

**BEFORE INDEPENDENT HEARING COMMISSIONERS AT
WELLINGTON**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER the hearing of submissions on the
Proposed Wellington City District Plan

**STATEMENT OF EVIDENCE OF MACIEJ WIKTOR LEWANDOWSKI ON BEHALF
OF STRATUM MANAGEMENT LIMITED (SUBMITTER 249)**

HEARING STREAM 2 – RESIDENTIAL

15 MARCH 2023

PLANNING

1. INTRODUCTION

1.1 My name is Maciej (Mitch) Wiktor Lewandowski. I am a Resource Management Consultant and Director of Building Block Planning Ltd, a Wellington based planning and resource management consultancy. I have held my current role since April 2022.

Qualifications and Experience

1.2 I hold a Bachelor of Resource Studies from Lincoln University, a Master of Resource and Environmental Planning from Massey University, and a Post Graduate Diploma in Management from Massey University. I am a Full Member of the New Zealand Planning Institute and accredited resource management commissioner.

1.3 I have 21 years' professional experience. In my current role I assist a range of private and public sector clients, including Stratum Management, across a range of resource management matters.

1.4 Prior to my current role I was employed by Urban Perspectives Limited as a Resource Management Consultant for a period of 3 years. Prior to that role, I was employed by the Wellington City Council for a period of 5 years, as Principal Advisor Planning within the Council's District Plan team. In that role I was responsible for the preparation of the Council's Housing and Business Capacity Assessment under the (then) National Policy Statement on Urban Development Capacity.

Involvement in Stratum Managements' submission to the Proposed District Plan

1.5 I provided Stratum Management Limited ("**Stratum**") with advice to inform its submission, and further submission, to the Proposed District Plan ("**PDP**").

Involvement in the Proposed District Plan

1.6 I note that I have assisted the Council in the development of the Character Precinct and Mt Victoria North Townscape Precinct provisions. I am the reporting officer for those topics. Nothing in this evidence, or in the submission of Stratum, addresses any matter for which I have a responsibility as a reporting officer for the Council.

Code of conduct

1.7 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2. SCOPE OF EVIDENCE

2.1 Stratum's submission in respect of the Residential (MRZ and HRZ) chapters covered a narrow range of submission points that address the following:

- (a) Policy MRZ-P6(1) – Multi-unit Housing

- (b) Rule MRZ-R14 – Construction of buildings or structures for multi-unit housing or a retirement village
- (c) Objective HRZ-O1 – Purpose
- (d) Policy HRZ-P6(1) – Multi-unit Housing
- (e) Rule HRZ-R14 – Construction of buildings or structures for multi-unit housing or a retirement village
- (f) Residential Design Guide

2.2 I address these submission points, and the response to them provided through the Council's Section 42A report, in the following sections.

3. MEDIUM DENSITY RESIDENTIAL ZONE

Policy MRZ-P6(1)

3.1 Policy MRZ-P6 concerns multi-unit housing, and is drafted as follows:

Provide for multi-unit housing where it can be demonstrated that the development:

1. Fulfils the intent of the Residential Design Guide;
2. Provides a minimum area of private or shared outdoor living space that is sufficient to cater for the needs of future occupants;
3. Provides an adequate and appropriately located area on site for the management, storage and collection of all waste, recycling and organic waste potentially generated by the development; and
4. Is adequately serviced by three waters infrastructure or can address any constraints on the site.

3.2 Stratum's submission has sought that matter (1) be deleted; matter (2) be amended to remove the words 'minimum area of'; and that consideration be given to whether the policy needs to specifically address waste management. The Council reporting officer has not supported these changes.

3.3 In respect of matter (1), I consider that the wording of the criterion is problematic in its framing. It seeks that the 'intent' of the design guide is fulfilled. In my view this creates an overly subjective assessment as to what

the intent is, and when the intent might be fulfilled, or not. As noted in Stratum's submission, is the intent fulfilled when half of the guidelines are considered to be met? I note that as proposed, there are 137 individual guidelines in the Residential Design Guide. In the framing of the policy, a multi-unit development should not be provided for where the 'intent' of the design guide is not met.

- 3.4 This approach is also at odds with how the PDP approaches this matter elsewhere. A review of the commercial and mixed use zones shows that there is no equivalent policy (or policy subclause), and design guide matters are addressed through a matter of discretion in a relevant rule. This matter of discretion simply references the relevant design guide. I support this alternative approach as it removes a policy subjectivity and requires that the design guide is a relevant consideration as a matter of discretion.
- 3.5 Resultingly, I consider that matter (1) should be deleted in it's entirety. Consequential changes may be required to relevant rules to include a design guide reference as a matter of discretion as done for other chapters, such as those in the commercial and mixed use zones.
- 3.6 In respect of matter (2), the policy framing suggests that multi-unit development will be provided for where a minimum outdoor living space is provided. This would appear to reference standard MRZ-S13 relating to outdoor living space for multi-unit developments. However, were that standard not to be met, then the policy suggests that such a multi-unit should not be provided for. Given that the standard itself anticipates potential infringements, the framing of the policy is problematic.
- 3.7 In my view, the words 'a minimum area of' should be removed. This then maintains the intent of the policy – that private/shared outdoor living space is provided – and if the related standard is not met, then a resource consent requirement is triggered in respect of that non-compliance. It then overcomes the conflict with the policy which suggests that the multi-unit development should not be provided for where the minimum area standard is not met.
- 3.8 In respect of the waste management criterion, I understand that the Council has a Solid Waste Management and Minimisation Bylaw that applies to multi-unit and apartment proposals. That being the case, I am unsure what purpose this matter serves beyond providing for duplication. I also note that equivalent requirements are provided for in the Residential Design Guide.

Rule MRZ-R14

- 3.9 The Stratum submission sought a change to the notification status of this rule to also include limited notification where compliance with the applicable standards was achieved.
- 3.10 The section 42A report has recommended supporting the relief sought in part, but with different phrasing. Having reviewed the drafting of the following proposed amendment, I support its inclusion:

An application for resource consent made in respect of rule MRZ-R14.1 that complies with all relevant standards is also precluded from being limited notified.

- 3.11 There is then a further addition proposed, as follows:

An application for resource consent made in respect of rule MRZ-R14.1 that complies with MRZ-S2, MRZ-S3, MRZ-S4, and MRZ-S5, but does not comply with all other relevant standards is also precluded from being limited notified.

- 3.12 There appears to be a drafting error in this amendment where it uses 'with all other' which seems to confuse the purpose of this amendment. I anticipate that the reporting officer will be addressing this error.

4. HIGH DENSITY RESIDENTIAL ZONE

Objective HRZ-O1

- 4.1 The Stratum submission identified a drafting error in the objective that referenced 3-storey buildings, rather than 6-storey.
- 4.2 The section 42A report has recommended a change to rectify that error as requested, and I support that change.

Policy HRZ-P6

- 4.3 This policy is the equivalent policy to MRZ-P6 described at paragraphs 3.1 – 3.8 above. The relief sought by Stratum to this policy is the same as for Policy MRZ-P6.
- 4.4 For the same reasons I have set out in my discussion of Policy MRZ-P6, I consider that Policy HRZ-P6 should be amended in the same way.

Rule HRZ-R14

- 4.5 This rule is the equivalent rule to MRZ-R14 described at paragraphs 3.9 – 3.12 above. The relief sought by Stratum to this rule is the same as for Rule MRZ-R14.
- 4.6 For the same reasons I have set out in my discussion of Rule MRZ-R14, I consider that Rule HRZ-R14 should be amended in the same way.

5. RESIDENTIAL DESIGN GUIDE

- 5.1 As noted in Stratum's submission, the nature of the development work it undertakes means it will most commonly encounter the Residential Design Guide and the Centres and Mixed Use Design Guide.
- 5.2 For a residential apartment building, both design guides will apply. Cumulatively, that will result in the need to consider over 200 guidelines, acknowledging that there is some duplication between the two guides.
- 5.3 The Stratum submission, at a high level, sought a rationalisation of these guidelines and as much reduction as possible in their number. Stratum identified a broad concern that some of the guidelines are overly directive, bordering on standards. Stratum then identified a selected sample of guidelines it considered should be amended or deleted entirely, illustrative of the broader issues it identified. The identified concerns and recommended changes have not been addressed in the recommended changes in the Section 42A report.
- 5.4 In considering the concerns identified by Stratum, it needs to be remembered that the design guides are proposed to sit within the structure of the PDP. They are therefore statutory guidelines. I consider that the framing of the guidelines must be carefully considered as they can be interpreted as being standards as a result of this structural element.
- 5.5 Relevantly, the guidelines also address a broad range of matters including areas such as stormwater management, ecology and carbon reduction. Again, careful consideration needs to be given to their framing. In my view, the extent and breadth of the guidelines becomes inappropriate where they reach into matters such as stormwater management, or ecology, and also have the effect of standards.
- 5.6 In this framing, I disagree with the section 42A report that considers, repeatedly in response to submissions, that the guidelines are not standards

and are not intended to work as such. Their statutory basis as being within the PDP ensures that they attain a higher degree of consideration than if they were outside of the PDP. Resultingly, their framing is critical and I do not consider that an appropriate balance has been struck.

5.7 Stratum also made a further submission in support of the submission from McIndoe Urban (Submission 135) regarding the design guide(s). The submission from McIndoe Urban addresses similar fundamental concerns to those identified by Stratum.

5.8 Having considered the section 42A report and updated Residential Design Guide, I consider that the fundamental issues identified by Stratum remain. These concerns relate to:

- (a) Some guidelines presenting as standards, thereby needing appropriate qualification, or needing to be moved into a zone or topic chapter as a standard;
- (b) Some guidelines having the potential to be interpreted as standards, and therefore needing appropriate qualification;
- (c) Some guidelines not being able to always be achieved, and therefore requiring appropriate qualification; and
- (d) The 'Outcomes' section of the Design Guide presenting as policies.

5.9 I address these points of concern with reference to specific guideline examples from those identified in the Stratum submission. There are numerous other guidelines that raise similar concerns as the following specific examples.

Guideline 4

5.10 Guideline G4 states that planting should be used as a way to mitigate stormwater runoff and flooding effects. It is unclear from the guideline how this should be achieved and what it will be measured against. In my view, this is more appropriately addressed as a standard that provides some measurability as to what is to be achieved in terms of mitigation. The proposed guideline leaves this question open. It could also be reframed as planting potentially offering stormwater and flooding benefits, and encouraging its provision.

Guideline 59

- 5.11 Guideline 59 states that (emphasis added):

Car parking must not be located at the street front. Located car parking, loading areas, and servicing to be convenient while not compromising the quality of the street edge or entrances to dwellings.

- 5.12 The guideline presents as a standard through its use of 'must not be'. It could be reframed as 'car parking at the street front is discouraged' or in other similar terms. If car parking at the street front is not to be allowed, and in my view there are instances where it is the only alternative, then it is appropriate to do so through a standard and test it accordingly.
- 5.13 I note that the section 42A report¹ considers that the use of 'must' in the guideline does not in fact mean 'must'. But if that is the case, then an appropriate qualification such as what I suggest would be a better alternative.

Guideline 72

- 5.14 Guideline 72 states that developments should provide for a range of sustainable travel modes, with reference to four criteria. I note that residential developments providing for end of journey facilities is self-evident and this criterion should be removed in my view. It is more appropriate for commercial buildings.
- 5.15 The use of 'should' in this guideline in my view presents as a standard. If that is the intent, then matters such as the electric vehicle charging facilities criterion are more appropriately located within the transport chapter of the PDP.

Guideline 81

- 5.16 Guideline 81 seeks that the principal area of private open space be located to the north, east or west to avoid south facing areas. While the intent of this guideline is supported and understood, the outcome may not always be possible, particularly in a city centre context (noting that the Residential Design Guide is also applicable in that context).

¹ Paragraph 327, part 3, Residential Zones – Part 6: Design Guides Section 42A Report.

- 5.17 Again, this guideline can be read as being a standard and in my view requires appropriate qualification such as 'wherever possible' or similar language, recognising in particular its application in a city centre context.

Guidelines 99-105

- 5.18 This set of guidelines relating to external storage present as standards and are more appropriately located within the transport or relevant zone chapter if they are to be included in the PDP at all.

Guideline 120

- 5.19 This guideline presents as a standard using 'avoid' terms. Related to Guideline 81 above, in a city centre context it may not be possible to always avoid a south facing unit in an apartment typology. Resultingly, the guideline should be appropriately qualified such as through the use of 'wherever possible' or equivalent terminology.

Guideline 126

- 5.20 This guideline states:

In large multi-unit developments, provide a functional multi-purpose internal communal room to be utilised for social gatherings.

- 5.21 While presenting as a standard, it also does not provide clarity as to what is a large multi-unit development, and is also at odds with the standards that do not require the provision of a communal space. In my view the guideline is inappropriately framed as a guideline and should be reframed in a more optional sense (i.e. give consideration to) or deleted entirely.

Guideline 129

- 5.22 Guideline 129 states:

In apartments and multi-unit housing ensure spaces are appropriately designed and are wide enough to support homebased tangihanga/funerals and other cultural ceremonies.

- 5.23 The guideline is unclear on its requirements and presents as a standard through its use of 'ensure'.

Guidelines 130 - 131

- 5.24 These guidelines relate to internal storage requirements. Both guidelines present as standards through their use of 'should' and address subjective matters of sufficiency and adequacy that are not quantified.

Outcomes Statements

- 5.25 In the introductory section to the Residential Design Guide (pages 7-9), the guide lists a range of outcome statements. These outcome statements present and read as policies. It is unclear whether a design assessment prepared with reference to the design guide needs to be specifically addressing these outcomes, whether a proposal will be assessed for consistency with these outcomes, or whether (with reference to paragraphs 3.3 – 3.5 above) they contribute to achieving the intent of the design guide.

- 5.26 In my view, these outcomes duplicate objectives and policies otherwise located in the PDP. In other examples, the outcomes can simply be addressed as guidelines. For instance, the water outcome under the 'responding to the natural environment' heading states:

The mauri (including the health and quality) of waiora (water) is maintained or enhanced by any new development.

- 5.27 Comparatively, proposed objective THW-O1 states:

Subdivision and development contributes to an improvement in the health and wellbeing of water bodies and freshwater ecosystems.

- 5.28 There is also an inconsistency with the objective seeking improvement, while the outcome statement in the design guide seeks maintenance and enhancement.

- 5.29 I do not consider that the outcome statements are warranted, and where necessary would be more appropriately included as policies or addressed through the design guidelines themselves.

6. CONCLUSION

- 6.1 In my view, the amendments sought by Stratum to policies MRZ-P6 and HRZ-P6 are appropriate changes that will improve the workability and clarity of the PDP. I support their adoption, in particular those relating to matters (1) and (2) of the policies.

- 6.2 I support the changes proposed by the Section 42A report to Objective HRZ-O1, and Rules MRZ-R14 and HRZ-R14.
- 6.3 I consider that there are more fundamental issues with the Residential Design Guide that have not been appropriately addressed through the Section 42A report. Because the design guides sit within the PDP, their framing needs to be considered so that the guidelines do not read, or be interpreted as, standards. The use of outcome statements could also be better utilised as policies where these are considered necessary, and not duplicating existing objectives and policies.



Mitch Lewandowski

15 March 2023