

PART 4 - GENERAL PROVISIONS AND PROCEDURES

CONTENTS.....	PAGE
4.1 CONTENT AND STRUCTURE OF PARTS 4, 4A, AND 4B.....	3
4.2 ACTIVITIES	3
4.3 RESOURCE CONSENTS	4
4.4 FINANCIAL CONTRIBUTIONS	16
4.5 SIGNS	16
4.6 ARTIFICIAL LIGHTING	17

Plan change annotations - key



Indicates where content is affected by proposed plan modification x.
Refer to plan modification folder or website for details.



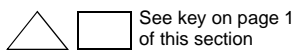
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PART 4 - GENERAL PROVISIONS AND PROCEDURES



PART 4 - GENERAL PROVISIONS AND PROCEDURES

4.1 CONTENT AND STRUCTURE OF PARTS 4, 4A, AND 4B

These Parts contain the basic mechanisms of the Plan and comprise the following components -

Part 4 : General Provisions and Procedures

This Part contains general information about activities and resource consents. It:

- sets out the procedure for making an application;
- describes the details to accompany a resource consent application and the notification procedures;
- details the matters to be considered by the Council in respect of a resource consent application and the conditions which may be imposed.

Part 4A : General Rules

This Part contains general rules, and rules which apply to activities on the Isthmus.

Part 4B : Financial Contributions

This Part contains objectives, rules and policies relating to the application of financial contributions to all types of consents and activities on the Isthmus. These contributions shall apply in all the circumstances outlined in [PART 4B - FINANCIAL CONTRIBUTIONS](#) including their application as a condition of a permitted activity.

The purpose of these three Parts is to supplement the rules, terms and procedures that appear elsewhere in the Plan.

4.2 ACTIVITIES

The type, form and scale of different activities is controlled by rules. All rules in this Plan have the force and effect of a statutory regulation. Rules enable the Council to carry out its functions under the Act and to achieve the Plan's objectives and policies. In particular, rules have been included for the following purposes:

- To manage the effects of land use and development;
- To encourage the efficient use and development of the district's natural and physical resources;
- To maintain and enhance the quality of the environment;
- To ensure appropriate development on land subject to natural hazards;

- To prevent and mitigate adverse effects associated with hazardous substances;
- To control the subdivision of land;
- To control the emission of noise and to mitigate the effects of noise;
- To maintain and enhance amenity values.

4.2.1 ACTIVITY TYPES

Activities are classified into five groups. These are:

- permitted;
- controlled;
- discretionary;
- non-complying;
- prohibited.

4.2.1.1 PERMITTED ACTIVITIES

Permitted activities are those which can proceed as of right, but must comply in all respects with relevant conditions specified in the Plan. Those conditions are expressed in the Plan as rules. In the main, such rules specify the particular development controls which an activity must comply with, eg standard building heights and setbacks, off-street parking requirements. An activity which does not comply with one or more of the relevant rules may be considered as a discretionary activity. (See [Clause 4.2.1.3 DISCRETIONARY ACTIVITIES](#)).

4.2.1.2 CONTROLLED ACTIVITIES

Controlled activities may, in some circumstances, have characteristics which can cause adverse impacts on the surrounding environment. To avoid this, additional conditions to those applying to permitted activities, can be applied relating to:

- design and external appearance of buildings and other structures;
- landscape design and site layout;
- location and design of vehicular and pedestrian access to and from the site;
- carparking;
- control of minor adverse effects on the environment.

Criteria concerning these matters are contained in the relevant activity rules. In each case, a controlled activity requires a resource consent (see [Clause 4.3 RESOURCE CONSENTS](#)).



4.2.1.3 DISCRETIONARY ACTIVITIES

The Plan provides for two types of discretionary activity.

A. Listed Discretionary Activities

Some activities, because of their scale, location, intensity, or operational characteristics require particular assessment to determine whether they are suitable, or under what circumstances they may be suitable, in certain areas. This is to avoid adverse effects on the environment of the areas. Each discretionary activity requires a resource consent (see Clause 4.3 RESOURCE CONSENTS). In each case criteria specified in the Plan and in the Act must be satisfied.

B. Development Control Modifications

The development controls adopted in the Plan have been devised to control the effects of activities on the environment and amenity of the district. The controls are those which are generally appropriate for particular areas and neighbourhoods. The Council acknowledges that not every rule will be appropriate on every site. In certain circumstances the characteristics of a site may make strict compliance with the development controls inappropriate.

The Plan therefore provides the opportunity, in such circumstances, through the resource consent process for modifications to these development controls.

Where an activity fails to meet one or more of the relevant development controls for a site it shall be deemed to be a discretionary activity; and will be assessed against particular criteria of Clause 4.3.1.2B. DEVELOPMENT CONTROL MODIFICATIONS.

4.2.1.4 NON-COMPLYING ACTIVITIES

A non-complying activity is an activity (not being a prohibited activity) which:

- Contravenes a clause in a Plan or Proposed Plan; and
- is allowed only if a resource consent is obtained in respect of that activity.

In addition rules may provide for non-complying activities.

4.2.1.5 PROHIBITED ACTIVITIES

Certain activities are expressly prohibited in the district. These are set out in Clause 4A.2C. PROHIBITED ACTIVITIES. No resource consent will be granted for a prohibited activity.

4.2.1.6 CERTIFICATE OF COMPLIANCE

An application may be made for a Certificate of Compliance. A Certificate of Compliance is issued for permitted activities and certifies that development is fully complying. Such a certificate, if granted, will state that the particular proposal was permitted on the date of receipt of the request by the Council. It is deemed to be either a land use consent or a

subdivision consent, whichever is appropriate, and has a currency of two years.

A Certificate of Compliance will not be issued for an activity which may affect any tree on the site and for which a resource consent required under Clause 5C.7.3.3 RULES : TREES has not been granted (refer also Clause 4.3.3 RULES : CERTIFICATES OF COMPLIANCE).

4.2.1.7 Other Authorities

In applying for consent to undertake development or to establish an activity, an applicant may be required to obtain consent from other authorities (eg the Regional Council). This would particularly apply where the activity or development occurs along the coast or involves discharges onto the land, or into water or air.

4.3 RESOURCE CONSENTS

The Plan provides for two types of resource consents:

- land use;
- subdivision.

Discharge and coastal permits are resource consents issued by the Regional Council.

Subdivision consents are dealt with in Part 11 (Subdivision).

This Part deals with resource consents for those land use activities referred to in Clauses 4.2.1.2 CONTROLLED ACTIVITIES - 4.2.1.4 NON-COMPLYING ACTIVITIES.

The resource consent process:

- assesses the actual and potential effects of an application;
- sets out the criteria for assessing applications;
- determines the merit of the proposal;
- imposes suitable conditions for approved applications;
- provides appeal rights against decisions.

Resource consents for land use and subdivision that involve discharge or coastal permits may require joint hearings with the Regional Council.

The following provisions deal with the requirements in respect of an application for a resource consent.

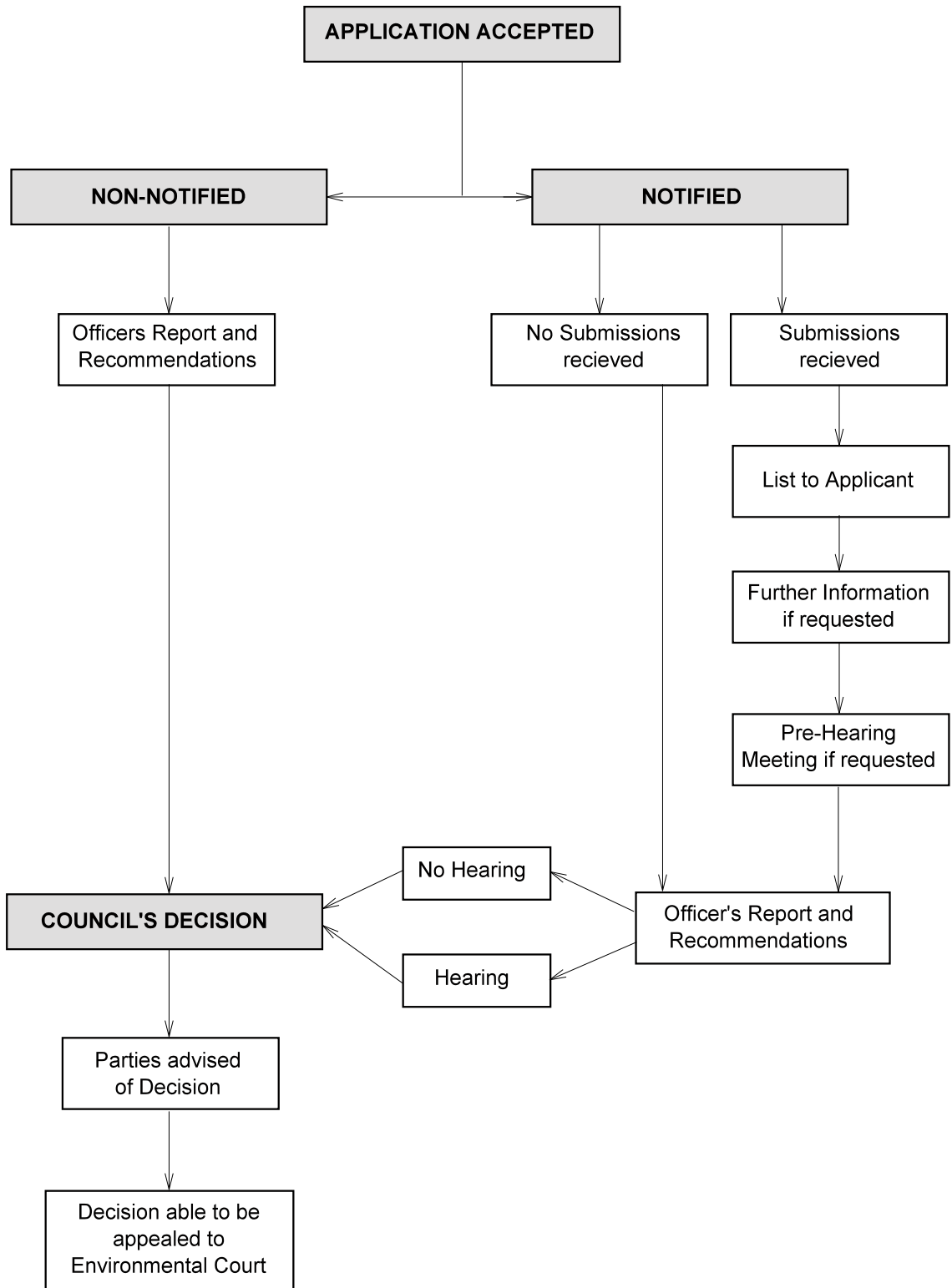
Figure 4.1 summarises the procedure.

Clause 4.3.1 contains the rules which set out the matters to be considered by the Council, and the conditions which may be imposed.

Clause 4.3.2 contains the rules which set out the information to be submitted with an application and notification details.



Figure 4.1 Resource Consent Procedure



4.3.1 RULES : MATTERS TO BE CONSIDERED

A resource consent shall be obtained for:

- (a) a controlled activity
- (b) a discretionary activity
- (c) a non-complying activity

The Council may consent to an application for a resource consent in accordance with Part V1 of the Act; having regard to the following matters.

In addition to the assessment criteria for the various activity clauses that follow, the Hauraki Gulf Marine Park Act 2000 requires the Council, when considering an application for a resource consent for the Hauraki gulf, its islands and catchments, to have regard to sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000.

4.3.1.1 CONTROLLED ACTIVITIES ASSESSMENT

Criteria and considerations which apply to controlled activities are described throughout the Plan. Applications for a resource consent for a controlled activity will be assessed according to those criteria.

4.3.1.2 DISCRETIONARY ACTIVITIES ASSESSMENT

A. Listed Discretionary Activities

Criteria and considerations which apply to particular discretionary activities are described throughout the Plan. Applications for a resource consent for a discretionary activity will be assessed according to:

- (a) The Plan's criteria;
- (b) Such matters as in the Council's opinion may be relevant to the application as expressed in the Schedule of Effects. (See Clause [4.3.1.4 SCHEDULE OF EFFECTS](#)).

B. Development Control Modification

The Council may grant a discretionary activity resource consent on an application to modify one or more of the provisions described as development controls in any part of the Plan, including Centre Plans, Growth Area Structure Plans and Business 8 zone Concept Plans (but excluding those controls for chimney heights in the Business 6 zone to which Rule [4.3.1.2C RESTRICTED DISCRETIONARY ACTIVITY](#) applies) where it is satisfied that:

- The adverse effects on the environment of such modification are minor or of little significance having regard to the Plan's express explanation of the development control; and

- The modification is not contrary to any relevant objective or policy of the Plan; and
- Conditions can be devised to avoid and mitigate any adverse effects of the proposed modification on the environment, which may include those set out in (ii) below.

When considering an application, the Council will also have regard to any unusual circumstances, including those listed in paragraph (i) below.

(i) Circumstances

- (a) Inherent site considerations; including unusual size, shape, topography, substratum, vegetation, or flood susceptibility.
- (b) Particular site development characteristics; including the location of existing buildings or their internal layout, achievement of architectural harmony or physical congruence, compliance with bylaw or engineering standards, the preservation of privacy, enhancement of private open space, outlook improvement, building restoration, or renovation of demonstrable merit, temporary buildings, provision of public facilities, the design and arrangement of buildings to facilitate access for the disabled, or legal impediments.
- (c) Unusual environmental circumstances; including adverse topography, unusual use or particular location of buildings on neighbouring sites, improved amenity for neighbouring sites, the presence of effective adjacent screening or permanent open space.
- (d) Extraordinary vehicle or pedestrian movement considerations; including the achievement of a better relationship between the site and the road, improved operation of parking areas, an adequate alternative supply of parking in the vicinity, the improved safety, convenience or efficiency of pedestrian or traffic movement on the site or adjacent roads, unusual incidence or time of traffic movement, demonstrably less than normal use intensity, and the considered need for pedestrian protection.
- (e) Modifications to the development of existing sites which are detrimentally affected by the building line restrictions and do not fully comply with the development controls for the zone, and involve works not encroaching on to land affected by the building line restriction.

(ii) Conditions

Conditions on the following matters may be imposed on any consent given:

- alterations to or removal of existing structures;



- changes to the extent of modification initially applied for;
- conformity with the plans submitted;
- consent limited as to duration or to hours of operation;
- consent particular to the applicant;
- deferment of formation of parking or building;
- ensuring that any adverse effects on stormwater drainage are avoided;
- landscaping, screening, fencing;
- location and design of vehicular and pedestrian areas to and from the site;
- noise control;
- obtaining all necessary consents and compliance with bylaws;
- open structures to be maintained as open structures;
- parking;
- particular standards for the design and external appearance of buildings;
- performance bonds or enforcement agreements;
- preservation of parts of a site for particular activities, eg open space;
- provision of information to establish a particular fact or compliance;
- restoration or renovation of existing building;
- retention and protection of existing vegetation;
- separation of buildings or activities;
- specific signage.

Scope

The extent of the modification consented to in any particular case will be determined by an assessment of the characteristics of the subject site and the design of development in relation to the characteristics of surrounding sites and developments.

The extent will be limited so that the effect on adjacent land (except where any person affected has provided written approval of the modification) in terms of the protection of amenity afforded them by the policies and rules of the Plan is small and not significant. Where this cannot be established the application will be assessed as a non-complying activity in terms of [Clause 4.3.1.3 NON-COMPLYING ACTIVITIES ASSESSMENT](#).

C. Restricted Discretionary Activity: Chimney Heights - Modification of Height Control

Where, in the Business 6 zone, the height of a chimney associated with an otherwise permitted activity is required to be increased over and above the zonal height limit (as modified by the definition of height) so as to meet any conditions of a discharge permit or a regional rule concerning discharge, the Council will consider an application for a resource consent for that activity to exceed the height limits in relation to that chimney up to a maximum total building height of 40m as a restricted discretionary activity. The criteria for assessment of an application will be -

- The extent to which the height of the chimney may affect the visual amenities of the area taking into account the following:
 - the scale and location of the chimney in relation to any nearby industrial plant and buildings;
 - the colour of the exterior materials used for construction;
 - the total number of chimneys proposed for full site development.

Where a chimney is associated with an activity which requires a resource consent under the Plan other than a restricted discretionary consent under [Rule 4.3.1.2C RESTRICTED DISCRETIONARY ACTIVITY](#) or a controlled activity, any proposed infringement of the height limit will be considered as part of the overall assessment of the application.

Note: Consent under this rule shall not remove the need to comply with or obtain consent under other parts of this Plan where necessary - see for example the provisions concerning sightlines, shafts, and flight paths.

D. Development Control Modification (Height) in Parts of the Business 5a Zone

- Where, in that part of the Business 5a zone comprising the Port of Onehunga, the height of a building which would otherwise be a permitted activity is proposed to exceed the height limit for the zone, up to a maximum total building height of 30 metres, the Council will consider an application for a resource consent as a restricted discretionary activity.

Criteria for Assessment of Restricted Discretionary Activity

Visual Amenity

The extent to which the height of the building may affect the visual amenity of the area, taking into account the following:

- Visual dominance of the building in terms of views from Onehunga Heights and the Manukau



Harbour, and views from Mangere Motorway Bridge to the north;

- Scale and location of the proposed building in relation to any nearby industrial plant and buildings;
- The type (including colour) of exterior materials used for construction; and
- Any signs proposed to be attached to or painted on the proposed building.

Cumulative Effect

The extent to which the height of the building may contribute to cumulative effects of development in the area, taking into account:

- Visual amenity of the area;
- Scale and intensity of existing development; and
- Character of the zone.

Lighting

Refer to Clause [4.6 ARTIFICIAL LIGHTING](#) of the Plan.

- (ii) Where the height of an otherwise permitted activity is proposed to exceed the height limit for the zone up to a maximum total building height of 40 metres and
- the proposed height exceeds that for restricted discretionary activities in Clause [4.3.1.2D\(i\)](#) or
 - the activity is located in a Business 5a zone elsewhere than at the Port of Onehunga,

the Council will consider an application for a resource consent as a discretionary activity.

Note: Applications to exceed the height limit for the zone to a total building height of more than 40 metres will be considered as non-complying activities (refer Clause [4.3.1.3 NON-COMPLYING ACTIVITIES ASSESSMENT](#)).

Criteria for Assessment of Discretionary Activity

Operational Port Needs

Any application must demonstrate that the proposal will be of particular benefit to the viable and efficient operation of the Port or that it has a special need to be in close proximity to the Port.

Visual Amenity

The extent to which the height of the building may affect the visual amenity of the area, taking into account the following:

- Visual dominance of the building in terms of views from Onehunga Heights and the Manukau

Harbour, and views from Mangere Motorway Bridge to the north;

- Scale and location of the proposed building in relation to any nearby industrial plant and buildings;
- The type (including colour) of exterior materials used for construction; and
- Any signs proposed to be attached to or painted on the proposed building.

Cumulative Effect

The extent to which the height of the building may contribute to cumulative effects of development in the area, taking into account:

- Visual amenity of the area;
- Scale and intensity of existing development; and
- Character of the zone

Lighting

Refer to Clause [4.6 ARTIFICIAL LIGHTING](#) of the Plan.

The Council may grant either a restricted discretionary activity or a discretionary activity consent for activities which exceed the maximum height for the Business 5a zone, as outlined in [4.3.1.2D\(i\)](#) and [\(ii\)](#) above if, after assessing the proposal against the above assessment criteria, it is satisfied that any adverse effects of the height exceedance are appropriately avoided, remedied or mitigated. Where any consent is granted, conditions may be imposed on the following matters:

- The extent of modification to the height limit initially applied for;
- The design and external appearance of buildings, including signs and connecting conveyors;
- Location of the building;
- Separation of the building from other buildings or activities.

E. Development Control Modification in the Residential 8 zone

- (i) Where, in the Residential 8 zone, the construction and/or relocation of residential units (including external additions) or any new building (including accessory buildings) seeks to modify one or more of the development control rules of the Residential 8 zone, the Council may grant a discretionary activity resource consent where it is satisfied that;
- The proposal has demonstrated that it meets the Design Element Objectives and related Criteria of the development control rule it seeks to modify, within the “Residential Design Guide for



Developments in Residential zones in Growth Areas”, as set out in Appendix 10 and

- The adverse effects on the environment of such modification are minor or of little significance having regard to the Plan’s express explanation of the development control rule and the "Residential Design Guide for Development in Residential Zones in Growth Areas" explanation of the relevant Design Element.

(ii) Where in the Residential 8 zone a Planned Unit Development is proposed that has a minimum land area of between 9000m² - 10,000m² (1 hectare) the Council will consider an application for a resource consent as a restricted discretionary activity.

The application will be required to demonstrate that the area of land provided is adequate to ensure an integrated development that complies with the criteria of Clause 7.7.5.3C3.

(iii) Where the activity involves the construction and/or relocation of residential units (within the density limits specified in Clause 7.7.5.2B) or any new building (including accessory building), on a site located within 30 metres of a business or mixed use zone, which seeks to modify one or more of the development control rules of the Residential 8 zone, in addition to the criteria listed in (i) above, the proposal will be assessed against the criteria in Section 7.7.5.2C3.

Any consent given may be subject to one or more of the conditions outlined in Clause 4.3.1.2 B (ii) Conditions. The scope of any consent will be limited to that set out in Clause 4.3.1.2 B Scope.

F. Development Control Modification in the Residential 6 & 7 Zone

Where, in the Residential 6 & 7 zone, the construction and/or relocation of 4 or more residential units on a site seeks to modify one or more of the following development control rules, the Council may grant a discretionary activity resource consent where it is satisfied that;

- The proposal has demonstrated that it meets the stated objectives of each Design Element and the following Criteria of the development control rule it seeks to modify, within the "Residential Design Guide for Developments in Residential zones in Growth Areas", as set out in Appendix 10
 - Maximum Height (Section 7.8.1.2) - Element 5 - Criteria C2 & C14
 - Building in Relation to Boundary (Section 7.8.1.3) - Element 5 - Criteria C1, C2, C10, C11 & C12
 - Maximum Building Coverage (Section 7.8.1.4) - Element 5 - Criteria C2, C3 & C5

- Minimum Landscaped Permeable Surface & Maximum Paved Impermeable Surface (Section 7.8.1.5 & 7.8.1.6) - Element 8 - Criteria C1 - C4 & Element 5 - Criteria C4
- Yards (Section 7.8.1.7) - Element 5 - Criteria C1 & C3
- Private Open Space (Section 7.8.1.8) - Element 10 - Criteria C2 & C3
- Vehicular Use of Residential Sites (Section 7.8.1.9) - Element 9 - Criteria C1, C2 & C4.
- Noise (Section 7.8.1.10) - Element 7 - Criteria C1 - C3
- Screening of Storage and Service Areas and Parking Spaces (Section 7.8.1.11) - Element 11 - Criteria C1, C2, & C6,
- The adverse effects on the environment of such modification are minor, or of little significance having regard to the Plan's express explanation of the development control rule and the "Residential Design Guide for Development in Residential Zones in Growth Areas" explanation of the relevant Design Element.

Any consent given may be subject to one or more of the conditions outlined in Clause 4.3.1.2 B (ii) Conditions. The scope of any consent will be limited to that set out in Clause 4.3.1.2 B Scope.

[G. Development Control Modification - Fences, Walls and other structures in the Residential 1 and 2 Zones

163

(i) Where, the construction of any fence, wall or other structure, seeks to modify development control rule 7.8.1.15 in the Residential 1 zone, the Council may grant a restricted discretionary activity resource consent where it is satisfied that;

- The wall, fence or other structure does not obscure the architectural character of the existing building on the site, and maintains the traditional visual link and the interactive relationship between the building and the street; and
- Materials used are sympathetic to the existing building on the site and to adjacent period buildings and do not detract from the special character of the streetscape; and
- The scale and form of walls, fences and other structures reflects the historic form and pattern of development along the street and does not destroy or detract from the continuity or harmony of existing fences along the street; and
- The adverse effects on the environment of such a modification are minor having regard to the Plan's express explanation of the development control rule and to the "[Architectural Design Guidelines for the](#)



Residential 1 and 2 zone" (Appendix 13).

(ii) Where the construction of any fence, wall or other structure, seeks to modify development control rule 7.8.1.15 in the Residential 2a, 2b and 2c zones, the Council will restrict its discretion to the following criteria:

- The wall, fence or other structure maintains the traditional spaciousness and landscape qualities of the front yard that are appreciated from the street; and
- Where there are period walls or fences along a street, the scale and form of proposed walls, fences and other structures does not destroy or detract from the continuity or harmony of existing period walls or fences along the street; and
- Where there are no period walls or fences along a street, the scale and form of proposed walls, fences and other structures is consistent with existing walls, fences or structures in the street and/or immediate neighbours; and
- On roads classified as district arterials, regional arterials or strategic routes, a solid structure can be considered for noise attenuation purposes. The design shall include modulation of solid elements, planting bays and climbing plants to mitigate adverse visual effects on the subject property or the wider streetscape.
- The adverse effects on the environment of such a modification are minor having regard to the Plan's express explanation of the development control rule and to the "Architectural Design Guidelines for the Residential 1 and 2 zone" (Appendix 13) and to the relevant zone-specific fencing criteria 7.5.2 (Residential 2 zones) of the "Architectural Design Guidelines for Residential 1 and 2 zone" where properties are subject to demolition and removal controls as identified on maps [163] and make the application of the Guidelines appropriate to the particular site and its streetscape context.

Any consent given may be subject to one or more of the conditions outlined in clause 4.3.1.2B (ii) Conditions. The scope of any consent will be limited to that set out in clause 4.3.1.2B Scope.

H Development Control Modification of Minimum Size of Residential Units

1. Development Control Modification of 'Minimum Size of Residential Units in the Residential 6 & 7 zone' rule, section 7.8.1.16

(i) Where a development of 4 or more residential units in the Residential 6 or 7 zone proposes to infringe the 'Minimum Size of Residential Units

in the Residential 6 & 7 zone' rule, section 7.8.1.16 of the Plan, Council will consider an application for resource consent as a discretionary activity.

Criteria for Assessment of Discretionary Activity

An application to reduce the minimum size of residential units will be assessed against the following assessment criteria:

- The potential adverse effect on the internal amenity of future occupants of residential unit(s) as a result of the proposed reduction in size of unit(s) from the minimum levels
 - The number of bedrooms of the proposed residential unit(s)
 - The minimum required floor area per residential unit of 35m² for studio units and 45m² for 1 bedroom units is considered the minimum area necessary to ensure an acceptable level of internal amenity for occupants of these units. Any proposal to reduce the minimum size of these units, will generally not be supported by Council.
 - The extent to which the following factors associated with each residential unit mitigate against the potential adverse internal amenity effect of the reduction in minimum unit size:
 - the proposed size, configuration, orientation and functioning of each component space, which forms part of the residential unit as a whole. The component spaces include living, kitchen / eating, laundry, bathroom, storage and bedroom space.
 - the type, size and usability of private open space associated with each residential unit
 - the type, size and usability of communal areas / facilities associated with each residential unit
 - The scale or size of the infringement of the rule. This includes how much of a shortfall per residential unit and how many residential units per development the shortfall applies to
 - The maximum design occupancy and proposed occupancy of the residential unit.
 - The degree of sunlight and daylight admission into living / dining areas and bedrooms.
- 2. Development Control Modification of 'Minimum Size of Residential Units in the Business 2 & 3 zone' rule, section 8.8.1.12.1D**
- (i) Where a residential development within the Business 2 & 3 zone proposes to infringe the



'Minimum Size of Residential Units in the Business 2 & 3 zone' rule, section 8.8.1.12.1D of the Plan, Council will consider an application for resource consent as a discretionary activity.

The criteria for assessment of any such application are listed in Section 4.3.1.2H.1, above.

I. Restricted Discretionary Activity: Development Control Modification - Fences, Walls and other structures in the Residential 3a and 3b zones 192

Where, the construction of any fence, wall or other structure, seeks to modify development control rule 7.8.1.16 (Fences, walls or other structures in the Residential 3a and 3b zone), the Council may grant a restricted discretionary activity resource consent where it is satisfied that:

(i) If in the Residential 3a zone:

- The wall, fence or other structure does not obscure the architectural character of the existing building on the site, and maintains the traditional visual link and the interactive relationship between the building and the street; and
- Materials used are sympathetic to the existing building on the site and to adjacent period buildings and do not detract from the special character of the streetscape; and
- The scale and form of walls, fences and other structures reflects the historic form and pattern of development along the street and does not destroy or detract from the continuity or harmony of existing fences along the street; and
- The adverse effects on the environment of such a modification are minor having regard to the Plan's express explanation of the development control rule.

(ii) If in the Residential 3b zone:

- The wall, fence or other structure maintains the traditional spaciousness and landscape qualities of the front yard that are appreciated from the street; and
- The scale and form of walls, fences and other structures does not destroy or detract from the continuity or harmony of existing period walls or fences along the street; and
- On roads classified as district arterials, regional arterials or strategic routes, a solid structure can be considered for noise attenuation purposes. The design shall include modulation of solid elements, planting bays and climbing plants to mitigate adverse visual effects on the subject property or the wider streetscape.

- The adverse effects on the environment of such a modification are minor having regard to the Plan's express explanation of the development control rule.

Any consent given may be subject to one or more of the conditions outlined in clause 4.3.1.2B (ii) Conditions. The scope of any consent will be limited to that set out in clause 4.3.1.2B Scope.] 192

4.3.1.3 NON-COMPLYING ACTIVITIES ASSESSMENT

Under Part VI of the Act, the Council may not grant an application for a resource consent for a non-complying activity unless it is satisfied that:

- (a) Any effect on the environment will be minor; or
- (b) Granting the consent will not be contrary to the objectives and policies of the Plan.

In considering whether to grant consent to an application for a non-complying activity, the Council will have regard to:

- i) any actual or potential effects of allowing the activity, and the assessment of effects required under Clause 4.3.1.4 SCHEDULE OF EFFECTS; and
- ii) Section 104(1), of the Act.

In granting consent to a non-complying activity, the Council may apply one or more of the conditions outlined in Clause 4.3.1.5 CONDITIONS.

4.3.1.4 SCHEDULE OF EFFECTS

Where an assessment of the effects of an activity on the environment is required, the assessment shall be done in accordance with the Fourth Schedule to the Act. In order to assist an applicant in this process, ANNEXURE 9 gives a guide to the range of effects which may need to be addressed and the mitigation measures which may be appropriate.

4.3.1.5 CONDITIONS

In granting consent to an application, the Council may impose conditions, restrictions and prohibitions as it thinks fit, including conditions which require positive effects on the environment so as to offset any adverse effects associated with the land use. Such conditions may relate, but are not limited to, (except in the case of controlled activities), conditions set out in Clause 4.3.1.2B DEVELOPMENT CONTROL MODIFICATION and in addition the following:

- financial contributions including contributions of
 - cash
 - esplanade reserves on development
 - land
 - services;
- works, including the planting or replanting of any tree or



PART 4 - GENERAL PROVISIONS AND PROCEDURES

other vegetation or the restoration or enhancement of any natural or physical resource;

- a requirement that an administrative charge be paid to the Council for any specified matter in accordance with Section 36 of the Act or any regulations;
- amalgamation of titles;
- bonds, in respect of the performance of any one or more conditions of the consent;
- management procedures including the sequencing of critical aspects of the activity;
- modification to or removal of existing building;
- modifications to the extent of the activity initially applied for;
- obtaining any necessary building consents under the Building Act 1991;
- protective covenants on titles of adjacent land to secure parking on that land;
- riparian management;
- restoration of the natural environment;
- restriction on type of use permitted or maintenance of particular uses;
- a covenant capable of registration under the Land Transfer Act 1952, in respect of the performance of any condition of the resource consent;
- natural resource management;
- such other conditions as may be necessary to allow a resource consent to be granted in terms of objectives, policies and explanations for rules set down in this Plan.

4.3.1.6 CHANGES TO OR CANCELLATION OF CONDITIONS

Once a resource consent is granted, an application may be made to the Council to change or cancel any condition imposed on an activity as part of that consent (other than a condition as to the duration of that consent). The application may be made at any time specified for that purpose in the consent, or on the grounds that a change in circumstances has caused the condition to become inappropriate or unnecessary.

If the original resource consent application had been notified then the application to change or cancel a condition must also be notified. However the application may not be required to be notified where -

- (i) The Council is satisfied that any adverse effect of an activity will
- continue to be minor, or
 - remain unchanged or decreased

as a result of the proposed change or cancellation to the condition, and

- (ii) The written approval of every person who made a submission or who lodged an appeal on the original application or who may be adversely affected by the change is obtained (unless the Council considers it unreasonable in the circumstances to obtain every such approval).

4.3.2 RULES : LAND USE RESOURCE CONSENT APPLICATIONS

Forms for resource consent applications are available at Council offices.

4.3.2.1 INFORMATION

A. Details

The following information shall be submitted with any application for a resource consent:

- (a) a description of the site including existing uses, buildings, topography and vegetation, including information on the extent and nature of any fill on the site, any indication of earth movement and a description of any habitats (eg bush areas, wetlands and streams) any heritage item or sites scheduled in Appendices 1, 2, 3 or 4 of the Plan that the activity may adjoin or modify;
- (b) a description of the activity for which consent is sought;
- (c) a statement specifying all other resource consents that the applicant may require from any consent authority in respect of the activity to which the application relates, and whether or not the applicant has applied for such consents;
- (d) an assessment of any actual or potential effects that the activity may have on the environment and the ways in which those adverse effects may be mitigated.

In the case of a discretionary or a non-complying activity resource consent application, the assessment shall

- be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment; and
- be prepared in accordance with the Clause [4.3.1.4 SCHEDULE OF EFFECTS](#);

- (e) certificates of title for the subject sites;



- (f) drawings illustrating the proposal. (Refer Clause B. DRAWINGS).
- (g) Where consent is required under Clauses 7.7.5.2C and 7.7.5.3C (Residential 8 zone Controlled/Discretionary Activities), or under Clause 7.7.1 for the construction and/or relocation of 4 or more residential units on a site (within the density limits specified in Clause 7.7.2.1) within the Residential 6 & 7 zones, the applicant shall undertake a site and context analysis and a design response as set out in Appendix 10 - The Residential Design Guide for Developments in Residential Zones in Growth Areas.

B. Drawings

In addition to the above information, any application for land use consent shall include a set of drawings illustrating the proposal. Two full-scale copies of each drawing are required, and one copy reduced to A4 size.

The drawings must include the details set out in paragraphs (a), (b), (c) and (d) below, as applicable -

- (a) a drawing showing the location of the site, with road name, property number and north point.
- (b) a site plan of the property (at a scale of not less than 1:200) showing:
- site boundary lengths and other dimensions in metres;
 - location with distances to site boundaries, of all existing buildings which are to remain on the site, and all proposed buildings and structures (including where applicable, eaves, balconies, courts and verandahs);
 - proposed use of each building;
 - position of any easement over the site;
 - position, location and dimensions of every parking and loading space (headroom dimensions are also required where parking or loading is within or under a building) and the proposed access and manoeuvring areas including the location and width of footpath crossings necessary to serve such space;
 - kerb lines adjacent to the site and the position of any street trees;
 - levels on the site boundaries and around any buildings except in cases where the site is less than 1000m², or has a uniform grade of less than 1 in 10. Contours of the site;
 - proposed retaining walls, excavations and landfill;
 - proposed landscaping (particularly where this is a requirement of the rules for the zone).

Dimensioned areas of the landscaping should be shown together with all existing and proposed sealed areas;

- where relevant, appropriate shadow diagrams or models showing overshadowing envelopes on adjacent properties;
 - watercourses and drainage and sewerage pipes within and adjacent to the site;
 - the means proposed to deal with all stormwater and sanitary drainage;
 - the location of any existing protected trees (see definition of 'protected tree' in [PART 13 - INTERPRETATIONS AND DEFINITIONS](#)) on the site indicating the extent of the natural dripline (branch spread), the trunk diameter and the height of the tree in metres. Any protected tree located on adjacent land, where the dripline extends onto the site shall also be indicated on the drawings in order that any effects on such trees can be considered. (This applies particularly to protected trees which may be located on or near the boundary of abutting land).
- (c) a floor plan of each building (at a scale of not less than 1:100) showing:
- use of all parts of the building, including basements, parking, lift towers, storage or service areas;
 - room layout of the building, if this is known, and a clear identification of the use of different rooms or parts of a floor.
- Where several floors are of the same area and use, a standard floor plan may be shown.
- (d) elevations of each building (at a scale not less than 1:100) showing:
- external appearance of the building including doors and windows;
 - number of floors and their proposed usage;
 - building heights and height in relation to any boundary;
 - relative height of new buildings fixed in terms of a datum;
 - maximum permitted height marked;
 - any additional height requested;
 - original ground levels along boundaries at 1m intervals in relation to the datum used.

Drawings submitted under paragraphs (a), (b) and (d) above will be made available for public inspection by the Council. Drawings submitted under paragraph (c) above



PART 4 - GENERAL PROVISIONS AND PROCEDURES

will be made available for public inspection in the case of an application which is notified.

4.3.2.2 FURTHER INFORMATION

Further information may be required from an applicant where it is considered necessary to better understand the nature of the activity, the effect it may have on the environment, or the ways in which adverse effects may be mitigated. The Council may also commission a report, at the applicant's expense, on any matters raised in relation to the application or on any environmental assessment or effects. Such a report may be commissioned where:

- the application includes a natural hazard; or
- the use or storage of a hazardous substance occurs; or
- the activity the subject of the application may, in the opinion of the Council, give rise to significant adverse environmental effects which are not adequately remedied or mitigated.

4.3.2.3 NOTIFICATION

Sections 95A - 95F of the Act set out the requirements for determining whether an application for a resource consent shall be notified.

4.3.2.4 NOTIFICATION PROCEDURE

The notification process is carried out in accordance with the requirements of Section 95A - 95F of the Act. This procedure involves preparing a notice in the forms set out in the Resource Management (Forms) Regulations 1991 (Form 6) and serving copies of it on the following people as appropriate:

- Owners and occupiers of the subject land;
- Minister of Conservation;
- Historic Places Trust;
- Persons likely to be directly affected;
- Iwi authorities;
- Other persons and authorities.

The notice is also required to be published in the newspaper.

The notice will give details of the application and give the closing date for submissions to be received by the Council. Submissions must be in writing and may be made by any person. They should be sent to the Council office nominated in the notice.

The costs involved with the notification process will be included as part of the administrative charge to be paid by the applicant.

4.3.2.5 RESTRICTED CONTROLLED ACTIVITIES

Except as provided for by Section 94C(2) of the Act, the following controlled activities will be considered without public notification or the need to obtain the written approval of or service notice on affected persons and will be assessed according to matters the Council has reserved control over in the Plan.

- Buildings and structures erected in the Coastal Management Area except where located within a Coastal Protection Yard (refer to Clause [5B.7.1 BUILDINGS AND STRUCTURES](#)).
- The provision of network utility services or any other works to be carried out within the dripline of any tree on unzoned land or road (refer to Clause [5C.7.3.3B\(b\)](#)).
- The construction and/or relocation of residential units (within the density limits specified in Clause [7.7.2.1 DENSITY](#)) or any new building in Residential ~~1-4~~ [3a](#), ~~3b and~~ [4](#) zones (refer to Clauses [7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES](#) and [7.7.3 CONTROLLED ACTIVITIES](#)) and Residential 8 zones. 163 192
- External additions or alterations to existing buildings on the site in Residential ~~1-4~~ [3a](#), ~~3b and~~ [4](#) zones (refer to Clauses [7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES](#) and [7.7.3 CONTROLLED ACTIVITIES](#)). 163 192
- External additions to existing buildings on a site in the Residential 8 zones.
- Any wall, fence or other structure within the front yard required by Clause [7.8.1.7A FRONT YARD](#) in Residential ~~1- and~~ [3a](#) zone (refer Clause [7.7.3.2F CRITERIA FOR ACTIVITIES](#)). 163 192
- Earthworks of greater than 500m² where the average slope of the area subject to earthworks is less than 5% (refer Clause [4A.2B CONTROLLED AND DISCRETIONARY ACTIVITIES](#))
- Earthworks of greater than 250m² where the average slope of the area subject to earthworks is 5% or more (refer Clause [4A.2B CONTROLLED AND DISCRETIONARY ACTIVITIES](#))
- Controlled floor area as provided for in the site intensity control in Business 2, 3, 4 and 5 zones and the Mixed Use Zone. (refer to Clauses [8.7.1 ACTIVITIES IN BUSINESS 1,2,3,4,5,5A AND 6 ZONES](#) and [8.7.2 CONTROLLED ACTIVITIES](#)).
- Public toilets in all business zones (refer to Clauses [8.7.1 ACTIVITIES IN BUSINESS 1,2,3,4,5,5A AND 6 ZONES](#) and in the mixed use zone and [8.7.2](#)



CONTROLLED ACTIVITIES).

- Residential units in Business zones 2, 3 (refer to Clauses **8.7.1 ACTIVITIES IN BUSINESS 1,2,3,4,5,5A AND 6 ZONES** and the Mixed Use Zone and **8.7.2 CONTROLLED ACTIVITIES**). Any activity identified as a restricted controlled activity in other Parts of the Plan.
- Construction and/or relocation of new buildings, including external additions to existing buildings and accessory buildings in the Mixed Use Zone.
- Any activity identified as a restricted controlled activity in other parts of the Plan except earthworks greater than 1 metre in depth below ground level within the Limited Earthworks Corridor in the Sylvia Park Business 8 zone (G14-15 Concept Plan).

4.3.2.6 RESTRICTED DISCRETIONARY ACTIVITIES

Except as provided for by Section 95A(4) of the Act, the following discretionary activities will be considered without public notification or the need to obtain the written approval of or serve notice on affected persons. The Council will restrict the exercise of its discretion for those matters specified in the Plan for each particular activity.

- Any activity identified as a restricted discretionary activity in the Mixed Use Zone: Orakei Point.
- The demolition, removal, alteration or addition to any non-scheduled building in a Conservation Area (refer to Clause **5C.7.2.3B DEMOLITION, REMOVAL, ALTERATION.**)
- Vehicle access across the dripline of any tree in a road (refer to Clause **5C.7.3.3B(c) - Vehicle Access and Trees on Roads**).
- The cutting, damaging or destruction of any tree or the carrying on of any work within the dripline of any tree, all as more fully described in Clause **5C.7.3.3C GENERAL TREE PROTECTION**.
- Any use, development or subdivision of land subject to flooding and instability (refer to Clause **5D.6 RULES : NATURAL HAZARDS**).
- The construction of any culvert other than in a road or public reserve.
- Applications to reduce the private open space requirements in residential zones and the Mixed Use Zones.
- Residential units in the Business 1 zone (refer to Clauses **8.7.1 ACTIVITIES IN BUSINESS 1,2,3,4,5,5A AND 6 ZONES** and **8.7.3 DISCRETIONARY ACTIVITIES**).
- Activities (identified with a # mark in Clause **8.7.1 ACTIVITIES IN BUSINESS 1,2,3,4,5,5A AND 6**

ZONES) which are subject to a threshold effect assessment as restricted discretionary activities in Business zones 2, 3, 4 and 5 (refer to Clause **8.7.1.1 THRESHOLD EFFECT**) and the Mixed Use Zone.

- Any activity identified as a restricted discretionary activity in other Parts of the Plan [(unless already listed elsewhere under this clause).] 163
- Removal of trees from any road or unzoned land except where the tree is dead, dying, or in a dangerous condition so as to require immediate removal (refer to Clause **5C.7.3.3B(a) Protection of Trees on Roads and Unzoned Land**).
- [The construction and/or relocation of residential units or any new building in Residential 3a and 3b zones (refer to Clauses **7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES** and **7.7.4 DISCRETIONARY ACTIVITIES**).
- External additions or alterations to existing buildings on the site in Residential 3a and 3b zones (refer to Clauses **7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES** and **7.7.4 DISCRETIONARY ACTIVITIES**).
- The total or substantial demolition or removal (more than 30% by volume) of any building (excluding accessory buildings) constructed prior to 1940 in the Residential 3a and 3b zones.
- Application to modify one or more of the standards for fences, walls or other structures in the Residential 3a and 3b zones.] 192
- The construction and/or relocation of residential units or any new building in Residential [1], 2a, 2b and 2c zones (refer to Clauses **7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES** and **7.7.4 DISCRETIONARY ACTIVITIES**), 163
- External additions or alterations to existing buildings on the site in Residential [1], 2a, 2b and 2c zones (refer to Clauses **7.7.1 ACTIVITIES IN THE RESIDENTIAL 1-7 ZONES** and **7.7.4 DISCRETIONARY ACTIVITIES**), 163
- The total or substantial demolition or removal (more than 30% by volume) of any building (excluding accessory buildings) constructed prior to 1940 in the Residential [1], 2a, 2b and 2c zones on sites identified on the maps [163]. The 30% threshold applies to the combined volume of demolition of any building after 29 May 2005. 163
- Application to modify one or more of the standards for fences, walls or other structures in the Residential [1], 2a, 2b and 2c zones.] 163



PART 4 - GENERAL PROVISIONS AND PROCEDURES

Except as provided for by Section 95A(4) of the Act, the following discretionary activities in Business 5 and 6 zones will be considered without public notification. Service of notice will not be required if all persons who may be adversely affected have given their written approval. The Council will restrict the exercise of its discretion for those matters specified in the Plan for each particular activity.

- Bulk stores
- Offices provided that the gross floor area shall not exceed 100m²
- Restaurants, cafes and other eating places provided that the gross floor area shall not exceed 100m²
- Retail premises provided that the gross floor area shall not exceed 100m²
- Warehousing and storage
- Workrooms

4.3.3 RULES : CERTIFICATES OF COMPLIANCE

An application for a Certificate of Compliance shall include all relevant information prescribed by Clause [4.3.2.1 INFORMATION](#). The Council may require further information to be provided in accordance with Clause [4.3.2.2 FURTHER INFORMATION](#).

A Certificate of Compliance may be issued subject to one or more conditions specified in Clauses [4.3.1.2B\(ii\) - Conditions](#) and [4.3.1.5 CONDITIONS](#). Refer also to Clause [4.2.1.6 CERTIFICATE OF COMPLIANCE](#).

4.4 FINANCIAL CONTRIBUTIONS

Clause deleted by Council decision.

4.5 SIGNS

4.5.1 RESOURCE MANAGEMENT OBJECTIVE AND POLICIES

Objective

To ensure that any adverse effect arising from the location, construction, size and maintenance of signs on the amenity of a particular area or on public safety is avoided or reduced to an acceptable level.

Policies

- By requiring the construction, form and type of sign to meet defined structural and safety standards.
- By applying different controls on the design and content and size of signs in relation to the particular zone they are located in.

4.5.2 RESOURCE MANAGEMENT STRATEGY

Signs can contribute to the character and vibrancy of a city and to its economic growth. However, without proper control, they can adversely affect the amenity of an area, for example through the over-proliferation of signs. The appropriateness of the size, type and form of a sign alters depending on the receiving environment around it. The conservation areas, heritage buildings and sites, the open space and residential zones of the City are high amenity areas. Signs located in these areas must be sympathetic to this amenity and should therefore be limited in size and number. Special purpose zones are identified by their focus on social and cultural resources and in these areas should be limited to those that provide information on these resources.

Signs in business zones and Mixed Use zone have the opportunity and flexibility to advertise products and services in a variety of ways provided the signs do not significantly alter the physical appearance of a building, are not a danger to public safety and do not adversely affect access to public land.

Methods

The Council has considered the available methods for achieving the above objective and policies and has concluded that in general the most appropriate form of control is by means of bylaw rather than rules in the District Plan. In 1994 the Council adopted Part 27 of the Auckland City Consolidated Bylaw. Part 27 of the Bylaw provides comprehensive controls on the location, construction and maintenance of signs in terms of the above strategy.

In general, the Plan leaves the controls of signs on the Isthmus to the provisions of the Bylaw. However there are exceptions to this:

- i) Any sign which is part of an activity or development requiring a resource consent under this Plan will be assessed, considered and either approved or declined as part of that resource consent process;
- ii) Any sign on a scheduled item, except a tree, the subject of the provisions of [PART 5C - HERITAGE](#) - Heritage will be controlled by the provisions of that Part (Note: No sign may be attached to a tree);
- iii) Signs specifically controlled by other Parts of the Plan eg, [PART 5E - HAZARDOUS FACILITIES](#).



Where the structure required to support a sign is a building or construction in terms of the definition in [PART 13 - INTERPRETATIONS AND DEFINITIONS](#) of the Plan, then the structure must meet the development controls applicable to the site in which it is to be located.

The criteria for assessing signs which form part of an application of a resource consent are contained in the activity assessment criteria for the relevant zone and in Part 4. Criteria for signs on scheduled items are contained in Part 5C, particularly Clause [5C.7.1.3C](#). Where other Parts of the Plan control signs, the criteria for assessment are found in that Part of the Plan. For provisions on all other signs refer to the Consolidated Bylaw

4.6 ARTIFICIAL LIGHTING

4.6.1 RESOURCE MANAGEMENT OBJECTIVES AND POLICIES

Objective

To ensure that artificial lighting does not have a significant adverse effect on the environment and on the amenity values of the surrounding area.

Policies

- By controlling the intensity, location and direction of artificial lighting so as to avoid light spill and glare onto other sites.
- By controlling where appropriate the use of artificial lighting where it will extend the operation of outdoor activities into night-time hours.

4.6.2 RESOURCE MANAGEMENT STRATEGY

Artificial lighting is used throughout the district to provide safety and security to sites and activities. It also is used to enable work, recreational and entertainment activities to occur beyond normal daylight hours. Unless artificial lighting is used with care it can adversely affect adjoining properties, through light spill and glare. It can also lead to changes in night sky viewing conditions in situations where floodlighting is concentrated in an area.

Methods

The Council has considered the available methods for achieving the above objective and policies, and has concluded that in general the most appropriate form of control is by means of bylaw rather than rules in the District

Plan. In 1991 the Council adopted the Auckland City Consolidated Bylaw. [PART 13](#) of the Bylaw contains rules to limit the amount of light falling on land and buildings with a residential use.

In general the Plan leaves the control of artificial lighting to the provisions of the Bylaw. However there are exceptions to this:

- Any artificial lighting which is part of an activity or development requiring a resource consent under this Plan will be assessed, considered and either approved or declined as part of that resource consent process;
- Any artificial lighting with an illuminance over a defined lux, is a discretionary activity. Refer [PART 7 - RESIDENTIAL ACTIVITY](#), [PART 8 - BUSINESS ACTIVITY](#), [PART 9 - OPEN SPACE AND RECREATION ACTIVITY](#) and [PART 10 - SPECIAL PURPOSE ACTIVITY](#) of the Plan.

The criteria for assessing artificial lighting which form part of an application for a resource consent are contained in the activity assessment criteria for the relevant zone and in Part 4. Criteria for artificial lighting in excess of a defined lux is contained in the relevant activity Part of the Plan. For provisions on all other forms of artificial lighting refer to the Consolidated Bylaw.

