

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Wellington District Plan

**STATEMENT OF EVIDENCE OF MARK NICHOLAS ARBUTHNOT FOR
RESTAURANT BRANDS LIMITED IN RELATION TO WRAP UP HEARING
PART 2: DESIGN GUIDES**

5 SEPTEMBER 2023

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EXECUTIVE SUMMARY

- A. This statement of evidence addresses the submissions made by Restaurant Brands Limited ("**Restaurant Brands**") in relation to the 'ISPP Wrap Up Hearing Stream Part 2: Design Guides' ("**Part 2 of the ISPP Wrap Up**") of the Proposed Wellington District Plan ("**Proposed Plan**").
- B. Specific to Part 2 of the ISPP Wrap Up, Restaurant Brands' submissions sought the deletion of the Centres and Mixed Use Design Guide ("**Design Guide**") on the basis that, as notified:
- a. it does not recognise or provide for the functional or operational requirements of activities;
 - b. it reads as a set of rules to be complied with, rather than guidelines to inform the assessment of applications for resource consent and will result in an unnecessarily onerous and unreasonable resource consent process; and
 - c. places unreasonable requirements on applicants on matters that are more appropriately dealt with at a national level (for example, reducing travel/shipping costs of materials to reduce carbon emissions, and installing insulation above minimum requirements).
- C. While the submissions of Restaurant Brands is recommended to be rejected by the s.42A report, substantial changes have been made to the Design Guide as a consequence of the urban design expert conferencing that was held in April, July, and August 2023.
- D. I agree with the changes that are proposed to the Design Guide within the s.42A Report.
- E. However, for the reasons discussed in my evidence for Hearing Stream 4 (Centres), I remain of the opinion that the associated "Quality Design Outcomes" policy (CCZ-P9, MCZ-P7, LCZ-P7, NCZ-

P7, MUZ-P6, COMZ-P5), which “requires” new development and alterations and additions to existing development to “meet” the requirements of the Design Guide limits flexibility and does not properly recognise its intended function.

- F. In my opinion, the “Quality Designs Outcome” policy should be amended such that the Design Guide is a matter to “have regard to” when assessing new development proposals, as opposed to something that is “required” to be “met”. This is consistent with Policy 54 of the Wellington Regional Policy Statement (“**WRPS**”), which identifies achieving the region’s urban design principles as being a matter that shall be given “particular regard”.
- G. Further, while I acknowledge that the Design Guide is “*intended to be applied in a manner that recognises the unique nature of individual proposals*”, I also remain concerned that this is not properly reflected in the associated “Quality Designs Outcome” policy.
- H. In my opinion, consideration of the functional and operational requirements of activities and development is a relevant matter and should be recognised within the policies of the Proposed Plan.
- I. I detail my specific recommended changes to the “Quality Design Outcomes” policy (CCZ-P9, MCZ-P7, LCZ-P7, NCZ-P7, MUZ-P6, COMZ-P5) in my evidence.

1. INTRODUCTION

1.1 My full name is Mark Nicholas Arbuthnot. I am a Director at Bentley & Co. Limited (“**Bentley & Co.**”), an independent planning consultancy practice based in Auckland.

Qualifications and experience

1.2 My qualifications and experience, and involvement in the preparation of Restaurant Brands’ submission, are set out within my Primary Statement of Evidence for Hearing 4 – Centres.

Code of conduct

1.3 I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

2. SCOPE OF EVIDENCE

2.1 Part 2 of the ISPP Wrap Up Hearing relates to the submissions that were received by Council in relation to the content of the Centres and Mixed-Use Design Guide of the Proposed Plan.

2.2 My evidence relates to Restaurant Brands’ primary submissions, which sought the deletion of the Design Guide.¹

2.3 In preparing this evidence, I have had regard to:

¹ 349.225.

- (a) Restaurant Brands' primary submissions, and the primary and further submissions made by the Council and other parties;
- (b) the section 32 analysis prepared by Wellington City Council;
- (c) the section 42A report (Parts 2: Design Guides) prepared by Anna Stevens on behalf of Wellington City Council, dated 22 August 2023; and
- (d) the statement of evidence of Dr Farzad Zamani on behalf of Wellington City Council, dated 22 August 2023.

2.4 I have had regard to section 32 of the RMA, which requires an evaluation of the objectives, policies and rules that are relevant to Restaurant Brands' primary submissions. I have also had regard to section 32AA of the RMA, which requires a further evaluation for any changes that have been proposed since the original evaluation report under section 32 of the RMA was completed.

3. CENTRES AND MIXED-USE DESIGN GUIDE

Primary submission of Restaurant Brands (349.225)

3.1 The primary submission² of Restaurant Brands sought the deletion of the Design Guide for the following reasons:

The Centres and Mixed-Use Design Guide (and the associated policy and matters of discretion linkages), do not recognise or provide for the functional or operational requirements of activities.

The Design Guide reads as a set of rules to be complied with, rather than guidelines to inform the assessment of applications for resource consent and will result in an unnecessarily onerous and unreasonable resource consent process.

The Design Guide places unreasonable requirements on applicants on matters that are more appropriately dealt with at a national level (for example, reducing travel/shipping costs of materials to reduce carbon emissions, and installing insulation above minimum requirements). The imposition of "thresholds"

² 349.225.

for certain types of development result in a “pass/fail” assessment being applied, resulting in an unnecessarily onerous and unreasonable resource consent process.

Council recommendation

3.2 While the submissions of Restaurant Brands is recommended to be rejected by the s.42A report, substantial changes have been made to the Design Guide as a consequence of the urban design expert conferencing that was held in April, July, and August 2023. Specific to the submission points of Restaurant Brands, I note that the Design Guide has been amended to:

- (a) Recognise that the Design Guide is *“intended to be applied in a manner that recognises the unique nature of individual proposals”*.
- (b) Remove the mandatory nature of the guidelines and enable applicants to provide an explanation of any alternative approaches used to address a design outcome.
- (c) Delete the “pass/fail” thresholds for certain types of development.

Section 32 of the RMA

- 3.3 I agree with the changes that are recommended to the Design Guide.
- 3.4 However, for the reasons discussed in my evidence for Hearing Stream 4 (Centres), I remain of the opinion that the associated “Quality Design Outcomes” policy (CCZ-P9, MCZ-P7, LCZ-P7, NCZ-P7, MUZ-P6, COMZ-P5), which “requires” new development and alterations and additions to existing development to “meet” the requirements of the Design Guide limits flexibility and does not properly recognise its intended function.
- 3.5 In my opinion, the “Quality Designs Outcome” policy should be amended such that the Design Guide is a matter to “have regard to” when assessing new development proposals, as opposed to something that is “required” to be “met”. This is consistent with Policy

54 of the Wellington Regional Policy Statement (“**WRPS**”), which identifies achieving the region’s urban design principles as being a matter that shall be given “particular regard”.

3.6 Further, while I acknowledge that the Design Guide is “*intended to be applied in a manner that recognises the unique nature of individual proposals*”, I also remain concerned that this is not properly reflected in the associated “Quality Designs Outcome” policy.

3.7 In my opinion, consideration of the functional and operational requirements of activities and development is a relevant matter and should be recognised within the policies of the Proposed Plan.

3.8 I therefore recommend that the following further changes are made to the “Quality Design Outcomes” policy (CCZ-P9, MCZ-P7, LCZ-P7, NCZ-P7), as proposed to be amended by Council in its post-hearing reply: [further changes are shown in ~~strikethrough~~ and underline]

Require new development, and alterations to existing development, at a site scale to positively contribute to the sense of place and distinctive form, quality and amenity of the [City Centre Zone | Metropolitan Centre Zone | Local Centre Zone | Neighbourhood Centre Zone |] by:

1. ~~Meeting-Having regard to~~ the requirements of the Centres and Mixed Use Design Guide as relevant;
2. Recognising the benefits of well-designed, comprehensive development, including the extent to which the development:
 - a. ...
3. Ensuring that development, where relevant:
 - a. ...
 - ...
 - h. Recognises the functional and operational requirements of activities and development.

3.9 Consistent with the above, and in relation to the “Design of new development” policy (MUZ-6) as proposed to be amended by Council in its post-hearing reply, which is intended to apply to the Mixed Use Zone, I recommend that following changes: [further changes are shown in ~~strikethrough~~ and underline]

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Encourage a high standard of built form and amenity while;

- a. Enabling innovation and choice in the design of new built development to reflect the diverse neighbourhood context of the Mixed Use Zone; ~~and~~
- b. Meeting the intentions of the Centres and Mixed Use Design Guide as relevant; and

c. Recognising the functional and operational requirements of activities and development.

3.10 In addition, I recommend the following changes to the “Quality design outcomes” policy (COMZ-P5) as proposed to be amended by Council in its post-hearing reply, which is intended to apply to the Commercial Zone: [further changes are shown in ~~striketrough~~ and underline]

Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Commercial Zone by ensuring that it, where relevant:

1. ~~Meets-Has regard to~~ the requirements of the Centres and Mixed Use Design Guide where relevant;
2. Responds to the site context, particularly where it is located adjacent to:
 - a. Residential zoned areas; and/or
 - b. Open space zoned areas;
3. Provides a safe and comfortable pedestrian environment;
4. Enhances the quality of the streetscape and public / private interface;
5. Integrates with existing and planned active and public transport movement networks; and
6. Allows sufficient flexibility for ground floor space to be converted for a range of activities.

7. Recognises the functional and operational requirements of activities and development.

Mark Nicholas Arbuthnot

5 September 2023