

Businesses of prostitution can cluster in low cost premises in suburban shopping centres due to the potential client base and relatively affordable rents. In Waitakere City, such centres include Glen Eden Mall, New Lynn and Henderson. These clusters can give rise to 'red light districts' which tend to have distinctive characteristics. Currently, the prostitution industry appears to be relatively stable with for instance the number of brothels operating remaining fairly constant. Under these conditions it is not anticipated that 'red light districts' will emerge in the town centres in the near future.

6.3. Public consultation and feedback received about the Policy

6.3.1. Consultation

Key stakeholders have contributed to the development of the Policy, including representatives of the New Zealand Police, Auckland Regional Public Health Service, the New Zealand Prostitutes' Collective and owners of local massage parlours.

Members of the public and the wider community have on two occasions been given the opportunity to express their views about drafts of the Policy.

The first feedback period held from 31 January 2005 – 14 March 2005 resulted in a total of 184 submissions, with one submission comprising a petition of nearly 200 signatures about a localised issue in Te Atatu South. Other contributors at this stage included Councillors and Community Board Chairs, and there were opportunities for specific groups to give input, including representatives of local Iwi, the Te Taumata Runanga, the Pacific Islands Advisory Board and the Waitakere Ethnic Board.

Following this feedback, further work was carried out with the Councillors to revise the Policy with several reports being presented to the Planning and Regulatory Committee in August 2005.

A second consultation exercise that occurred from 6 June to 7 July 2006 gave stakeholders a further opportunity to comment on a revised draft of the Policy. In total, 130 submissions were received predominantly from residents, with identical submissions made by 44 residents from Glen Eden, Henderson, Massey and Te Atatu South. Organisations or groups that gave feedback included: Medisafe; St Paul's Parish Massey, Te Atatu Residents & Ratepayers Association, and the New Zealand Prostitutes Collective. As a result of the comments and suggestions received, the draft Policy was further amended to help ensure that the Council can respond to residents' concerns and that any restraints over the commercial sex industry are appropriate, equitable, effective and reasonable.

6.3.2. Perceptions of the sex industry

Legitimacy of the sex industry

On the basis of feedback obtained from the public there appear to be diverse views and opinions about the commercial sex industry. Differences exist between perceptions about the legitimacy of the commercial sex industry and experiences of the realities of the commercial sex industry.

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There remains reluctance on the part of some of the public to accept that prostitution is now legal and that brothels are legitimate businesses which are legally able to operate from within Waitakere City. A sizeable number of submitters were opposed to the PRA as it decriminalised prostitution and legalised the sex industry. Several requested that the Council call for a referendum to repeal the PRA. Views that were expressed about prostitution included:

- Immoral behaviour that goes against decent social and family values
- It is not in keeping with Christian beliefs
- Prostitution is an 'evil influence' and it is 'filth' in our community
- It is morally abhorrent that it is a debatable issue
- Will create temptation for young people to enter into undesirable behaviour
- Opens up problems for future generations
- That sex is a spiritual activity and should not be devalued
- That the safety of children will be compromised by protecting the sex workers
- It contributes to a decline in the moral and social standards of our community

At the same time, clients spoke favourably about the commercial sex industry and about the brothels, with users ranging from the working to the retired, and the able bodied to the less able bodied.

Presence of brothels in residential areas

The issue of where brothels should be located in the City has for members of the public who gave feedback during the two consultation periods been the most contentious part of the development of the Policy.

There was strong opposition to the proposal to permit small brothels in residential areas across Waitakere City. Reasons for this opposition included concerns that brothels would adversely affect the character of neighbourhoods, and that this would result in negative perceptions of crime and feelings of reduced personal safety. Residents and families in particular, would be affected. Typically, it was perceived that residents would be put at greater risk from offensive behaviour, harassment, or violence due to clients visiting sexual premises or due to street prostitution.

Others reasons cited by those opposed to the establishment of brothels in residential areas included perceptions about the following:

- Safety concerns - diminished personal safety in communities, especially for children, as a result of associations of the sex industry with drugs, crime and trouble;
- Will create temptation for young people to enter into undesirable behaviour;
- Negative effect on the characteristics and atmosphere of a community;
- Social connectedness - limitations on the ability of workers and clients to integrate with other community users;
- Increased traffic problems due to clients visiting brothels and more pedestrian traffic;
- Exposure to prostitution activities of 'sensitive groups' such as religious buildings or areas, maraes, kindergartens and nurseries;

- Residential areas should be kept residential and not include commercial activities;
- Will create an adverse effect on property values;
- Not in keeping with a clean, green community;
- Impact on quality of life as people reduce their freedom of movement within the community so as not to be exposed to the sex industry; and
- Economic impact – that there will be an adverse impact on property values due to changing perceptions of the neighbourhood as a result of being associated with prostitution.

For these reasons in the main, some members of the public supported the prohibition of all brothels in residential areas. A bylaw was the most popular option for regulating the location of brothels as it was considered to be the toughest and most effective method of excluding brothels from residential areas. Auckland City bylaw was cited by some as an example, as it was viewed to be working well. In practice, there are problems with the implementation of the bylaw and Auckland City Council is facing legal challenges about it.

There was less support for the approach proposed in earlier drafts of the Policy to regulate the location of brothels according to their negative environmental effects in any given area. Small brothels would be allowed to operate in residential areas, whilst in non-residential areas brothels of any size could operate. Under this approach the provisions of the District Plan would be used to regulate the location of brothels.

Some of the public who expressed feedback were supportive of Council's proposal to allow small brothels to operate in residential areas, for reasons that include:

- A choice of working environment for sex workers with brothels being permitted across the City;
- The presence of small brothels provides a choice for sex workers as to where they work;
- A range of brothels across the City is helpful towards ensuring the safety of sex workers and their clients;
- In small brothels workers effectively work for themselves from private homes and retain control of their work, if perhaps they reject the conditions of larger clubs or perhaps if they are excluded from larger clubs due to their personal characteristics;
- Small brothels provide a way for sex workers to gradually move out of the industry;
- Brothels that are limited to industrial areas can compromise the safety of sex workers due to lack of safe street lighting, pedestrian and vehicle traffic;
- Some clients prefer the discretion offered by small brothels; and
- It is in keeping with the intent of the Prostitution Reform Act.

Sensitive sites

There is community concern over the location of commercial sex premises in the community, particularly near 'sensitive sites' that are mainly used by children, such as schools, day-care centres and playgrounds. This is partly due to a desire to limit

the exposure of children and young people to commercial sex activities and to safeguard their personal safety.

An arbitrary limitation on how close brothels could be located to schools, kindergartens, places of worship and parks was suggested by some submitters as a way of ensuring that certain groups in society would not be exposed to the activities of brothels.

Appropriate and suitable signage

On the basis of the feedback, it appears that signs that advertise commercial sexual services have the most potential to cause offence to members of the public, and to be incompatible with the surrounding characteristics of the area.

There was widespread support for strong controls to be imposed on signage for brothels in commercial and industrial areas. Any signage should be discrete, and not include images, graphic images, neon lights, obscene or inappropriate wording. If brothels are to be permitted in residential areas there was strong support to prohibit signs advertising their services, due to the potentially damaging effects, such as:

- Exposure of children to inappropriate signage;
- Could be incompatible with the nature and character of residential neighbourhoods;
- Could take away the privacy of the sex worker and perhaps compromise their safety; and
- Could take away the privacy of clients who often choose small brothels as they are more discrete than the larger outfits.

Regional Impact

There were concerns that Waitakere City could become the 'red light district' of Auckland as small brothels can be established in residential areas, which is not the case in North Shore and Auckland.

Use of 'red light' districts

Some members of the public who gave feedback suggested that 'red light' districts be established in industrial or commercial areas, so that prostitution can be taken out of residential areas. It was felt that this kind of district could have ancillary services (nightclubs, adult shops & restaurants), and that they would be easier to police and monitor.

6.4. Legal challenges and enforcement issues

In the development of the Policy consideration has been given to challenges in terms of the validity of the measures proposed and the ability to enforce these in practice.

For legal and enforcement reasons that are explained below, Waitakere City Council has chosen to regulate the location of brothels through the Resource Management Act via the District Plan. Brothels will be allowed to locate according to their adverse effects on the environment and the ability to mitigate them. Signage will be regulated through a combination of the RMA and a new bylaw to control content.

Other councils in the Auckland region have taken a regulatory and enforcement approach, by implementing bylaws to control the location of brothels and signage. However, in Auckland City and Manukau the scale of the sex industry is significantly greater than in Waitakere, and the predicted growth into suburban areas has been a key issue for the Auckland City Council.

6.4.1. Legal challenges

Unreasonable restrictions on the sex industry based on moral grounds may result in the action being declared ultra vires (beyond the powers of Council) and declared invalid if challenged. This Council has chosen not to isolate the sex industry merely on the basis of its perceived moral or ethical place in society. Parliament, through a vote of conscience enacted the Prostitution Reform Act and local authorities have a responsibility to ensure they act within the ambit of that law. The place for challenging the moral aspects lies in Parliament and not with the Council.

However, a separate issue is that unreasonable restrictions on the sex industry will discourage compliance and potentially encourage activities to operate underground and outside the ambit of the protection of the PRA.

Consequently, the Policy does not endorse a city-wide prohibition of brothels (which would be in conflict to the PRA), or prohibition of all brothels in residential areas (as not intended by the PRA).

Buffer zones have not been used to restrict the location of brothels from certain areas or sites as this would suggest that there are risks posed to the public by the existence of brothels, which would be contrary to the intent of the PRA, namely the decriminalisation of brothels and commercial legalisation of the industry.

6.4.2. Enforcement Issues

Enforcement issues arise in respect of placing controls or restrictions on the location of commercial sex businesses, particularly brothels (of any size). Any controls over the location of brothels throughout the City will need to be enforced as with any other industry, thus incurring a cost to Council by using resources to regulate an industry that is not currently a significant problem, nor is likely to be.

Various options are available to the Council to determine or influence the areas where brothels can and cannot establish, such as the use of a bylaw or the District Plan to prescriptively control the location of brothels i.e. prohibit brothels from some areas of the City. However, in practice, it is difficult to enforce the prohibition of brothels in residential areas for the following reasons:

- The Council would have to prove the business causes some adverse effect in accordance with the Resource Management Act;
- Whether the premises in fact operates as a brothel or is merely a therapeutic massage premise or some other such facility;
- To close down alleged brothels, the Council would need to prove that 'commercial sex activity' has occurred and the level of proof required for a conviction is evidence of the sexual act and payment, and where relevant,

consider existing use rights under the Resource Management Act. The elements of proof would require that Council investigation take place which may mean the Council must obtain a warrant to enter premises for the purposes of detecting a breach;

- Brothels are unlikely to comply or may be driven underground which is contrary to legislation decriminalising prostitution under the Prostitution Reform Act; and
- The Council cannot take a moral stance about the sex industry and consider brothels to be an “inappropriate” activity. However under the PRA (section 15) before granting resource consent to a brothel, Council must have regard as to whether it is likely to cause a nuisance or serious offence to any ordinary member of the public or whether it would be incompatible with neighbouring land.

Appendices

Commercial Sex Policy of Waitakere City Council

February 2007

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APPENDIX A

Explanation of Terms

In the Policy, unless the context otherwise requires, -

Amenity Values - these are those natural and physical characteristics of an area that contribute to people's enjoyment of it. People can enjoy an area because it is beautiful, because it is important as a place of recreation and leisure, and because they associate it with something that is important to them personally. What makes an area differ in its desirability, are its particular natural and physical characteristics, or amenity values. The amenity values of different landscapes and different parts of the City are identified in Part 3 of the Policy Section of the District Plan

Brothel – means any premises kept or habitually used for the purposes of prostitution; but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere or a *small brothel*

Business of prostitution - as defined by the Prostitution Reform Act 2003, Section 4, means a business of providing, or arranging the provision of, commercial sexual services.

Commercial sex activities – refer to the new definitions to be added to the City Wide Rule definitions (see Appendix B.5)

Commercial sexual services – as defined by the Prostitution Reform Act 2003, Section 4: means sexual services that -
(a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
(b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person)."

Environmental effects are defined in section 3 of the Resource Management Act 1991 as including:

- Any positive or adverse effect;
- Any temporary or permanent effect;
- Any past, present, or future effect;
- Any cumulative effect which arises over time or in combination with other effects — regardless of the scale, intensity, duration, or frequency of the effect;
- Any potential effect of high probability;
- Any potential effect of low probability which has a high potential impact.

As an example, environmental effects are often related to effects on: amenity values and character associated with particular areas (including both the natural and built environment); signage; noise; traffic and hours of opening.

Operator - as defined by the Prostitution Reform Act 2003, Section 4: means

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(1) In relation to a business of prostitution means a person who, whether alone or with others, owns, operates, controls, or manages the business; and includes (without limitation) any person who –

- (a) is the director of a company that is an operator; or
- (b) determines-
 - (i) when or where an individual sex worker will work; or
 - (ii) the conditions in which sex workers in the business work; or
 - (iii) the amount of money, or proportion of an amount of money, that a sex worker receives as payment for prostitution; or
- (c) is a person who employs, supervises, or directs any person who does any of the things referred to in paragraph (b).

(2) Despite anything in subsection (1), a sex worker who works at a small owner-operated brothel is not an operator of that business of prostitution, and a small owner operated brothel does not have an operator.

Prostitution as defined by the Prostitution Reform Act 2003, Section 4: means the provision of commercial sexual services

Sex worker – as defined by the Prostitution Reform Act 2003, Section 4: means a person who provides commercial sexual services”.

Site – as defined in the operative District Plan of Waitakere City Council, Definitions Section.

Small Brothel means any premises kept or habitually used for the purposes of prostitution:

- (a) at which not more than four sex workers work; and
 - (b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel;
- but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere.

APPENDIX B

Summary of proposed District Plan Changes

The Proposed District Plan Changes are currently subject to public consultation as part of a separate statutory process, for which submissions are due to close on 28.

APPENDIX C

Waitakere City Council urban design policy, rules and guidance relevant to commercial sex activities including brothels

The intention of this commentary is to emphasise:

1. The importance placed on urban design in town centres and commercial areas as the means of achieving high quality urban environments in Waitakere City and how the ARPS and LG(A)AA require Council to amend its District Plan to reflect this; and
2. That the District Plan has an extensive range of Policies, Rules and Assessment/Design Criteria available to effectively regulate the quality of development of any buildings proposed within in the City's various Human Environments, so they do not compromise Council's commitment to liveable, attractive, and economically sustainable, intensified town and neighbourhood centres and other surrounding urban environments. It is the intention of Council that sex industry premises are integrated into this urban design vision

C.1. Background

The pressure of increasing population in the region over recent years has highlighted the need for careful management of the growth of the City's urban, suburban, and rural environments. For the foreseeable future, it is intended that the bulk of the City's growth will be achieved through residential intensification, transport integration, business expansion and the efficient provision of services and social infrastructure in and surrounding the City's existing town and neighbourhood centres.

In relation to the Policy, it is of particular importance to recognise that a high quality of design and development of buildings, public spaces and amenities within the city's town centres is critical to ensure their future vitality, safety, sustainability and economic success.

The current emphasis on Urban Design as the means by which the quality of urban consolidation and development is managed is reflected in the interrelated strategic policies and objectives of:

- Government, through the Ministry of The Environment's Urban Design Protocol;
- Requirements of the Local Government (Auckland) Amendment Act;
- the Auckland Regional Authority's Regional Growth Policy and proposed changes to the Regional Policy Statement;
- the Regional Land Transport Policy; and
- Waitakere City's LTCCP and associated proposed changes to its District Plan.

The District Plan currently provides direction for compact urban form and design through its strategies, objectives and rules. It is recognised that they need to be updated and more clearly explained to give effect to the above legislative requirements and documents. This will ensure that the design of buildings, sites,

public spaces and the wider community environment are attractive, workable, liveable and viable.

Proposed changes to the District Plan have been notified in response to the processes required under the LG(A)AA and to give effect to policies of the Regional Growth Policy. Those proposed changes to the District Plan will provide for a more concise and broader range of policies, performance standards, rules, assessment criteria and guidelines than those in the operative District Plan. When approved, they will provide more certainty as to the standards of urban design and the quality of building developments (brothels included) that the Council expects and can enforce.

The following notified District Plan Changes propose either amendments to existing or the introduction of new Objectives, Policies and Rules to be eventually included into the District Plan:

- **Proposed Plan Change 16 – Managing City Growth**, covers Objectives and Policies;
- **Proposed Plan Change 18 – City Wide Urban Design Rules**, introduces rules that implement the urban design policies and is intended to ensure that intensification occurs with careful consideration of amenity and urban design issues; and
- **Proposed Plan Changes 13 – Hobsonville Airbase; 14 - Hobsonville Village Centre; 15 - Massey North; and 17 – New Lynn** introduce specific rules and policies for intensification and development of those individual town centres

The Prostitution Reform Act and the legitimisation of brothels may result in commercial sex activities being perceived by the community as having adverse effects on the character and amenity qualities of the City's urban environments.

Changes to the District Plan will, however, require commercial sex activities in town centres to obtain a resource consent as a Limited Discretionary Activity. It is considered that the District Plan and proposed DP Changes currently notified under the LG(A)AA process will be effective as the regulatory means by which any potential for brothels to have significant adverse effects on the City's Human Environments can be avoided or mitigated.

C. 2. District Plan and Plan Changes 13 - 18

Examples of the type of Issues, Objectives, Policies, Rules and Assessment Criteria in the District Plan and Proposed Plan Changes 13-18 are listed below.

They will (when approved) provide the strategic urban design objectives and regulatory means by which the design and location of brothels can be controlled.

It is not intended that this be a comprehensive list but it is indicative of the range of urban design issues, intentions and requirements that are covered by the District Plan. They will be applicable to the assessment of any developments involving the establishment of brothels in Waitakere City.

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(N.B. only clauses that have relevance to the discussion of the potential effects of brothels, as a legitimate commercial activity, on the urban design of town and neighbourhood centres have been selected. Some wording has been condensed):

C.3. Issues and Objectives

a). Operative District Plan – Policy Section – 5.11 Issue - Effects on Amenity Values – Landscapes, Local Areas and Neighbourhood Character

- **Objective 11:** *To achieve a quality of settlement and associated activities within each of the City's Human Environments which is sympathetic to, and protects and enhances, the dominant natural and physical (including building) features which contribute to the amenity value and the neighbourhood character of an area, including maintaining and enhancing;*
 - *The pedestrian-oriented amenity values of the town centres and the character of those areas as retail centres.*

Explanation: *This objective is concerned with protecting those aspects of the environment that are particularly valued by the community and recognising the varying character of each part of the City.*

b). Proposed Plan Change 17 – Policy Section – 5.11 Issue - Effects on Amenity Values – Landscapes, Local Areas and Neighbourhood Character

- **(new paragraph):** *Town centres have a more urban, built-up character and constant movement of people and vehicles, creating a node of activity. Intensification of activities and development in town centres and an increasing mix of uses within these centres are outcomes sought by the Plan. Poorly designed development may potentially detract from the character of town centres and adversely affect the vitality and vibrancy of these areas, in turn affecting their ability to attract further activities.*

c). Proposed Plan Change 16 – Policy Section – New chapter, 5.0 Issue - Managing Urban Growth.

- **Objective 0:** *To manage growth in such a way that will ensure that the City develops and redevelops to achieve sustainable compact urban form.....by managing the location, density, scale, form, character, timing and sequencing of urban and rural growth.*

C.4. Policies

a). Operative District Plan – Policy Section – Policies related to Objectives 10 & 11:

- **Policy 10.2:** *Activities should not emit noise such that it causes a nuisance to occupants of surrounding properties.*
This could be of importance if some brothels apply for other uses such as a bar in addition to being a Commercial Sex Activity.

- **Policy 11.11:** Signs should be designed so they do not intrude visually on the amenity of the surrounding area or detract from the neighbourhood character....
- **Policy 11.15:** Activities on main shopping streets within town centres should be designed, located and managed to promote:
 - A high standard of amenity.....
 - Interesting building facades at street level.
- **Policy 11.17:** Retail Activities should be managed to enable people and communities to provide for their social and economic wellbeing in a way that sustains and enhances the quality of commercial and community facilities and services, amenity values and general vibrancy of the City's town centres.....(including)
 - Promoting pedestrian oriented amenity values of town centres...
 - Establishing and enhancing the quality and design of buildings.
 - Recognising that the development of inappropriate retail activity can create adverse effects on the function served by and the amenity values of town centres.
 - Ensuring that the development of new retail activity does not result in adverse social and economic effects by causing a significant decline in amenity in town centres of the positive contribution made by town centres to the wellbeing of people and communities in the City.
 - Enabling potentially incompatible retail activities including those that will compromise, pedestrian oriented amenity values or residential amenities to establish in locations where adverse effects can be remedied or mitigated,

Explanation: The City's major town centres play a key role in contributing to the quality of life in the City. They are the focus of many retail activities and other community, service and residential activities resulting in a mix of often independent land uses which contribute to a sense of place and identity.

b). Proposed Plan Changes – Policy Section of the DP - These include proposed amendments and additions to existing Chapters, Objectives and Policy Clauses of the Policy Section of the Operative DP.

i). Proposed Plan Change 16 - Managing Urban Growth – Policy Section – New chapter 5.0.

- **New Policy 0.4:** When designing new urban development at the site, neighbourhood or community levels, attention should be given to the following:
 - The need for a variety of development forms,to ensure that new development is integrated with existing development, and to avoid visual monotony.
 - Provision is made for appropriate visual activity connections to streets.....including streetscape design which encourages integration of the street with adjoining development.
 - That existing community identities are recognised..... (identify and maintain or enhance local character, heritage, and cultural values).

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- Comprehensive planning is undertaken to achieve a high urban amenity standard through building design and articulation, street and access and parking area design, lighting themes and landscape treatment.
- Private development is always designed to address public places.
- Developments are managed so they continue to be maintained to a high standard.

Explanation: The importance of good design is critical to the success of urban consolidation strategies. Communities must be created which residents are attracted to and proud of. This is not an easy task. The potential for adverse effects on amenity, land use conflicts and possible social concerns, increase with increase in density. This District Plan and the mechanisms conducted in its implementation will require good design.

ii). Proposed Plan Change 18 - City Wide Urban Design Rule – Policy Section – New Policies related to Site Analysis (City Wide Rule 2)

- **New Policy 11.33:** A Site Analysis requires applicants to record the physical features or characteristics of the neighbourhood and the site.....to consider the interaction between the existing features and characteristics and how the design of the site should respond to the identified and future character of the neighbourhood. A Site Analysis is an important part of the design process....(and is required to).....to identify constraints and opportunities to ensure the proposal will relate to the surrounding context.(and) should provide a better understanding of the proposal and may provide opportunities to make changes to improve urban design and safety outcomes.

iii). Proposed Plan Change 18 - City Wide Urban Design Rule – Policy Section – New Policies related to Street Frontage (City Wide Rule 3)

- **New Policy 11.45:** Development with frontage to a street should be of a high standard in terms of layout, design and visual appearance, contributing to the development of high quality pedestrian environments within mixed use town centres and their adjoining neighbourhoods. Particular attention should be paid to:
 - Development of attractive, safe, and active streets that are well defined by their adjacent buildings.
 - Activities and development relating positively to the street, creating attractive public/private interface. The placement and design of buildings should ensure that there is a high degree of integration between buildings and the street through buildings built up close to the street edge and through the use of substantial areas of doors, windows and display space at ground and upper levels.
 - Along mainstreets and those streets with existing or potential high volumes of pedestrian traffic, provide continuous weather protection.

iv). Proposed Plan Change 18 - City Wide Urban Design Rule – Policy Section – New Policies related to Mixed Use Development Noise (addition to existing City Wide Rule – General Noise Standards)

- **Addition to Policy 10.2:** *Activities within town centres can generate varying noise effects, and should be managed so as to avoid excessive noise that conflicts with the need to encourage a mix of activities in these areas including residential and mixed use developments.*

Proposed Plan Changes 13, 14, 15 and 17 give further amendments and additions to the Policy Section of the Operative DP but they are mainly directed at the quality of the built environment, public spaces and development of defined precincts and street typologies within the specific town centres that they are addressing but the urban design objectives are essentially the same as those related to City Wide issues.

C.5. Methods of Implementing the District Plan Objectives and Policies

The District Plan identifies a number of methods for achieving its strategic intentions which include:

- statutory requirements or Rules which set performance standards for compliance as a permitted activity and assessment criteria used in assessing the extent and effects of non-compliance in discretionary applications for Resource Consent under the PRA and,
- Non statutory guidance through design guidelines and/or design advice through voluntary Resource Consent pre-application meetings and negotiations with Council staff and/or where considered appropriate, independent design reviews provided by Council appointed specialist consultants.

C.6. District Plan Rules:

a). Operative District Plan Rules

To some extent, the Operative District Plan provides performance standards, rules, assessment criteria and conditions addressing design quality issues under its various Human Environment zones and for the present these will be the predominant means by which consent applications for the establishment of brothels within those Human Environments will be controlled. Rules that will have an effect on the design and siting of a brothel in, for instance, the Community Environment, which covers most of the developable area within town centres, have various performance/design standards, criteria and conditions, which may require:

- Buildings to be of a bulk and form that is within prescribed height in relation boundary recession planes;
- Minimum distances and screening of commercial or retail buildings and their associated service facilities from adjacent Living or Open Space Environments;
- Continuous canopies over footpaths for the weather protection of pedestrians;
- Development of the frontage between buildings and the street boundary limited to pedestrian and seating areas, display space and where there is no alternative, a single access to parking behind the building;

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- Avoidance of bland exterior walls facing pedestrian streets through the use of colour, materials and articulation of the building's façade;
- Informal surveillance of pedestrian oriented public spaces to ensure that amenity, safety and security qualities are maintained and enhanced;
- 50% of ground floor facades facing the street to be glazed display space and building entrances;
- Detailed designs for landscape works and plant species to achieve visual amenity and screening of carparks, service areas etc;
- Limitations on the size, shape, positioning, wording and type of signs displayed in relation to the building's use;
- Provision of a minimum number of carparks and turning areas according to the building's use; and
- Building designs that acknowledge heritage and cultural values of the surrounding built environment and/or community context.

The above existing District Plan requirements, although relatively comprehensive, do not directly refer to the principles and outcomes of good Urban Design theory. The proposed amendments to the ARPS are more concise and require that;

b). Proposed Plan Changes 13-18 to District Plan Rules

Proposed Changes 13-18 to the District Plan will, when approved, provide a broader and more detailed set of Rules aimed at achieving higher quality urban design outcomes that enhance the built character, public spaces, streetscape and pedestrian amenity of the City's town and neighbourhood centres.

For the purposes of the Policy examples will be limited to *Proposed District Plan Change 18 – City Wide Urban Design Rule* which introduces rules that implement the DP urban design policies and is intended to ensure that intensification occurs with careful consideration of amenity and urban design issues.

Most of the existing District Plan requirements (listed in the previous section) are either included or amended to give clearer direction in the Proposed Rules but new performance/design standards, criteria and conditions, will also be introduced and put into effect through:

- City Wide Rules requiring attention to elements of design to meet increased standards of performance, appearance and assessment including;
- Site Analysis Rules;
- Streetscape Rules and building design Rules in relation to Street Frontages;
- Mixed Use development and Design Rules;
- Rules to cover noise mitigation through building design in mixed use developments;
- Concept Plans and Comprehensive Development Plans for specific town and neighbourhood centres;
- Amended and New, Human Environment Rules;
- New Design guidelines;
- Continued design advice;

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- Independent design reviews; and
- Monitoring by Consent enforcement staff of Council.

i). Proposed District Plan Change 18 – City Wide Urban Design Rules – General

To meet legislative requirements of the LG(A)AA and to give effect to the Objectives and Policies of the Auckland Regional Policy Statement and the District Plan, this Proposed Plan Change seeks to:

- *Introduce a suite of City-wide rules intended to ensure that intensification occurs only after careful consideration of amenity and urban design issues; and*
- *Create specific rules addressing apartment design, site analysis, building design in relation to street frontages, noise mitigation in mixed use development and building design for mixed use development.*

A number of the proposed new rules will be applicable to the assessment of resource consent applications for brothels and will influence their design outcomes, some relevant examples are:

ii). Proposed District Plan Change 18 – City Wide Urban Design Rule 2 – Site Analysis Rule

This proposed rule requires the applicant for a development (in this discussion, a brothel) to provide

(2.1(a)(i)) a detailed site and neighbourhood analysis of the area within 400m radius of the site.....to document the existing built form and identified future desirable character of the surrounding neighbourhood; and (2.1(a)(ii)) a design response which explains how the design of the proposed development has responded to the existing and proposed neighbourhood character.

The assessment criteria cover such issues as:

(2(a)) The extent to which the design response for the proposal ensures that the location, scale and design of the development will complement amenity values and neighbourhood character.

And also cover the extent to which various detailed elements of the design solution are an appropriate response to the natural and building opportunities and constraints inherent in the site and whether they contribute to the wider form and quality of the surrounding context. If it is considered that the proposal does not achieve the desired outcomes, then Council may, in granting the Resource Consent, impose a number of Conditions such as:

Requiring alterations to design and/or location the site.

iii). Proposed District Plan Change 18 – City Wide Urban Design Rule 3 – Building Design – Street Frontage

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Performance standards under this rule will probably have the most significant effect on the design of brothels in town centres and the requirements (listed below) for the design of building facades facing streets, especially at ground level, will give controls that can ensure that brothels don't have an unacceptable impact on pedestrian and retail activity at street level.

The street frontage design standards are related to a range of street typologies identified in this Rule and will be triggered by various urban design qualities desired in the Concept Plans and/or Comprehensive Development Plans of the specific town centres so far identified under Proposed Rule Changes 13, 14, 15, and 17.

As an example, some of the Street Frontage Performance Standards for:

Town Centre – Mainstreet Typology 1; will include requirements for:

- Buildings to be minimum two storeys of usable floor space for the full width of the street frontage of the site;
- Buildings to be built up to the street frontage (boundary) and continuous for the full width of the site,(with some exceptions);
- Carparking, loading and turning space must be located to the rear of or within the building or underground but there must be non-residential activities between the parking and the street;
- Buildings to have at least 75% of the ground floor street frontage façade as display space or glazing achieved through the use of transparent doors and windows;
- Canopies across the full width of street frontage for weather protection of pedestrians; and
- Pedestrian entrances directly accessible from the street

Building Design – Street Frontage, *Assessment Criteria 3(a) General states: all development should contribute to high standards of design, pedestrian amenity, safe and attractive streets and public places and assist in stimulating pedestrian activity by:*

- Modulation and detailing of the buildings structure through the use architectural forms, elements, materials and colour;
- Creating active street frontages and avoiding blank walls on street facades by providing extensive areas of glazing and display space especially at street level. Upper levels should use windows, balconies and other articulated elements, again to encourage active street frontages and surveillance over pedestrian areas below; and
- Providing continuous weather protection for pedestrians.

iv). Proposed District Plan Change 18 – City Wide Urban Design
Rule 4 – Building Design – Mixed Use and
Rule 1.10 – Mixed Use Development Noise

These proposed rules provide performance standards and design criteria for ensuring that; *mixed use buildings and developments are suitably designed for a range of uses now and in the future. In particular the ground floor of buildings and*

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developments need to be able to accommodate a range of Non-Residential Activities over time to ensure that the streetscape remains vibrant and interesting.

The performance standards require that:

- For any non-residential uses at the ground floor and any levels above, the internal ceiling heights for tenancies/spaces shall be no less than 3.6m; and
- Any non-residential activities within a mixed use building or development that provides for amplified music (for instance a brothel with associated bar facilities) shall comply with acoustic standards of Rule 1.10 Mixed Use Development Noise.

Assessment Criteria require that:

- On site parking, loading, vehicle access and service areas are clearly defined the use of residential and non-residential tenants:

The design criteria in City Wide Rule 4 – Appendix will be considered in assessing mixed use buildings/developments:

- Design flexibility to accommodate a variety of non-residential activities over time, including appropriate sized tenancies, flexible partitions and adaptable floor plates;
- That, non-residential activities are compatible with residential activities in the same building/development;
- That, there be a clear distinction between residential and non-residential activities and this be used as a tool to provide interest to the exterior appearance of the building/development thus ensuring the that the streetscape remains vibrant and interesting; and
- Similar issues of buildings in relation to their street frontage covered earlier in City Wide Rule 3

As with other Rules throughout the District Plan, resource consent conditions can be imposed to ensure compliance with design objectives, including for instance:

- *Requiring alterations to design and/or location.*
- *Requiring the registration of consent notices on titles, if necessary, to meet an ongoing performance standard.*
- *Limiting the scale of activities and other development.*
- *Requiring measures to attenuate potential adverse effects on residential activities in the same or an adjoining building or development.*

APPENDIX D

Bylaw No.4 Chapter 2 Public Places 1972 (Clause 244 as amended)

244 Numbering of Houses

2. Commencement

This amendment shall come into force on Monday, 1 September 2003.

3. Amendment

Clause 244 is hereby revoked and the following new clause substituted:

244 Street Numbering of Buildings

244.1 Every building shall at all times to be marked with the number allocated to that building by the Council pursuant to s.319B of the Local Government Act 1974.

244.2 If at any time the Council (in exercise of its power under s.319B of the Local Government Act 1974) alters the numbers of a building, the marking must be altered to comply with that change within one calendar month of written notification of the change being given by the Council to the owner or occupier of the building.

244.3 Building marking shall be comprised of characters which:

- (a) Subject to clause 244.4, comply with the specification in clause 244.5.
- (b) Are affixed or placed in a position which is readily visible from the street to which the building has frontage and either:
 - (i) upon a post, fence, gate or letterbox located immediately adjacent to the street boundary or
 - (ii) if there is no such post, fence, gate or letterbox, upon the building itself.

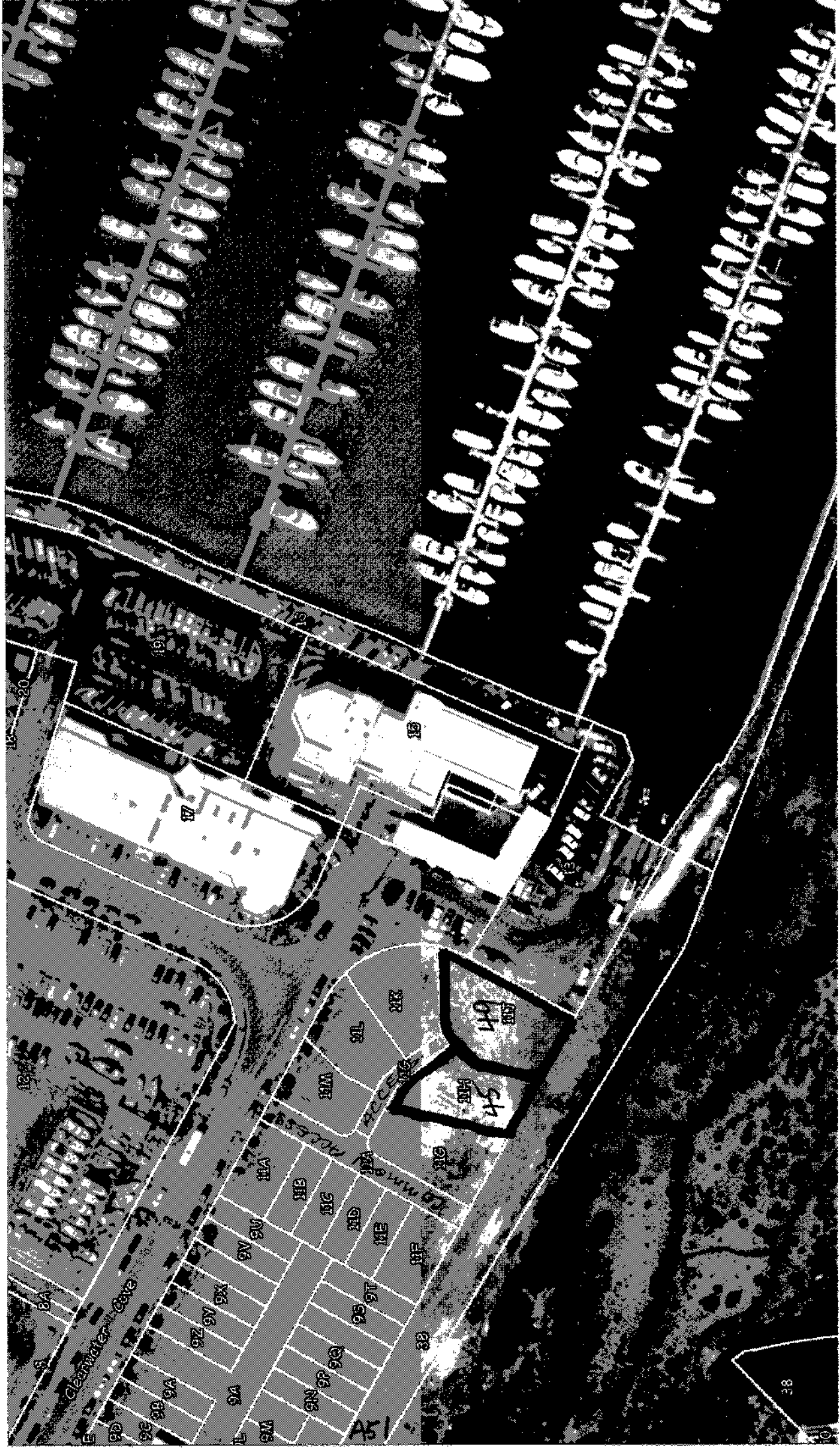
244.4 Nothing in clause 244.3 shall be construed as requiring the marking which existed on 31 May 2003, and which complied with this Bylaw at that date, to be changed or replaced prior to 31 July 2005.

244.5 Building marking shall comply with the following:

- (a) residential building shall be marked with characters which are:
 - (i) not less than 50mm in height and 30mm in overall width (except for the number "1" or the letter "?")
 - (ii) Made out of lines not less than 5mm in width.
- (b) all other building shall be marked with characters which are:
 - (i) not less than 75mm in height and 40mm in overall width (except for the number "1" or the letter "?").
 - (ii) Made out of lines not less than 5mm in width.

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- 244.6 Building marking shall be maintained in good legible and visible condition at all times. Any marking which is covered up or obscured shall be immediately uncovered. Any marking which is obliterated or defaced shall be immediately replaced.
- 244.7 Responsibility for compliance with this clause lies with the owner and occupier for the time being of any building but the fact that the owner of a building is not the occupier of that building shall not be a defence to a conviction for an offence against this Bylaw.
- 244.8 Any person who neglects for one month after written notice to mark a building in accordance with this part of this Bylaw commits an offence.



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Clearwater Gate

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