Additions, alterations and partial demolition of heritage buildings and structures”.²⁰

- 26. We consider that this approach recognises that to preserve and protect heritage values it is necessary to promote and enable the ongoing use of these buildings.

Internal alterations

- 27. Heritage controls have been proposed to apply to new floor levels within a heritage building, where the exterior of the building is scheduled as a heritage item in the plan.²¹
- 28. Interior alterations are unlikely to detract from the heritage values of the exterior unless additional or mezzanine floors are added that are visible from the outside of the building.
- 29. It is therefore important that these provisions are not unclear or broad. This would impose an undue restriction on general internal works within a heritage building which should otherwise be permitted without a resource consent. Argosy’s submission explained its concern that the drafting of these controls was not sufficiently clear to ensure it was only applied in the limited circumstances where an alteration is externally visible.
- 30. In response to this concern the Council Officer has recommended:
 - (a) changing the activity status for new floor levels visible from the outside of heritage buildings from restricted discretionary to a controlled activity.²²

²⁰ Policy HH-P3 and Standard HH-S1 in the Proposed Plan.

²¹ Policy HH-P3: Internal works and Standard HH-S1: Permitted additions, alterations and partial demolition.

²² Council Officer’s Report, at recommendation HS3-Rec31 and proposed new HH-R6.

- (b) changing the activity status for new floor levels visible from the outside of contributing buildings in a heritage area from a restricted discretionary to a permitted activity.²³
 - (c) amending the policy on internal works to clarify that it is intended to control works to heritage buildings including any interiors or internal features that are specifically scheduled.²⁴ Other internal works in non-heritage buildings are permitted without resource consent.
31. We support these amendments. However, now that a new controlled activity rule has been included, it appears that as a consequence, Rule HH-R3.1 (which provided for the additions, alterations and partial demolition of heritage buildings as a permitted activity) has been deleted. Deletion of Rule HH – R3.1 means that all internal works in a heritage building, even where the interior is excluded, would become a restricted discretionary activity under Rule HH-R3.2 (now HH-R7).
32. The Council Officer's amendments:
- (a) have created a gap because Rule HH-R3.1 would have been relied on to undertake internal works in buildings as a permitted activity where the interior is excluded and where compliance with the relevant standard is achieved (being HH-S1);
 - (b) have imposed unintended restrictions on interior works in buildings where the interior is not scheduled, which will now require resource consent as a discretionary activity. Applying a restricted discretionary status to additions and alterations of a building where the internal features are not classified as heritage items is not justified to protect the identified heritage values; it applies the same standard as if the internal features were listed; and
 - (c) are inconsistent with the Council Officer's recommendation to accept submissions which seek to retain HH-R3 as notified, and which seek

²³ At recommendation HS3-Rec32.

²⁴ Policy HH-P3 as notified and at recommendation HS3-Rec33.

that HH-R.3.2 be a restricted discretionary activity where compliance with the requirements of HHR3.1 cannot be achieved.²⁵

33. We support the new controlled activity rule, but no justification has been provided for the consequential amendment to Rule HH-R3.1 and it should be reinstated.

Maintenance and repair

34. For completeness we note that Argosy supported the provisions relating to the maintenance and repair of scheduled heritage buildings and structures and no further amendments were proposed by the Council Officer.²⁶
35. We consider that this approach helpfully recognises that general maintenance and repair of heritage buildings should be undertaken when required, without the need for a resource consent.

RULE HH-R9 RELATING TO DEMOLITION OF HERITAGE BUILDINGS IS ONEROUS AND NOT APPROPRIATE

36. The heritage protection provisions in the Proposed Plan, by their very nature, are designed to protect heritage buildings and prevent their values being lost, including through demolition. However, in limited circumstances it is appropriate to demolish these buildings where they are beyond repair and all reasonable alternatives have been explored. When these circumstances arise, the planning provisions should not be so onerous as to require landowners to undertake unnecessary assessments or require the Council to consider factors that are not relevant to the protection of historic heritage.

Notification status of consent applications for demolition of heritage buildings

37. The Proposed Plan provides, at HH-R9, that the total demolition of heritage buildings and heritage structures is a discretionary activity and will be publicly notified.²⁷

²⁵ Council Officer's Report at [4.7.3.2] and pg 81.

²⁶ At recommendation HS3-Rec67.

²⁷ Notified Rule HH-H9 and HH-R13 in the section 42A report.

38. We consider that it is unnecessary to specify a notification status for resource consent applications made under this rule.
- (a) Where it may be appropriate for a resource consent application to be publicly notified, s 95A of the Resource Management Act 1991 (**RMA**) provides sufficient guidance for the consent authority to use its discretion to decide if public notification is appropriate.
 - (b) In most circumstances if a building has heritage value, an application to demolish a heritage building will have more than minor effects on the environment and will be publicly notified. However, as explained above, these provisions are designed to be used in limited circumstances and there may be circumstances where this is not actually the case, for example, if a building is beyond repair. Where the adverse effects can be shown to be less than minor, an applicant should not be put to the expense of supporting a publicly notified application.
39. It is fair and appropriate to apply the notification tests in the RMA rather than require public notification in all circumstances.

Information requirements for consent applications for demolition of heritage buildings

40. The planning provisions should prevent the inappropriate use of a heritage building by protecting its inappropriate demolition, but it is not appropriate to make the information requirements so onerous that landowners must undertake unnecessary assessments and be put to unnecessary expense to justify their consent applications. Equally the Council should not be allowed to consider factors that are not relevant to the protection of historic heritage or within the scope of the RMA.
41. Argosy noted in its submission that the information requirements for resource consent applications to demolish heritage buildings are potentially onerous and inappropriate. The Council Officer has proposed amendments to the notified requirements which make it more so.

42. Information should only be required where it is relevant and reasonably necessary to determine whether there are no reasonable alternatives to the demolition of the buildings.
43. Argosy has marked up the Council Officer's recommendations in relation to the information requirements for consent applications to demolish heritage buildings as **Appendix A** to show the relief sought. By way of summary:
- (a) The maintenance and repair history of a building should only be required where it is relevant to demonstrate the need to demolish the building or structure;
 - (b) The requirement to provide costing of works to increase seismic resilience, estimates of contributions and funding which is available, and a valuation of the financial return on investment; do not relate to the protection of historic heritage from inappropriate subdivision, use and development (as required under s 6 of the RMA) and should not be mandatory application requirements. Estimate of contributions or funding available can also not be guaranteed and can also change or be withdrawn overtime. They should not be included as part of any viability assessment; and
 - (c) Market demand and sales data also should not be a mandatory application requirement. The applicant will be required to satisfy the Council that there are no reasonable alternatives, and it should be up to the applicant how they show this.

ARGOSY SEEKS TO ENSURE THAT THE VIEWSHAFT PROVISIONS ARE JUSTIFIED

44. The Viewshaft Overlay is necessarily applied to identify and maintain views with local significance in Wellington. In its submission Argosy supported the policies and rules in relation to the overlay but sought that the extent of these overlays be retained or reviewed so that they do not extend onto 7 Waterloo Quay and 360 Lambton Quay / 8-14 Willis Street, Wellington.

45. The Council Officer has recommended amendments to the Introduction to the Viewshaft Overlay chapter and the relevant viewshaft policies, VIEW-P2 and P3, to clarify the intention of these provisions.²⁸
46. Argosy supports these amendments to the introduction of the chapter on the basis that they provide helpful clarification, including:
- (a) to clarify the difference between the types of views and their significance; and
 - (b) to clarify that Policy VIEW-R2.1 applies to the construction of new buildings and structures in all zones provided that the development does not intrude into the specifically identified iconic and landmark viewshafts.
47. Argosy also supports the amendments to VIEW-P2 and P3 where they provide clarification, but it is unclear why reference to the matter VIEW-P2(4) “whether the development will encroach on one or more of the view’s focal elements and whether this is minor in nature” has been deleted²⁹ because the Council Officer recommended that these policies be retained as notified.³⁰
48. The Council Officer’s report has commented (at para 70(c)):
- The amendments to the rule framework are reflective of the actual and intended application of the Viewshafts rule framework in the ODP and PDP to properties not only within the viewshaft itself but also properties that are context elements or that are within the vicinity of the focal element within the frame of the viewshaft also.*
49. This is also consistent with the description of contained viewshafts, which are typically experienced along a street that is vertically framed by buildings

²⁸ Section 42A Report – Hearing Stream 3 – Viewshafts (**Council Officer’s Report - Viewshafts**), at pg 16 and 17.

²⁹ Council Officer’s Report – Viewshafts, at Appendix A, pg 3.

³⁰ The Council Officer has recommended that VIEW-P2 and P3 be confirmed as notified (at HS-VIEW-Rec6 but amendments are shown in Appendix A to the report.

(existing or future) located along their edge, terminating at an identified focal point.³¹

50. Therefore, it is important that VIEW-P2 recognises and provides that development is anticipated and provided for along the edge of the Viewshafts. This is an appropriate balance of applying a control to private land, where a contained viewshaft is along a street which will protect the focal elements. Argosy seeks that VIEW- P2(4) be reinstated.
51. Argosy's site at 7 Waterloo Quay is subject to Viewshaft 3 – Whitmore Street, and Argosy's site at 360 Lambton Quay / 8-14 Willis Street is subject to Viewshaft 9 – Lambton Quay. Argosy sought that these viewshafts be reviewed so that they do not encroach onto these sites, and otherwise that no further encroachment occurs.
52. The Council Officer has rejected any changes to these viewshafts on the basis that they are consistent with the encroachment over these properties in the Operative District Plan, and that it is inappropriate to change the extent of a viewshaft in response to one submitters request as it risks undermining the integrity of the viewshaft. The Officer also relies on the evidence of Deyana Popova.

7 Waterloo Quay

53. In relation to Viewshaft 3 – Whitmore Street, Ms Popova suggests that because these viewshafts were reviewed in 2020 and that review did not establish the need for any changes, none are required.³² Ms Popova explains that the PWC building frames the left margin of the view and realignment of that margin could narrow the extent of the viewshaft frame.³³
54. However, there has been no recent analysis undertaken. Photos of the area show that the building adjoining 7 Waterloo Quay has recently been developed and is encroaching into the viewshaft (as shown in **Appendix B**). As shown in Figure A below, the left margin of the viewshaft has essentially been realigned by this development so it now follows the road corridor rather

³¹ The introduction to the Viewshaft Overlay chapter as proposed to be amended in the Council Officer's Report - Viewshafts.

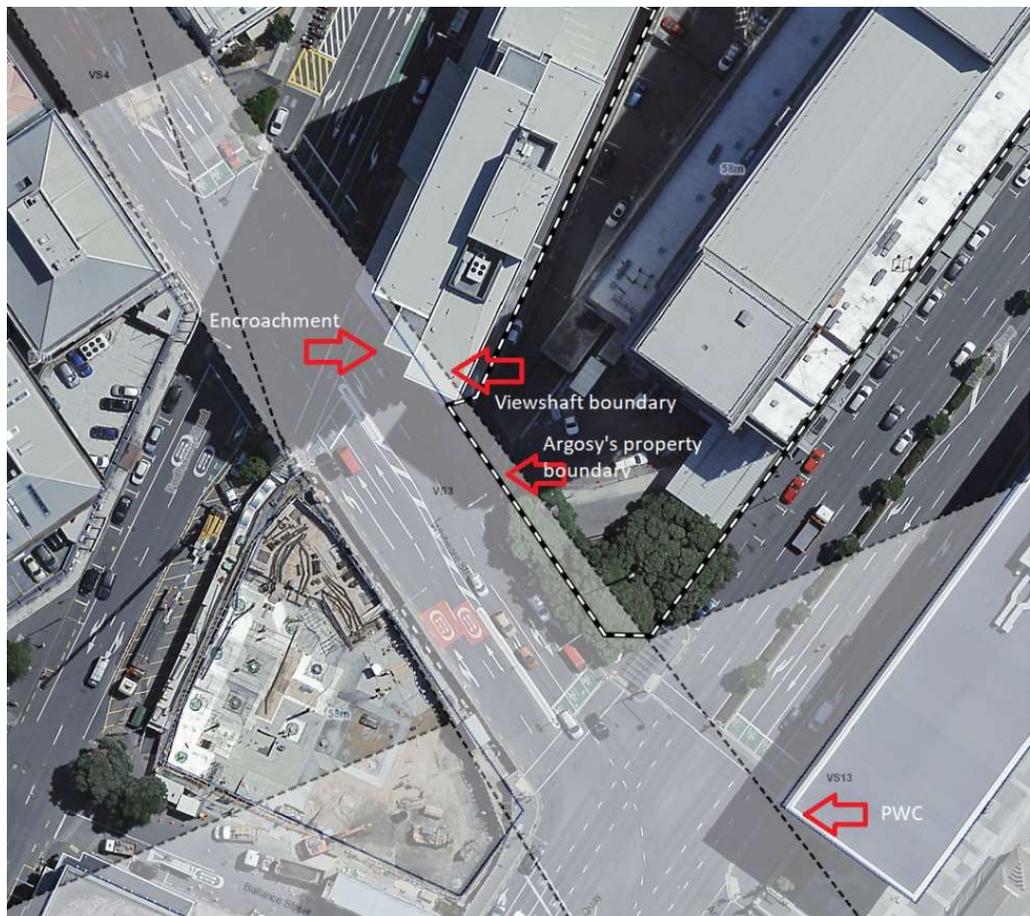
³² Statement of Evidence of Deyana Popova, dated 5 April 2023, at 87.

³³ Statement of Evidence of Deyana Popova, dated 5 April 2023, at 88.

than the viewshaft boundary shown in the Proposed Plan. The viewshaft extends over Argosy's site by a width of approximately 4m for the full frontage along Whitmore Street, this is a significant area.

55. Realigning the boundary of this viewshaft so that it does not encroach on Argosy's site is justified because there are no implications for doing so; the viewshaft has already been encroached and any development on Argosy's site, to the property boundary would not further affect the viewshaft. Retaining it simply because of the 2020 review is not fair or reasonable.

Figure A: Encroachment of adjoining property into viewshaft, as shown in the Proposed District Plan maps



360 Lambton Quay / 8-14 Willis Street

56. In relation to Viewshaft 9 – Lambton Quay, Ms Popova explains that the part of the building that “falls within the overlay covers only the parts of the site located around the street corner. If the right margin is amended to exclude the property at 360 Lambton Quay from the Vs9 overlay, as sought by the submission, this will narrow the extent of the protected view and consequently reduce the view to the AON Centre (one of the two focal elements); if or when new development occurs on the site.”³⁴
57. The Aon Centre is recognised because of its contribution to the sense of place in the city, however:
- (a) views of the building are already limited by other buildings in the area, and it cannot be seen in totality now;
 - (b) it can be viewed and will always be prominent in Vs9 due to its corner location on Willis and Willeston Streets. Amending the viewshaft at 360 Lambton Quay will not affect the buildings’ ability to be seen as a landmark building from Vs9; and
 - (c) imposing a development control on 360 Lambton Quay / 8-14 Willis Street of up to 7.5m in width is onerous in the context of the reasons for and focal point of this viewshaft.
58. The evidence provided by the Council is not sufficient to justify the approach that has been taken. Argosy appreciates that a further review would require additional analysis, however, this is a significant development control, and its application should be carefully considered and justified under the RMA.

CONCLUSION

59. Argosy submits that its submission and the relief sought are accepted by the Council, including in relation to the issues we have traversed here which relate to clarifying the scope of the notable trees provisions, ensuring that adaptive reuse of heritage buildings is enabled where appropriate and clarifying the application of the viewshaft overlay. Further to specific relief set

³⁴ Statement of Evidence of Deyana Popova, dated 5 April 2023, at [91].

out in Argosy's submission on the Proposed Plan, it seeks that Appendix A to these submissions be made.

DATED at Auckland this 5th day of May 2023



Bianca Tree

Counsel for Argosy Property No 1
Limited

Appendix A – Argosy’s amendments to Section 88 information requirements

- The Council Officer’s amendments are shown in **red**
- Argosy’s amendments are shown in **purple**

Section 88 **information requirements** to accompany applications for total demolition of heritage buildings and structures:

An application under this rule for the total demolition of heritage buildings and structures must be accompanied by:

1. Information detailing the history of regular maintenance and repair undertaken on the building or structure (where this information is relevant to the need to demolish the building or structure);
2. A heritage Impact Assessment for the total demolition of a building;
3. A detailed seismic analysis (DSA) where the building is identified as earthquake prone, and a detailed description and methodology of the works required to increase seismic resilience, provided by a suitably qualified structural engineer;
4. Where the building is identified as being beyond repair, a condition survey report of the building (or relevant structural issue) provided by a suitably qualified professional;
- ~~5. Costings of the works required to increase seismic resilience provided by a suitably qualified quantity surveyor;~~
- ~~6. Estimates of contributions that are available, including funding, grants, consent fee reimbursement and rates relief;~~
- ~~7. An assessment of market demand and pricing for comparable buildings and floor space;~~
- ~~8. A valuation of the:

 - ~~a. Building following completion of works; and~~
 - ~~b. Financial return on investment expected upon completion of the works;

 - ~~i. Depending on the proposal this could be by way of lettable income on floorspace as well as forecast sales price; and~~~~~~
9. An assessment of alternatives to total demolition that have been considered by the applicant, including options for seismic

strengthening, reuse, or restoration where applicable, and evidence demonstrating why none ~~of these is considered~~ are reasonable.

The Council will obtain a peer review by a suitably qualified professional of the information provided by the applicant.

Appendix B – Viewshafts affecting 7 Waterloo Quay and 360 Lambton Quay / 8-11 Willis Street

Viewshaft 3 – Whitmore Street

Description:

A view of the North Kumutoto Precinct and the Inner Town Belt down Whitmore Street at the intersection of Bowen Street and Lambton Quay.

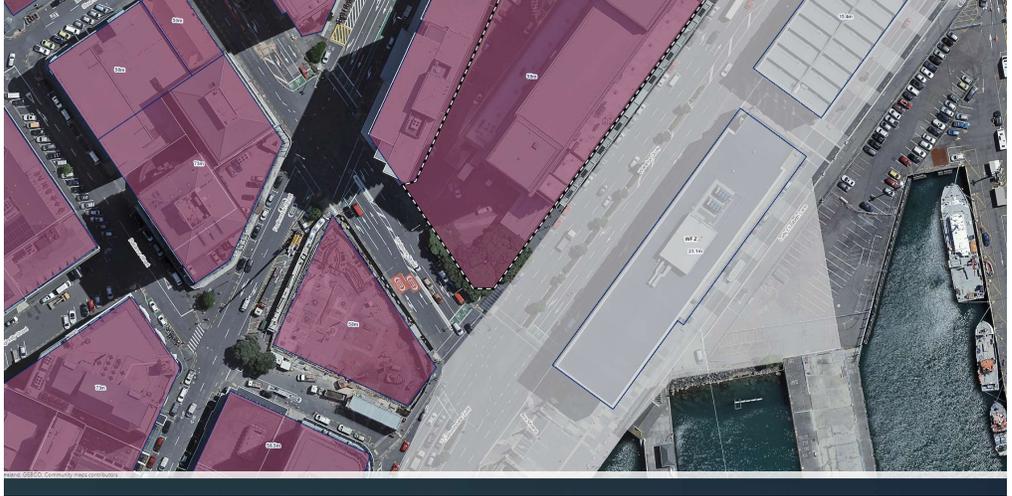
VS3 is one of eight viewshafts offering views from the Golden Mile (Lambton Quay/Willis Street) to the harbour and its wider setting. The importance of these viewshafts, individually and collectively, is that they provide frequent and sequential views to the harbour for those moving along the Golden Mile - one of the most widely used pedestrian routes within the city. Collectively these viewshafts enhance the historical connection between the original shoreline and the harbour. They also promote visual and physical connections between the CBD and the waterfront which, in turn, contributes to wayfinding and an enhanced sense of place.

Viewshaft focal point in the Operative and Proposed Plans



New development near the harbour changing the viewshaft focal point





Viewshaft 9 – Lambton Quay

Description

Although located on Lambton Quay, VS9 is not one of the eight viewshafts offering views from the Golden Mile to the harbour and its wider setting. Instead, it offers a 'townscape' view that principally focusses on two widely recognisable city centre buildings (the MLC Building and Aon Centre - the latter formerly known as the BNZ Tower and then State Insurance Building). Although the two buildings present distinctly different form and architectural character/features, they are both well-known city landmarks. Consequently, the viewshaft acknowledges and promotes the townscape significance of these buildings and the contribution they make to the sense of place in this locality.



