

**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 4 – CENTRES

12 JUNE 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 Ltd ("**Stratum**"), 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.

Involvement in Stratum Managements' submission to the Proposed District Plan

1.5 I provided 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 of the PDP. I was the reporting officer for those topics for Hearing Stream 2. I was also on the Council's Technical Review Panel during the development of the PDP.

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 City Centre Zone ("**CCZ**") chapter covered a range of submission points that address the following provisions:

- (a) Policy CCZ-P1(2)(a) – Enabled activities
- (b) Policy CCZ-P4 – Housing choice
- (c) Policy CCZ-P5 – Urban form and scale
- (d) Policy CCZ-P10 – On-site residential amenity
- (e) Policy CCZ-P11 – City outcomes contribution

- (f) Policy CCZ-P12 – Managing adverse effects
- (g) Rule CCZ-R12 – Residential activities
- (h) Rule CCZ-R20 – Construction of buildings and structures
- (i) Standard CCZ-S1 – Maximum height
- (j) Standard CCZ-S4 – Minimum height
- (k) Standard CCZ-S5 – Minimum ground floor height
- (l) Standard CCZ-S9 – Minimum residential unit size
- (m) Standard CCZ-S10 – Outdoor living space
- (n) Standard CCZ-S12 – Maximum building depth
- (o) Centres and Mixed Use Design Guide

2.2 I address these submission points, and the response to them provided through the Council's Section 42A ("**s42A**") report, in the following sections.

2.3 I note that matters relating to the Centres and Mixed Use Design Guide will be addressed at a future hearing.

3. CITY CENTRE ZONE

Policy CCZ-P1(2)(a)

3.1 The Stratum submission in respect of this policy highlighted an inconsistency in drafting between the policy and subsequent provisions. The reporting officer has acknowledged the issue and has proposed an amendment to address the inconsistency. I support the proposed amendment.

Policy CCZ-P4

3.2 The reporting officer has recommended the retention of this policy with minor changes, and I am comfortable with those changes. The policy continues to accurately capture the approach to housing choice within the CCZ and was supported by the Stratum submission which sought its retention as notified.

Policy CCZ-P5

- 3.3 Policy CCZ-P5 relates to urban form and scale, and is proposed to be retained as notified, in line with the relief sought by Stratum. I support the drafting of the policy as notified and consider it to appropriately describe the benefits of intensification in a CCZ context.

Policy CCZ-P10

- 3.4 Policy CCZ-P10 relates to on-site residential amenity. Stratum sought the following change to the policy:

CCZ-P10 On-site residential amenity

Achieve a high standard of amenity for residential activities that reflects and responds to the evolving, higher density scale of development anticipated in the City Centre Zone, including:

1. Providing residents with access to an adequate outlook;
and
- ~~2. Ensuring access to convenient outdoor space, including private or shared communal areas.~~

- 3.5 This submission point relates to a corresponding standard CCZ-S10 (outdoor living space) which I discuss below. I support the deletion of standard CCZ-S10 as sought by Stratum for the reasons provided at paragraphs 3.47 to 3.52. I therefore also oppose matter (2) of CCZ-P10 both as notified or as recommended through the section 42A report.

- 3.6 The reporting officer has recommended other changes to this policy in response to submissions. The policy as proposed through the section 42A report now reads:

CCZ-P10 On-site residential amenity

Achieve a high standard of amenity for residential activities that reflects and responds to the evolving, higher density scale of development anticipated in the City Centre Zone, including:

1. Providing residents with access to an adequate outlook;
~~and~~
2. Ensuring convenient access to ~~convenient outdoor space,~~ including private and/or shared communal areas of outdoor space;
3. Meeting the requirements of the Residential Design Guide, as relevant; and

4. Providing residents with an adequate internal living space.

3.7 In respect of the new matter 3, I have concerns over the phrasing of this matter, particularly the use of 'requirements' but this issue is more appropriately addressed as part of a subsequent hearing stream. I note that there is an issue in how the PDP references design guides within rules and/or policies in a consistent manner across multiple chapters.

3.8 In respect of new matter 4, I am comfortable with this addition subject to my discussion of minimum floor area requirements at 3.43 to 3.46.

Policy CCZ-P11

3.9 Policy CCZ-P11 relates to the City Outcomes Contribution. The Stratum submission sought to address an inconsistency between the policy and a matter of discretion in rule CCZ-R20. The changes to the City Outcomes Contribution recommended through the s42A report have however overtaken the changes sought in the Stratum submission.

3.10 I address the City Outcomes Contribution, including this policy, in my discussion of standard CCZ-S1 at 3.24 to 3.34 below.

Policy CCZ-P12

3.11 Policy CCZ-P12 addresses the management of adverse effects. The Stratum submission sought the following change:

CCZ-P12 Managing adverse effects

Recognise the evolving, higher density development context anticipated in the City Centre Zone, while managing any associated adverse effects including:

1. The impacts of building dominance and the height and scale relationship where a building does not meet relevant standards;
2. Building mass effects, including the amount of light and outlook around buildings where a building does not meet relevant standards; and
3. The impacts on sunlight access to identified public space;
4. The impacts of related construction activity on the transport network.

3.12 The underlying issue that the submission sought to address was certainty. If a building is meeting standards relating to building height, or outlook space,

and matters of design are addressed with reference to the relevant design guide(s), then what are the adverse effects that are being managed? In my view the policy as presently drafted could invite uncertainty through the resource consent process.

- 3.13 The reporting officer has not supported the relief sought. The underlying issue has however been largely addressed, albeit through a different path. The introduction of a non-notification statement for rule CCZ-R20 where a building meets all relevant standard means that certainty of non-notification has been provided.
- 3.14 On the basis that the additional notification statement to rule CCZ-R20 is confirmed as recommended by the reporting officer, then my concern around how this policy could be applied is alleviated. However, my underlying concern around the drafting of this policy remains. This is particularly dependent on how matters relating to building height are resolved as I discuss in respect of standard CCZ-S1 below.

Rule CCZ-R12

- 3.15 The issue raised by Stratum in respect of this rule was a similar issue to that raised in respect of Policy CCZ-P1(2)(a) discussed above. The reporting officer has again acknowledged the identified inconsistency and has recommended an amendment to address the issue. I support that response.
- 3.16 The submission also sought an amendment to the notification status for this rule and this has been accepted. I support the recommended amendment. The issue related to the four conditions applying to residential activities being a permitted activity. None of the conditions would in my view lead to a need for limited notification. Since public notification was already precluded, in my view limited notification should also be precluded and the reporting officer has accepted that view.

Rule CCZ-R20

- 3.17 Stratum's submission sought three changes to this rule:
- (a) Including a new non-notification statement that precludes both public and limited notification where a proposal meets all relevant standards;
 - (b) Amending the second existing non-notification to remove reference to CCZ-S1 (Maximum height) as follows:

Notification status:

...

An application for resource consent made in respect of rule R20.2.a which results from non-compliance with ~~CCZ-S4~~, CCZ-S2, CCZ-S3, CCZ-S6, CCZ-S7 and CCZ-S8 is precluded from being publicly notified.

(c) Amending the third matter of discretion as follows:

The Centres and Mixed-Use Design Guide, including guideline 107 – City Outcomes Contribution for any building that does not meet the minimum height requirements, or exceeds the maximum height requirement and either comprises 50 or more residential units or is a non-residential building.

- 3.18 In respect of matter (a), I note that the Wellington City Council made a submission seeking equivalent relief. The reporting officer at paragraph 455 of the s42A report agrees with the relief sought by Stratum and has recommended an additional non-notification statement for situations where all relevant standards are met. This satisfies the relief sought by Stratum and I support the recommended amendment.
- 3.19 The reporting officer does not however agree with the change sought by Stratum outlined at (b) above. This notification statement precludes public notification where a non-compliance results from one of the listed standards. Standard CCZ-S1 relates to maximum height and therefore limited notification is an option where the height standard¹ is not met.
- 3.20 Removing reference to CCZ-S1 from this standard was sought in order to provide a greater degree of notification certainty that an application that breached the maximum height standard could be addressed on a non-notified basis. This is not to say that an application breaching maximum height would always be granted, but that the resource consent process would be non-notified.
- 3.21 In my view, the effects of a height standard breach can objectively be assessed without the need for limited notification. In the CCZ, this is reflective of the increased height and density of buildings that are an expected part of this environment. Effects of a maximum height breach would typically relate to matters of shading and bulk and dominance.

¹ Or 'threshold' as proposed through the s42A report.

3.22 I note however that the relief sought by the Stratum, in terms of the outcome sought to preclude limited notification where a maximum height breach occurs, needed to go one step further. Rather than simply removing reference to CCZ-S1 in the second notification statement, reference to CCZ-S1 then needed to be added to the first notification statement. I set out the corrected relief sought below:

Notification status:

An application for resource consent made in respect of rule R20.2.a which results in non-compliance with CCZ-S1, CCZ-S5, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12 and CCZ-S13 is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule R20.2.a which results from non-compliance with ~~CCZ-S1~~, CCZ-S2, CCZ-S3, CCZ-S6, CCZ-S7 and CCZ-S8 is precluded from being publicly notified.

3.23 This issue has now been complicated by the removal of maximum height standards in CCZ-S1. The s42A has not made a consequential change to this rule. Therefore, and dependent on the outcome of the change recommended to CCZ-S1, reference to CCZ-S1 can be removed from this rule. If CCZ-S1 is not changed, then in my view the reference to CCZ-S1 should be amended as I recommend in 3.22.

3.24 In respect of matter (c), this issue has been overtaken by wider changes to the approach to the City Outcomes Contribution provisions, with this matter being deleted overall. This addresses the minor change sought by Stratum.

Standard CCZ-S1

3.25 CCZ-S1 is the maximum height standard. The Stratum submission sought the removal of the standard with reference to the requirements of Policy 3(a) of the NPS-UD. Through the s42A report, the reporting officer has sought to reframe the height standard as a height threshold. Exceeding the threshold would engage a 'requirement' to meet the City Outcomes Contribution.

3.26 CCZ-S1, as recommended, would read:

CCZ-S1 ~~Maximum height~~ City Outcomes Contribution Height Threshold

1. There are no maximum heights for buildings and structures in the City Centre Zone.

2. ~~Above the following maximum height limits thresholds the City Outcomes Contribution~~ must be complied with (measured above ground level unless otherwise specified):

...

- 3.27 In my opinion the drafting of this standard and its relationship with rule CCZ-R20 and policy CCZ-P11 has not been fully resolved.
- 3.28 The use of must in matter (2) is in this context akin to the use of avoid – it suggests that there is no alternative. Rule CCZ-R20 is the relevant rule for the construction of a new building. It requires resource consent as a restricted discretionary activity for a new building in the CCZ. The resource consent requirement only elevates to a discretionary activity status where the minimum height standard is not complied with.
- 3.29 Where a building proposal seeks to exceed the height threshold and not follow the City Outcomes Contribution route, the use of ‘must’ in standard CCZ-S1 suggests that that application would need to be declined.
- 3.30 In this new context, policy CCZ-P11 would also support this view as it requires developments exceeding the height threshold to deliver the City Outcomes Contribution. As recommended by the s42A report, policy CCZ-P11 reads:

CCZ-P11 City outcomes contribution

~~Require over and under height, large scale residential, non-residential and comprehensive developments over CCZ-S1 height threshold and under CCZ-S4 minimum building heights in the City Centre Zone to deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107, including through either: ...~~

- 3.31 Returning to the primary issue, Policy (3)(a) of the NPS-UD requires that city centre zones provide for building heights that realise as much development capacity as possible in order to maximise the benefits of intensification.
- 3.32 The reporting officer at paragraph 519 of the s42A report makes the argument that the direction of policy 3(a) of the NPS-UD is not to maximise development capacity, but to realise as much development capacity as possible. I agree with the reading of the NPS-UD requirement, but consider that it is possible to realise additional development capacity without the need to apply the City Outcomes Contribution requirement. In seeking to remove the maximum height standard, the s42A report is imposing a requirement that is tantamount

to a maximum height standard and that on its face does not provide an alternative consenting pathway. As drafted, it appears to seek to prevent any exceedance of the height threshold without reference to the City Outcomes Contribution, no matter how small the height exceedance may be.

3.33 My preference is for the height standard to be removed wherever possible – this would in my view align with the intent of Policy 3(a) of the NPS-UD. Of course there will be instances where a height limit will be appropriate. Standards CCZ-S2 and CCZ-S3 are examples where height is limited either through a direct height standard, or indirectly through recession plane requirements. Such an approach recognises that it is not always possible to realise the full extent of development capacity.

3.34 If the Hearing Panel were not to agree with the principal relief sought to delete standard CCZ-S1, then in my view standard CCZ-S1 should be amended as follows:

**CCZ-S1 ~~Maximum height~~ City Outcomes Contribution
Height Threshold**

1. There are no maximum heights for buildings and structures in the City Centre Zone.
2. ~~Above the following maximum height limits thresholds the City Outcomes Contribution must be complied with (measured above ground level unless otherwise specified):~~
2. Applications that seek to exceed the height threshold will be encouraged to achieve the City Outcomes Contribution.

...

3.35 I also consider that a consequential amendment to CCZ-P11 is required, and I suggest the following change:

CCZ-P11 City outcomes contribution

~~Encourage~~ Require ~~over and under height, large scale residential, non-residential and comprehensive developments over CCZ-S1 height threshold and under CCZ-S4 minimum building heights in the City Centre Zone to deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107, including through either: ...~~

- 3.36 I note that it may be appropriate to maintain a 'require' position in respect of under-height buildings. In that instance, the policy could be drafted as follows:

CCZ-P11 City outcomes contribution

~~Encourage~~ ~~Require~~ ~~over and under height, large scale residential, non-residential and comprehensive developments over CCZ-S1 height threshold and require under CCZ-S4 minimum building heights~~ in the City Centre Zone to deliver City Outcomes Contributions as detailed and scored in [Appendix 16 the Centres and Mixed Use Design Guide guideline G107](#), including through either: ...

Standard CCZ-S4

- 3.37 The Stratum submission supported the imposition of minimum height requirements. The reporting officer has recommended the retention of this standard and I support that position.
- 3.38 The standard is important in achieving Policy 3(a) of the NPS-UD in seeking to realise as much development capacity as possible within the CCZ. I note that in instances where a lower height might be necessary or appropriate that a resource consent pathway is available.

Standard CCZ-S5

- 3.39 Standard CCZ-S5 seeks to prescribe a minimum ground floor height of 4m for buildings in the CCZ. This is a new standard as the operative district plan does not contain an equivalent requirement, though the operative Central Area Design Guide² does seek an increased ground to first floor height.
- 3.40 The Stratum submission sought the following change:

CCZ-S5 Minimum ground floor height

The minimum ground floor height to the underside of a structural slab or equivalent shall be ~~4m~~;

1. For non-residential and mixed-use buildings – 4m.
2. For residential buildings – 3m.

- 3.41 The reporting officer has recommended changes to accept the suggestions by Stratum to correct the typographical errors in the standard, but has not

² Guideline 3.6.

accepted the more substantial changes proposed relating to a residential/non-residential split.

- 3.42 Drawing on the evidence of Mr Stewart, I consider that the change suggested by Stratum is a more nuanced approach to this issue. A 4m ground floor height is more important to a commercial building and conversions from commercial to residential buildings are more readily achieved.
- 3.43 Conversely, a purely residential building has little use for a 4m ground floor height and the standard only serves to impose additional costs for such buildings where a lower height will be sufficient. Conversions from residential to commercial use are more difficult to achieve and resultingly there is little opportunity cost from the change suggested by Stratum.
- 3.44 In my view the more nuanced approach suggested by Stratum is an appropriate change that will still serve to facilitate the outcome sought by the PDP. It would however help to reduce the construction costs created by the standard in a situation where a purely residential building is created. It would also serve to remove costs relating to resource consent processes where non-compliance with this standard was to be proposed. The proposed change would in my view retain consistency with policies CCZ-P6, CCZ-P9(2)(g) and objective CCZ-O5.

Standard CCZ-S9

- 3.45 Standard CCZ-S9 prescribes minimum unit sizes for the CCZ. The standard is a new standard and is not presently in the ODP. The change sought by Stratum related to the minimum size for studio units as follows:

CCZ-S9 Minimum residential unit size

1. Residential units, including any dual key unit, must meet the following minimum sizes:

Residential unit type	Minimum net floor area
a. Studio unit	350m ²
b. 1 bedroom unit	40m ²
c. 2+ bedroom unit	55m ²

- 3.46 Again, I note the evidence of Mr Stewart in respect of this standard. Stratum has developed and refined its apartment product over a number of buildings.

Studio apartment floorplates have developed and refined to a floor area of 30-32m² and are an increasingly popular typology in Wellington. The evidence of Mr Stewart is that a 30m² minimum studio unit can achieve a successful residential outcome.

- 3.47 A reduction to a 30m² standard for studio units would therefore provide some additional flexibility from the standard set by the PDP. Invariably, the setting of minimum standards such as this is to some degree a nominal choice. But that choice has a consequence of impacting on the eventual price of the apartment product. Additional floor area equates to additional build cost, which in turn is reflected in eventual sales price. The evidence of Mr Stewart is that the difference between the existing product developed by Stratum and the proposed standard per apartment could be up to \$40,000. That difference represents a substantial impact on affordability and therefore the change sought by Stratum has a significant benefit to housing affordability.
- 3.48 I do not consider that the change sought by Stratum would result in any conflict with the CCZ objectives and policies which seek a variety of building types and size³; to provide for the diverse and changing needs of residents⁴; to efficiently optimise development capacity⁵; and to provide adequate living space⁶. Rather, the change sought proposes a reduction to ensure that an existing and refined product can continue to be delivered without encountering a regulatory barrier that will have the effect of increasing the cost of delivering studio apartments.

Standard CCZ-S10

- 3.49 The standard requires the provision of either private or shared outdoor living space. Like CCZ-S9, this is a new standard that is not currently within the ODP. The Stratum submission sought that the standard be deleted, along with a related change to CCZ-P10 discussed above at 3.4 to 3.8.
- 3.50 The standard requires the following provision of private and/or communal outdoor space⁷:
- (a) For private outdoor space, 5m² with a minimum dimension of 1.8m for studio and 1 bedroom units; and 8m² for 2+ bedroom units; and/or

³ CCZ-O2(1) and CCZ-P4

⁴ CCZ-O5(2)

⁵ CCZ-P5

⁶ CCZ-P10

⁷ As amended by and recommended in the s42A report.

- (b) For communal outdoor space, 64m² for 4-15 units with a minimum dimension of 8m, then an additional 2m² for each additional unit above 15 units.
- 3.51 Drawing on the evidence of Mr Stewart in respect of this standard, I agree that the standard should be deleted.
- 3.52 In my view, the significant costs imposed by the standard (as described by Mr Stewart) far outweigh the benefits of the standard. The impact of those costs will relate to housing affordability and development feasibility. I acknowledge that the section 32 evaluation, informed by a cost-benefit analysis of amenity and design provisions⁸, considered this point. I also note that the amenity and design provisions assessment itself acknowledged the cost impact of the open space provisions, and the impact on housing affordability (and particularly to more affordable housing).
- 3.53 Given that cost and affordability impact, I consider it would be more appropriate to remove the standard. Individual development proposals can then determine what open space provision is appropriate to a given development. Such an approach would be consistent with objective CCZ-O2 which seeks to achieve choice in building size, type and affordability.
- 3.54 I agree with Mr Stewart that the central city is unique in the range of parks, open spaces and other amenities available conveniently to residents. Resultingly, the need for dedicated open space being available to all apartments is not necessary. Suitable residential amenity within apartments can in my opinion be achieved without the need for this standard.

Standard CCZ-S12

- 3.55 Standard CCZ-S12 relates to maximum building depth. The depth of a building is limited to 25 metres before a resource consent requirement is triggered as a restricted discretionary activity.
- 3.56 The Stratum submission sought that the standard be deleted. The reporting officer recommends retaining the standard. The rationale in the s42A report is that the standard contributes to managing privacy matters and overdominance, and improves sunlight access into the centre of a site. The report notes⁹:

⁸ Wellington City District Plan Proposed Amenity and Design Provisions, The Property Group, June 2022.

⁹ At paragraph 696 of the s42A report.

This standard intends to break up the bulk of buildings so that there is not one continuous building mass running the full length of a site. The benefit it provides is that it provides for privacy, and reduces shadowing and building dominance.

- 3.57 I note that a new building¹⁰ (CCZ-R20) triggers a resource consent requirement as a restricted discretionary activity. The rule references Policy CCZ-P9 as a matter of discretion. Policy CCZ-P9 then lists the Centres and Mixed Use Design Guide as a point of consideration.
- 3.58 Resultingly, any new building¹¹ will already require resource consent with design and external appearance being a key consideration. Up to 25m in length, the design and impact of the building will be a matter addressed through application of the design guide. It is unclear why, from 25m in length, an additional resource consent trigger is required.
- 3.59 Considering the assessment criteria specified under CCZ-S12, these relate to the design of a building mitigating the effect of a long building façade, and dominance and privacy effects. Both matters can in my view be adequately assessed with reference to the Centres and Mixed Use Design Guide. I do not consider that an additional standard is required to specifically manage building length.

4. CONCLUSION

- 4.1 As detailed in my evidence, I support a number of recommendations made through the s42A report in response to the submission made by Stratum.
- 4.2 I consider however that further amendments are required to improve the operability of the CCZ chapter and resultant certainty in its application and use. I maintain particular concerns in respect of building height, minimum unit size requirements for studio apartments, and for the required provision of outdoor space.
- 4.3 I consider that the amendments recommended in my evidence will more appropriately give effect to the NPS-UD and ultimately the purpose of the Resource Management Act 1991.

¹⁰ I note that the standard does not appear to apply to additions and alterations under CCZ-R19.

¹¹ Noting Rule CCZ-R20 provides very limited scope for a new building as a permitted activity.



Mitch Lewandowski

12 June 2023