

DESIGN GUIDES

A WELLINGTON PERSPECTIVE

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"Draconian/narrowsighted"
"Uncertain - too much discretion"
"Intrusion on the rights of property owners"
"Increased compliance cost"
"Ultra vires under RMA"
"Will stifle creativity"

Familiar? These are some common reactions by property owners, architects, business owners and even civil libertarians to district plans where Councils have chosen to adopt design guides.

The Wellington City Council's proposed plan makes perhaps the most extensive use of design guides of all plans notified in New Zealand to date.

The above comments raise some of the many issues which will soon be debated when the Wellington City Council (and no doubt other Councils who have chosen to use design guides) hears submissions on its district plan. They are discussed below, but first some history.

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Design guidance or design control is not new - it actually dates back to ancient Rome. It is such an established feature of development controls in so

many of the world's great western cities that it is the reaction rather than the idea which seems extraordinary. But despite its essentially western heritage New Zealand has no tradition of reliance on urban design guides.

Recently they emerged in the late 1980s in a few plans around New Zealand. In Wellington, design controls were incorporated into the transitional district plan to deal with areas with strong heritage values, but more recently the proposed district plan has used them in a much wider context.

The adoption of design controls reflected the Council's frustration with events during the 1980s. The discretionary design controls in the CBD were achieved with plot ratio bonuses, and provided no real discretion or room for innovation - they just created the standard four storey podium and tower. Furthermore, the Council had learnt a real lesson from the 1980s building boom and subsequent crash, the legacy of which is seen in some architecturally mediocre buildings and empty sites around the city.

ALLOWED UNDER RMA?

The writers' view is that design guides are, in principle, valid under the RMA. The RMA does not, unlike the Town and Country Planning Act 1977 (and its 1953 precursor), make express provision for the control of building design. What it does do is give the Council the freedom to identify the resource management issues within its territory and develop solutions in response. If the sustainability of a quality of urban environment is one of those issues, the Council can then go on to develop objectives, policies, and methods of implementation.

DESIGN CONTROL - HOW?

Rules controlling building sites, yards/setbacks, height and site coverage or plot ratios all indirectly

control design, but their genesis probably lies in public health policies (in residential areas) and (in the CBD) fire and earthquake safety rather than urban design values. They are prescriptive, quantitative controls historically accepted as being necessary to meet explicit objectives such as density. But in Wellington's varied topography, the arbitrariness of some controls was sometimes thought to not only impede innovation, but also to provide no protection to urban quality.

So the horror expressed by many critics when the Council proposed to assess the way buildings look (the qualitative aspects) is at first sight surprising.

By definition, discretion over design cannot be attached to permitted activities, as all conditions of permitted activities must be "specified." Effective design control can only be exercised if an activity is controlled or discretionary. For each, the design controls need to be specified. In the case of controlled activities such specification is compulsory as each controlled activity rule must have standards and terms. The definition of "discretionary activity" provides that such activities may have guidelines as to how the discretion will be exercised, but in the instance of design we think that an openended rule with no reference points would be impractical if not invalid.

Design guides are the Wellington response to the requirement to have standards and terms and discretionary criteria. They were generally preferred by the urban designers over rules on the basis that rules may give certainty, but often result in crude design that does not necessarily achieve the particular design objective.

ELEMENTS OF DESIGN GUIDES

The cornerstone of a successful design guide is an explicit objective - a clear statement of the rationale for the design guide. In this way all users of the design guide will know what they are working towards. The objective needs to be based on well researched empirical evidence and publicly debated and accepted in order for the design controls that flow from the

objective to be accepted. The s32 analysis that the Council must undertake, consultation, and the public hearing process all forms part of this debate.

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The major issue is how to strike the balance between the Council's wish to have discretion and flexibility over design controls and the call for certainty. There are two extremes - neither of which we would support, however illustrate the point. The first may be generally lawful, but also generally bad planning. It would involve tight regulation of as many aspects of design as possible, eg. colour, bulk, material, shape, etc. It would be akin to "rules". The next would be to make everything discretionary provided that it meets an overall objective to improve amenity values in the area. It would undoubtedly be flexible but highly uncertain and therefore illegal.

So where is the balance? The writers' view is that there needs to be an element of prescription or quantitative standards for the guides to work, that is the entire design guide cannot be advisory. Just how much will depend on each design guide and will flow from the empirical evidence that the design guide is founded upon.

As for the advisory component, its role is to explain what is acceptable, though at the same time making it clear that the suggestions are not intended to fit every case. To be successful in this, the design guide must be clear and understandable - thus the need for the

use of graphics with very clear explanations.

The balance between the two will depend on each individual design guide and is a matter of policy for the urban designers rather than an issue of law. The issue of law is that the design guide makes it quite clear which parts are prescriptive and which parts are merely advisory. Any confusion on this issue could give rise to fundamental inconsistencies in administration of the design guide.

The final element, and key to a successful design guide, will be its implementation. This lies with the individual Councils and the skill base available to assess the application. If Councils do not dedicate enough resources to implementation of the design guides, they will be open to challenge, thus decreasing public confidence and acceptance of the design guide and the Council's objectives.

CONCLUSION

It is the writers' view that design guides are not only a correct but the essential response to urban design issues. A recent study of design guides undertaken by a student of the Wellington School of Architecture concluded:

"Wellington architecture will improve as a result of the introduction of design guides. There will be more consideration of the context of the development and maintenance of the character of the areas, and development standards will increase, especially at the bottom end. Creativity and innovation will still be possible on the condition that the administrators of the design guides have design training and do not use the design guides as prescriptive rules."

Finally, if design guides have the effect of deterring projects that do not meet the criteria/objectives of the design guides, would Wellington have wanted those developments anyway?

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