

Before the Independent Hearings Panel
Wellington City Council

Under	the Resource Management Act 1991
In the matter of	submissions and further submissions in relation to the Proposed Wellington District Plan (Wrap-up Hearing (ISPP Provisions))
By	Willis Bond and Company Limited Submitter

Statement of Evidence of Nick Owen

16 March 2023

INTRODUCTION

1. My full name is Nicholas Geoffrey Owen.

Qualifications and Experience

2. I am a Senior Development Manager at Willis Bond and Company Limited (“Willis Bond”) with experience in large scale commercial, residential and mixed-use property development.
3. I hold a Bachelor of Architecture (Honours) from Victoria University of Wellington.
4. I was a registered architect in New South Wales, Australia (NSW Registration Number 8522) from 2010 until 2021. My registration has lapsed since my return to New Zealand.
5. I have worked for several large companies in the Australian property industry, most recently, Mirvac from 2018 to 2021 as a Project Design Manager and HASSELL from 2011 to 2018 as an Associate Architect.
6. I have particular experience with the New South Wales Apartment Design Guide, having been involved in the development of multiple large-scale residential projects including, most recently, Waterloo Metro Quarter Development (Mircvac), Harbourside Re-development (Mircvac) and Central Barangaroo Development (HASSELL).
7. My recent experience is leading several projects in Wellington, including *One Tasman | Pukeahu Park*, a circa 220 dwelling residential development proposed for 1 Tasman Street, Mount Cook, Wellington. As part of the consenting process for *One Tasman | Pukeahu Park*, I have been involved in an assessment of the project against the Design Guidelines in the Proposed District Plan (“Plan”).
8. I am chair of the Willis Bond Design Review Group.

Scope of Evidence

9. Willis Bond has called me to provide evidence relating to aspects of its submission on the Plan.
10. Willis Bond is my employer and I have a financial interest in Willis Bond Capital Partners IV, a property development fund managed by Willis Bond. While this evidence represents my opinions based on my expertise and experience, I acknowledge I am not independent of the submitter.
11. I participated in the expert conferencing on the Design Guides and signed the joint statement of design experts dated 22 August 2023 (“Joint Statement”).
12. As mentioned in the Joint Statement, I stated early in the process that, to avoid any perception of bias due to my active role in development in Wellington, my preference was not to comment on the substantive

content within the Design Guides (for example, the design objectives sought). Rather, my participation focused on how the requirements in the Design Guides are framed, described and incorporated in the Plan. I continue that approach in this statement.

13. The Joint Statement notes that, where experts disagree with any of the conferencing outcomes in the Joint Statement, these matters will be addressed in their evidence for the ISPP Wrap-up Hearing.

Code of Conduct

14. I have read the Code of Conduct for expert witnesses in the Environment Court Practice Note 2023 and I have complied with it when preparing this evidence. My evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

DESIGN GUIDES

Introduction

15. Willis Bond opposed the inclusion of the Design Guides in the Plan (see submission points 416.197-416.204).
16. As an alternative, Willis Bond proposed that:
 - a. if the Design Guides are retained, they are significantly pared back and reviewed for double-up / alignment with the objectives and policies in Part 3 of the Plan; and/or
 - b. a Design Excellence Panel (or similar) is constituted for each project (with representatives agreed by Council and the developer) and is charged with ensuring the development achieves the quality urban outcomes sought by Council.
17. In my initial statement of evidence on the Design Guides (for Hearing Stream 2), I wrote:

Overall, I agree with the intent of the Design Guides and the outcomes the Design Guides seek to achieve. I am concerned, however, that there is a lack of certainty in the Design Guides and too much scope for interpretation. This is problematic given the statutory nature of the Design Guides, and the implied requirement (of varying levels) for compliance. This is likely also to lead to subjectiveness and inconsistency in the assessment of consents, prolonging consenting processes and ultimately making it more difficult to achieve the greater density proposed in the Plan.

18. I also raised issues of overlap with other District Plan and regulatory requirements and overreach where I considered certain guidelines were more appropriately placed as a rule in the Plan.

General

19. Through the expert conferencing process, the Design Guides have been extensively improved. In my view, they are now much more fit for purpose.
20. In my previous statement, I proposed drafting the Design Guides so that their requirements were objectively measurable. I used the example of the New South Wales design guide which contains criteria to assess matters such as sunlight access.
21. This approach has not been taken up in the Design Guides. Instead, the Design Guides include a series of design outcomes for which individual guidance points provide a means of compliance. Matters in the Design Guides which are capable of being objectively measured (such as internal space requirements) are included as rules within the District Plan.
22. While this approach inevitably leaves an element of subjectivity, I believe the design outcomes in the Design Guides are sufficiently workable to encourage good design while not preventing the intensification called for by the NPS-UD. Applicants can demonstrate compliance with the design outcomes by applying the guidance points or demonstrating an alternative approach.

Design Statements / Use of Guidance Points

23. While I am comfortable with the general approach to the Design Guides, I believe they would benefit from further clarification as to how applicants are to address design outcomes and guidance points.
24. It is important there is a clear process to demonstrate compliance with the Design Guides. Lack of clarity will lead to inefficiency and increased time and cost for applicants and assessors.
25. The introduction to the Design Guides is a good starting point. It recommends that applicants prepare a Design Statement which should include:
 - *A description of the site and its context*
 - *A description of the proposal*
 - *Description of which design outcomes and guidance points within the Design Guide are relevant to the proposal*
 - *Explanation of how the proposal addresses each of the relevant design outcomes and guidance points*
 - *Where relevant, explanation of any alternative approaches used to address a design outcome.*
26. The introduction should also explain the difference between *directive guidance points* and *consideration guidance points*. These are discussed by Boffa Miskell in their report (Proposed Wellington City District Plan Design Guides Review, 18 August 2023) in Table 9:

Tier	Example language	Explanation
Tier 1: directive design guidance points	Design [matter]... to... Provide for [matter]... by... Locate [matter]... to...	This approach applies to guidance points that are recognised as fundamental to achieving good design outcomes ¹⁹ . This creates an expectation that an applicant will integrate the matter into the design of the development (and explain how they have done so, through their Design Statement).
Tier 2: consideration design guidance points	Consider locating [matter]... Consider the relationship between [matters]...	The active verb in this form of design guidance is "consider". In other words, the guidance point seeks that
Tier	Example language	Explanation
	Consider opportunities to incorporate [matter]...	the applicant turn their mind to a particular matter as part of designing their proposal. This creates an expectation that an applicant explain (through the Design Statement) how they have considered the matter, but it does not create an expectation that an applicant actually integrates that matter into the design where there is a rational reason not to do so (for example, it may not be appropriate to the context, or may not align with the outcomes of the development proposal).

27. It has been suggested that the word “consider” leaves applicants free to decide not to address the guidance point. I think Boffa Miskell’s explanation makes more sense: a rational reason is required if an applicant does not incorporate a particular guidance point in their application.
28. Applicants also have the option of demonstrating compliance with the design outcomes through an alternative approach. In that case, my understanding is that applicants do not need to address the guidance points (although, of course, it may be helpful as a comparison in demonstrating why their alternative approach satisfies the relevant design outcomes).
29. I recommend that the introduction to the Design Guides is updated to make the points above clear. While they appear evident to those involved in the Design Guides, we need to ensure the Design Guides remain relevant and easy-to-understand for all users of the Plan.

Specific Comments

30. I encourage the Panel to consider the following guidance points for workability. My comments are in relation to the Centres & Mixed Use

Design Guide but equally apply to equivalent guidance points in the other Design Guides.

G4 – Vegetation and planting

31. G4 deals with planting for new developments and includes the following:

7. integrate existing established trees into the planning for planting, where they are of good quality, will contribute to achieving positive amenity outcomes, and are consistent with the development outcome for the site.

32. As Dr Farzard Zamani mentions in his expert evidence (at paragraph 37), there were disagreements among the experts as to whether this should be considered an urban design matter. I will leave it to the other experts to comment on whether this guidance point should be included.

33. However, if G4.7 is included in the Design Guides, the wording “consistent with the development outcome for the site” should be clarified further. Does this mean the applicant’s desired “development outcome” or Council’s? When will an existing tree require relocating buildings on a site?

34. G4.7 may be more appropriately expressed as a consideration point or some further italicised guidance could be included at the end of G4 which explains how it is intended to work. For example, the guidance could explain that trees are expected to be maintained if there is a solution for doing so that does not compromise the applicant’s outcomes for the site or if there is only a minor effect on those outcomes. To develop design proposals for sites, we need to understand what the threshold is to keep or remove trees.

G44 – Residential amenity

35. G44 deals with winter sunlight access for residential units:

G44. Locate and design living areas within residential units to receive winter sunlight.

36. It will not always be possible to ensure residential units receive winter sunlight. For example, there may be neighbouring buildings or a hillside which shades the units from the winter sun. In my view, G44 should start with “Where practicable”, which is the approach adopted in G45:

G45. Where practicable, avoid single-aspect south-facing residential units.

Urban Design Panels

37. In my previous evidence, I supported the use of Urban Design Panels:

42. I consider independent urban design panels are an important method of achieving quality design outcomes and I support the work Council is doing on urban design panels. Urban design panels are not appropriate for all projects, but they are useful for complex large-scale projects.

43. In my experience the urban design panel process generally extracts the best out of proposals and is suited to complex developments, where standard guidelines are not always appropriate. Urban design panels (when people with the right expertise are involved) have the ability to consider proposals "in the round" – as opposed to in isolation (based on subject expertise), balancing complex, sometimes contradicting issues. Urban design panels are typically better equipped to assess subjective design requirements than planners.

38. The Design Guides do not currently refer to Urban Design Panels, but they are mentioned in current proposed CCZ-M1:

CCZ-M1 Urban Design Panel

Subject to obtaining relevant approvals and supporting funding, Council will seek to establish and facilitate an independent, non-statutory Urban Design Panel to inform urban design assessment of relevant policies and matters of discretion that apply to significant resource consent applications as required.

39. CCZ-M1 does not offer any assurance Urban Design Panels will be used.

40. In my view, the use of Urban Design Panels with common membership across multiple large-scale projects will help ensure more balanced and consistent outcomes. Urban Design Panels allow for a diversity of views and ensure projects are not beholden to the assessment of one individual. Over time, I expect a common practice will emerge which will further help developers understand what is required for a successful application.

41. It should also be clear that the assessment of the Urban Design Panel is definitive in respect of all design aspects and will not be re-tested by Council (except, perhaps, in the case of an obvious error).



Nicholas Geoffrey Owen

5 September 2023