

Before the Auckland Unitary Plan Independent Hearing Panel

Submission 5566 & Further Submission 3168

In the matter of: Submissions on proposed plan under s 123 of the Local Government Act (Auckland Transitional Provisions) Act 2010 and under cl 6 of Schedule 1 of the Resource Management Act 1991 – Proposed Auckland Unitary Plan – 30 September 2013

And: **Auckland Council**

Local Authority

And: **Tram Lease Ltd, Viaduct Harbour Holdings Ltd & Viaduct Harbour Management Ltd**

Submitters

Memorandum for Tram Lease Ltd, Viaduct Harbour Holdings Ltd & Viaduct Harbour Management Ltd

Dated: 3 October 2014



TREVOR DAYA-WINTERBOTTOM
MA IN ENVIRONMENTAL LAW *Barrister*

MEMORANDUM FOR TRAM LEASE LTD, VIADUCT HARBOUR HOLDINGS LTD & VIADUCT HARBOUR MANAGEMENT LTD

- 1 This memorandum is filed for Tram Lease Ltd, Viaduct Harbour Holdings Ltd & Viaduct Harbour Management Ltd (**submitters**) in response to the Notice of Conference of 24 September 2014.
- 2 The submitters have had regard to Fact Sheet 8, Procedural Minute 10, and the Memorandum filed by Ellis Gould.
- 3 The submitters response to the points raised in the Memorandum is as follows:
 - 3.1 Paragraph 7 – lack of cross-referencing to further submissions: The submitters agree with this point, and that better cross-referencing would assist the hearing process.
 - 3.2 Paragraph 12 – effect of evidence exchange timetable on the prospect of successful mediation: The submitters agree with this point, and that allowing more time between mediation and any subsequent hearing should assist alternative dispute resolution.
 - 3.3 Paragraph 16 – desirability of Council circulating its revised position prior to evidence exchange: The submitters agree with this point, but emphasise the need for Council to confirm its position prior to all steps in the hearing process – as the proponent of the plan, Council bears the initial burden of proving its case.
 - 3.4 Paragraph 22 – requirement for midday filing of evidence: The submitters agree with this point, as evidence and submissions will primarily be filed electronically simply filing such material at any time on the due date should be sufficient.
 - 3.5 Paragraph 27 – 10 minute presentation time for submitters:
 - (a) The submitters agree with this point in relevant part, but consider that Procedural Minute 10 strikes a reasonable balance between competing interests and provides an effective and flexible mechanism for complex submissions to be given appropriate hearing time.

- (b) However, they observe that as currently drafted the minute does not address what time estimate should be allowed for any questions by Panel members.
- (c) For a hearing process that relies on the precirculation of evidence and submissions, it will be critical for submitters to go away with a clear impression that their evidence and submissions have been properly understood by the Panel.

3.6 Paragraph 28 – general observations re the provisional schedule: The submitters note that this point concerns the relationship between the RPS policies and the plan rules that will give effect to them. They will abide by the Panel’s view on this point.

- 4 Generally, the submitters consider that Procedural Minute 10 strikes a reasonable balance between the various competing interests. In particular, addressing the criteria in the minute should ensure a focused approach to presenting complex evidence and legal submissions before the Panel.

Trevor Daya-Winterbottom

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Counsel for Tram Lease Ltd, Viaduct Harbour Holdings Ltd & Viaduct Harbour Management Ltd

3 October 2014