

PROSTITUTION REFORM ACT 2003 – Decisions on submissions and further submissions.

1.0 Background

The Strategy and Policy Committee considered a report in April 2004 which recommended changes that could be made to the District Plan and city bylaws in response to the Prostitution Reform Act 2003 (PRA). The recommended changes took into account the response to a PRA Discussion Document that was consulted on over February to April 2004.

A Section 32 Report was prepared as part of the Plan Change which evaluated the proposed changes. The Section 32 Report also considered the effectiveness of alternatives and methods were also analysed and evaluated.

Council approved the promulgation of Plan Change 5 on 3 August 2004. Thirteen submissions and two further submissions were received.

2.0 Legislative framework

The PRA was enacted in June 2003. It decriminalises prostitution and provides a framework that is concerned with safeguarding the human rights of sex workers and promotes their occupational health and safety. The key issues arising from the PRA as it relates to Territorial Authorities (TAs) are specified in Sections 12 to 15.

TAs may make bylaws to control signage that advertise commercial sexual services (Section 12 of the PRA) and regulate the location of brothels of any scale but not extending to other businesses of prostitution (Section 14 of the PRA).

Section 15 states that a TA, when considering whether to issue a resource consent for a business of prostitution (i.e wider than brothels), must have regard to whether the business of prostitution is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated or is incompatible with the existing character or use of the area in which the land is situated.

Therefore the PRA provides for bylaws controlling the location of brothels but not the location of commercial sexual services and specifically recognises that the District Plan is capable of requiring resource consent for businesses of prostitution.

In regard to a city or district prohibiting brothels entirely the advice from Local Government New Zealand is that this would be unlawful. However brothels and commercial sexual services could be excluded from certain parts of the city.

It should be noted that a bylaw can be challenged at any stage (even if it is passed by Council) as to its validity on the grounds of reasonableness and, if found unreasonable, it may be declared invalid by the Courts. By contrast a District Plan rule, once in force after the statutory process, cannot be challenged on the ground of unreasonableness and therefore is a more powerful and certain process. A District Plan rule would override a bylaw in the event of a conflict of interpretation. Thus it is

considered that it is more appropriate to use the District Plan to control the location of brothels and commercial sexual services because a District Plan rule offers greater certainty once in place and allows control over brothels and commercial sexual services.

3.0 Current provisions in the District Plan

Brothels and commercial sexual services fall under the definition of Commercial Activity in the District Plan.

Resource consent is required for brothels and commercial sexual services to establish in all Residential Activity Areas unless they fall within the ambit of home occupations as defined in the District Plan.

Brothels and commercial sexual services are Permitted Activities in the Central Commercial, Petone Commercial and Suburban Commercial Activity Areas but are not permitted in the Special Commercial Activity Area – Station Village.

In General and Special Business Activity Areas brothels and commercial sexual services are Permitted Activities. However in the Avalon and Extraction Activity Areas they are not a Permitted Activity.

Brothels and commercial sexual services are not Permitted Activities in all Recreation Activity Area's.

Brothels and commercial sexual services are Permitted Activities in the General Rural and Rural Residential Activity Area.

In the Community Health Activity Area brothels and commercial sexual services are not Permitted Activities unless they fall within the ambit of home occupations.

Brothels and commercial sexual services are not Permitted Activities in the Community Iwi Activity Areas except as a home occupation in the Community Iwi Activity Area 1 – Marae.

4.0 Proposed Plan Change 5

Plan Change 5 (as notified) does not amend any of the District Plan's Issues, Objectives and Policies but seeks to insert two definitions in the District Plan and amend the rules for each activity area as follows.

Changes to Chapter 3 – Definitions

Chapter 3, "Definitions". Make amendments to the following:

1. **Add** to Chapter 3 the following definitions:

"Brothel – as defined in the Prostitution Reform Act 2003."

"Commercial sexual services – as defined in the Prostitution Reform Act 2003."

Changes to Chapter 5 – Commercial

Chapter 5A, “Central Commercial Activity Area”. Make amendments to the following:

2. **Add to Rule 5A 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

3. **Add to Rule 5A 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services in the area shown in Appendix Central Commercial 6. “

Chapter 5B, “Petone Commercial Activity Area”. Make amendments to the following:

4. **Add to Rule 5B 2.1.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on the ground floor of buildings.”

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Add to Rule 5B 2.2.1 “Permitted Activities” the following:

“Brothels and commercial sexual services.”

Chapter 5C, “Suburban Commercial Activity Area”. Make amendments to the following:

5. **Add to Rule 5C 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on the ground floor of buildings.”

6. **Add to Rule 5C 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Chapter 5D(ii), “ Special Commercial Activity Area - Boulcott Village”. Make amendments to the following:

7. **Add to Rule 5D(ii) 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Changes to Chapter 6 –Business

Chapter 6A, “General Business Activity Area”. Make amendments to the following:

8. **Add to Rule 6A 2.4** “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Chapter 6B, “Special Business Activity Area”. Make amendments to the following:

9. **Add to Rule 6B 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Changes to Chapter 8 – Rural

Chapter 8A, “Rural Residential Activity Area”. Make amendments to the following:

10. **Add to Rule 8A 2.3** “ Discretionary Activities” the following:

“Brothels and commercial sexual services not falling within the ambit of home occupation.”

Chapter 8B, “General Rural Activity Area”. Make amendments to the following:

11. **Add to Rule 8B 2.3** “Discretionary Activities” the following:

“Brothels and commercial sexual services not falling within the ambit of home occupation.”

Changes to Chapter 14B – General Rules Signs

12. **Add to Rule 14B 2.3** “Restricted Discretionary Activities” the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

13. **Add to “Matters in Which Council has restricted its discretion and Standards and Terms”** the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

(i) Design, location, size and appearance of signs

The extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

(ii) Traffic effects

The extent to which the proposed signs will adversely affect traffic safety.

5.0 Statutory Process

Once Council has made its decisions it must give public notice of the fact that it has made its decisions, which shall include the reasons for accepting or rejecting any submissions. The District Plan shall be deemed to have been amended in accordance with those decisions from the date of the public notice.

Amendments to the Plan Change as notified cannot go beyond what is reasonably and fairly raised in submissions. However Council may initiate a variation to the Plan Change at any time before the approval of the Plan Change.

A person who made a submission on the Plan Change may appeal to the Environment Court within 30 working days of service of the notice of decision of the Council.

6.0 Recommended decisions on submissions and further submissions

Thirteen submissions were received with a total of thirty nine decisions sought. The majority of submissions opposed to the Plan Change wanted it to be more restrictive with several submissions seeking to prohibit brothels and commercial sexual services from the Residential Activity Areas, Commercial Activity Area and any site near schools and other places where children may frequent. Several submissions also wanted brothels and commercial sexual services to always be dealt with as a notified resource consent.

Submissions in support of the Plan Change generally sought that it not be unnecessarily restrictive in regard to limiting where brothels can be established and to allow businesses of prostitution to operate as a home occupation where they meet the existing conditions of a home occupation.

A recommendation is made to either, accept, reject or accept in part each submission. Several submissions are accepted which do not require an amendment to the Plan Change as they are general statements of support.

Two changes to the Plan Change as notified are recommended. The first relates to signage with four submitters seeking that the content of signage be controlled. The Plan Change had made signage advertising brothels and commercial sexual services a Restricted Discretionary Activity with discretion restricted to design, location, size,

height and appearance. While it could be argued that content is part of design and appearance it is considered that the submissions have merit and the inclusion of the word 'content' would increase the certainty of the provision.

The second change relates to all Commercial and Business Areas where the following are Discretionary Activities, "Brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area." One submitter sought two different decisions which relate to the rule. The submitter requested that brothels and commercial sexual services be treated the same as other adult focused entertainment businesses and stated that buffer zones are contrary to the aims of the Prostitution Reform Act.

It is considered that the rule, and specifically the use of 'adjacent' creates a buffer zone that is undefined and open to interpretation therefore introducing uncertainty to the provisions. Also the use of 'adjacent' is not consistent with the approach taken in other provisions of the District Plan where 'abutting' has been used.

DPC05/01	D1	Desmond and Gillian Ford
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Request of Submitter

The submitter seeks that people establishing brothels (including Home Occupations in residential areas) contact and apply for permission from all residents within 400 metres of the property they intend to operate from and obtain appropriate approval by publicly notified resource consent.

Specific Comments

Whether a resource consent application is notified is determined on a case by case basis under section 93 of the Resource Management Act 1991 (RMA). Where the environmental effects of an activity are expected to be more than minor the application must be publicly notified. If the effects are expected to be no more than minor and those people Council considers to be adversely affected have given written approval the application need not be notified. If people who may be adversely affected have not given written approval the application will be notified on a limited basis. Accordingly a standard 400m rule is not in keeping with the RMA.

For an activity to be classed as a home occupation several conditions must be complied with. The conditions ensure that home occupations have environmental effects that maintain amenity values. As discussed in the Section 32 Report small-scale brothels operating from dwelling houses as home occupations, are unlikely to be noticeable from other types of home occupations and adverse effects are likely to be minor.

Officer's Recommendation

It is recommended that the submission lodged by Desmond and Gillian Ford be **rejected** and the provisions of the Plan Change remain without change.

DPC05/01	D2	Desmond and Gillian Ford
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Request of Submitter

That no brothels or commercial sexual services be allowed to operate without applying for the appropriate permission from all of the neighbouring businesses within 400 metres of the proposed site for anywhere in Lower Hutt via resource consent.

Specific Comments

The RMA is an effects based framework which requires activities to be managed by the environmental effects an activity generates. As discussed in the Section 32 Report it is considered that the environmental effects of brothels and commercial sexual services will not be incompatible with other activities permitted in the Business, Suburban Commercial (above ground floor level), Petone Commercial (above ground floor level), and the Central Commercial Activity Areas (except the Central Commercial Area 6) and accordingly will not require resource consent.

Officer's Recommendation

It is recommended that the submission lodged by Desmond and Gillian Smith be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D1	Murray Smith MP
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Request of Submitter

That the rules provide greater limitation on the location of brothels and commercial sexual services.

Specific Comments

The Plan Change will provide greater limitation on the location of brothels and commercial sexual services than currently exist in the District Plan. The Plan Change has taken into account public comments expressed after the release of the Prostitution Discussion Document and alternative methods and approaches have been analysed in the Section 32 Report which accompanied the Plan Change.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D2	Murray Smith MP
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Request of Submitter

That sexual services be excluded from the definition of "home occupations".

Specific Comments

For an activity to be classed as a home occupation several conditions must be complied with. The conditions ensure that home occupations have environmental effects that maintain amenity values. As discussed in the Section 32 Report small-scale brothels operating from dwelling houses as home occupations, are unlikely to be

noticeable from other types of home occupations and adverse effects are likely to be minor.

Officer’s Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D3	Murray Smith MP
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Request of Submitter

That brothels and other commercial sex services should be prohibited in residential, commercial, recreational or other special areas other than Petone Commercial Activity Area 2 and that the establishment of premises for commercial sex services should be limited to Industrial and Rural areas.

Specific Comments

The approach taken in the District Plan has been to establish activity areas where activities with similar effects are permitted without resource consent, subject to meeting conditions. This approach means that brothels and commercial sexual services have been permitted in activity areas where the effects are expected to be compatible with other activities in the area. Each activity area has been considered separately in the drafting of provisions as outlined in paragraphs 21 to 36 of the Section 32 Report. Brothels and commercial sexual services will require resource consent in the Residential, Rural and Recreational Activity Areas and parts of the Commercial Activity Areas where it is considered brothels and commercial sexual services may be incompatible with existing uses. Brothels and commercial sexual services will not be permitted in the Rural Activity Area without resource consent due to amenity value considerations. The industrial parts of the city are mostly within the Business Activity Area where brothels and commercial sexual services will be permitted.

Officer’s Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D4	Murray Smith MP
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Request of Submitter

That Council should prohibit street soliciting and that the definition of street soliciting should be looked into.

Specific Comments

The issue of street soliciting is best dealt with through bylaws as it is an activity carried out on legal road rather than through the District Plan. This approach is considered acceptable given that street soliciting has not been an issue in Hutt City in the past.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D5	Murray Smith MP
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Request of Submitter

Commercial sex services in the central commercial district should be prohibited, both in respect of ground floor and upper floor premises, particularly in Petone Commercial Activity Area 1.

Specific Comments

The approach taken in the District Plan has been to establish activity areas where activities with similar effects are permitted without resource consent, subject to conditions. This approach means that brothels and commercial sexual services have been permitted in activity areas which allow activities with similar effects. Each activity area has been considered separately in the drafting of provisions as outlined in paragraphs 21 to 36 of the Section 32 Report. Resource consent will be required for ground floor brothels and commercial sexual services in Petone Commercial Activity Area 1 and all brothels and commercial sexual services in Central Commercial 6 as these areas require window displays and because it is considered that brothels and commercial sexual services would adversely affect amenity values and compromise the character of these areas. Further, some of the land use activities in Central Commercial Area 6 are family or child orientated and brothels and commercial sexual services are likely to be offensive to ordinary members of the public using this area.

Brothels and commercial sexual services on the upper floors of premises in the Petone Commercial Activity Area 1 are anticipated to have effects that are not incompatible with the surrounding environment and therefore will be permitted.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D6	Murray Smith MP
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Request of Submitter

That the proposed restriction on commercial sex services be extended to 200 metres from specified public places and from any border with a non-complying activity area.

Specific Comments

Rules in the District Plan need to be specific and enforceable. A rule specifying that resource consent is required for brothels or commercial sexual services within 200m of certain public places would not be specific enough given the difficulty in determining which public places would be included and where exactly the 200m area extends. However the Plan Change recognises that in some public areas, due to the presence of child and family orientated entertainment, such as Central Commercial 6, resource consent is required as such activities could be offensive to ordinary members of the public using the area. The Plan Change also requires resource consent for

brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre school facilities, churches and other similar religious establishments or a residential activity area.

Officer’s Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D7	Murray Smith MP
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Request of Submitter

That all commercial sex services should be Discretionary or Restricted Discretionary Activities rather than being Permitted Activities.

Specific Comments

The approach taken in the District Plan has been to establish activity areas where activities with similar effects are permitted without resource consent, subject to conditions. This approach means that brothels and commercial sexual services have been permitted in activity areas where the effects are expected to be compatible with other activities in the area. Each activity area has been considered separately in the drafting of provisions as outlined in paragraphs 21 to 36 of the Section 32 Report. It would be difficult to justify requiring brothels and commercial sexual services to obtain resource consent in the commercial and business activity areas given the range of activities permitted in those areas.

Officer’s Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D8	Murray Smith MP
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Request of Submitter

The submission supports signage as a Restricted Discretionary Activity, with ‘content’ included as a discretionary factor.

Specific Comments

As discussed in the Section 32 Report it is acknowledged that explicit signs advertising brothels and commercial sexual services could have an adverse effect on amenity values and be offensive to members of the public. The Plan Change had restricted discretion to the extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area, are likely to cause a nuisance or serious offence to ordinary members of the public and to the extent the signs are likely to be incompatible with the existing character or use of the area. However it is considered that inclusion of the word ‘content’ would clarify what matters can be assessed when considering a resource consent application for signage.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **accepted** and the provisions of the Plan Change are amended by adding the word 'content' after the word 'design' in the provisions relating to signage as follows.

Add to Rule 14B 2.3 "Restricted Discretionary Activities" the following:

"In all Activity Areas all signs advertising brothels and commercial sexual services."

Add to "Matters in Which Council has restricted its discretion and Standards and Terms" the following:

"In all Activity Areas all signs advertising brothels and commercial sexual services."

(i) Design, content, location, size, height and appearance of signs

The extent the design, content, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, content, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, content, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

DPC05/02	D9	Murray Smith MP
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Request of Submitter

That Council should also avoid the creation of significant red light districts by prohibiting a brothel being situated within 200 metres of another brothel.

Specific Comments

It is anticipated that areas of notoriety will not develop given that brothels have been present in Hutt City for sometime without a 'red light' district developing as is the case in other cities. As the Plan Change allows brothels to be established in several parts of the city without resource consent the likelihood of areas of notoriety developing is considered to be small. Further, the cumulative effect of granting resource consent can be taken into account where resource consent is required.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/02	D10	Murray Smith MP
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Request of Submitter

That all applications for commercial sex services will need to have conditions attached to them and all applications should be notified.

Specific Comments

Conditions are attached to resource consents where they are considered necessary which is dependent on the nature of the effects of the proposal. Conditions are attached to avoid, remedy or mitigate adverse environmental effects and must be within Council's powers under section 108 of the RMA. Conditions must be for resource management purposes, certain, relevant to the subject matter of the consent and be fair, reasonable and practical.

Whether a resource consent application is notified is determined on a case by case basis under section 93 of the RMA. Where the environmental effects of an activity are expected to be more than minor the application must be publicly notified. If the effects are expected to be no more than minor and those people Council considers to be adversely affected have given written approval the application need not be notified.

Officer's Recommendation

It is recommended that the submission lodged by Murray Smith MP be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D1	Hutt City Hall Trust
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Request of Submitter

That prostitution be prohibited in all residential areas.

Specific Comments

A resource consent will be required for a brothel in all residential areas and a full assessment of environmental effects undertaken in accordance with the RMA. When considering a resource consent for a business of prostitution in accordance with section 15 of the Prostitution Reform Act 2003 (PRA) regard must be had to whether the business is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated or is incompatible with the existing character or use of the area in which the land is situated. Therefore a full consideration of environmental effects will be undertaken when considering a consent application for a brothel in a residential area before deciding if the activity is appropriate or not in a particular location.

Officer's Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D2	Hutt City Hall Trust
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Request of Submitter

That prostitution be prohibited in all retail areas and all other areas where families visit and/or young people frequent and that prostitution should be a discretionary activity in all other areas.

Specific Comments

The Plan Change and Section 32 Report recognises that in some public areas, due to the presence of child and family orientated entertainment, such as Central Commercial Area 6, resource consent is required as such activities could be offensive

to ordinary members of the public using the area. The Plan Change also requires resource consent for brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre school facilities, churches, other similar religious establishments and any residential activity area.

Officer's Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D3	Hutt City Hall Trust
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Request of Submitter

That "sensitive sites" be extended to include all family and children oriented areas of public activity such as maraes, supermarkets, public pools, playgrounds, community facilities and recreational halls, open public spaces and major transport facilities and to extend the distance to not within 400 metres of all these sites.

Specific Comments

Rules in the District Plan need to be specific and enforceable. A rule specifying that resource consent is required for a brothel or commercial sexual services to locate within 400m from such a wide variety of places would be difficult to implement. It would also be very difficult to determine which public places would be included and where exactly the 400m area extends. The Plan Change does recognise that in some public areas, due to the presence of child and family orientated entertainment, such as Central Commercial Area 6, resource consent should be required as such activities could be offensive to ordinary members of the public using the area. The Plan Change also requires resource consent for brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre school facilities, churches and other similar religious establishments or a residential activity area.

Officer's Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D4	Hutt City Hall Trust
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Request of Submitter

The submitter seeks to extend the area of Petone, where brothels and commercial sexual services are excluded from being established at ground floor level, to include the bulk retail areas west of Victoria Street to the Hutt Road intersection.

Specific Comments

Jackson Street, between Victoria Street and Cuba Street, mainly consists of one and two storey buildings with small frontages with commercial and retail activity at the ground floor level. The area has a distinctive built form, style and character. As such it is considered that the character and amenity of the Petone Commercial Activity Area 1 may be compromised if brothels were to be established as most of the buildings have commercial or retail shopfronts. However as discussed in the Section

32 Report the area to the west along Jackson Street is an area for large scale vehicular orientated retail activities and is well separated from residential areas and would not suffer a loss of character or amenity values.

Officer’s Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D5	Hutt City Hall Trust
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Request of Submitter

The submitter seeks to exclude brothels and commercial sexual services from all retail shopping precincts in the Hutt Valley or at least exclude from the ground floor of these areas.

Specific Comments

Brothels and commercial sexual services will require resource consent at ground floor level of all Suburban Commercial Areas, Central Commercial Area 6 and the ground floor of the Petone Commercial Activity Area 1. These areas encompass the majority of retail precincts in Hutt City. It was considered in the Section 32 Report that the area to the west along Jackson Street is an area for large scale vehicular orientated retail activities and is well separated from residential areas and therefore would not suffer a loss of character or amenity values if a brothel was to establish in the area. The Central Commercial Area (excluding Central Commercial 6) has a range of activities that generate effects that are considered to be similar to those created by a brothel and commercial sexual services.

Officer’s Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/03	D6	Hutt City Hall Trust
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Request of Submitter

That all brothels and commercial sexual services should be licensed annually and comply with all relevant Council bylaws, the Health Act 1956, the Building Act 1991 and the Building Regulations 1992, and to display this license in a prominent place.

Specific Comments

The matter above is not within the ambit of the Plan Change and falls under the relevant legislation contained in the submission.

Officer’s Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

Request of Submitter

That there should be only one brothel within 400 metres of any other to prevent areas of notoriety developing.

Specific Comments

It is anticipated that areas of notoriety will not develop given that brothels have been present in Hutt City for sometime without a 'red light' district developing as is the case in other cities. Because the Plan Change allows brothels to be established in several parts of the city without resource consent the likelihood of areas of notoriety developing is considered to be small. Further, the cumulative effect of granting resource consent can be taken into account where resource consents are sought to take into account the effect of brothels locating in one area.

Officer's Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

Request of Submitter

That the provisions relating to signage be extended to include any sexually explicit, lewd or otherwise offensive visual material, and that they are not illuminated by flashing lights or by neon lights or be visible from any residential area and that if this is not included in the District Plan it could be achieved by a bylaw.

Specific Comments

As discussed in the Section 32 Report it is acknowledged that explicit signs advertising brothels and commercial sexual services could have an adverse effect on amenity values and be offensive to members of the public. The Plan Change had restricted discretion to the extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area, are likely to cause a nuisance or serious offence to ordinary members of the public and to the extent the signs are likely to be incompatible with the existing character or use of the area. However it is considered that inclusion of 'content' would clarify what matters can be assessed when considering a resource consent application for signage.

Officer's Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **accepted** and the provisions of the Plan Change are amended by adding the word 'content' after the word 'design' in the provisions relating to signage as follows.

Add to Rule 14B 2.3 "Restricted Discretionary Activities" the following:

"In all Activity Areas all signs advertising brothels and commercial sexual services."

Add to "Matters in Which Council has restricted its discretion and Standards and Terms" the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

(i) Design, content, location, size, height and appearance of signs

The extent the design, content, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, content, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, content, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

DPC05/03	D9	Hutt City Hall Trust
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Request of Submitter

That a bylaw be established to prohibit soliciting.

Specific Comments

The issue of street soliciting is best dealt with through bylaws as it is an activity carried out on legal road rather than through the District Plan. This approach is considered acceptable given that street soliciting has not been an issue in Hutt City in the past.

Officer’s Recommendation

It is recommended that the submission lodged by Hutt City Hall Trust be **rejected** and the provisions of the Plan Change remain without change.

DPC05/04	D1	Andrew Percival Thomas
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Request of Submitter

Prohibit prostitution from areas children frequent such as residential areas and shopping centres and within 400 metres of schools, community centres and places of worship.

Specific Comments

Rules in the District Plan need to be specific and enforceable. A rule specifying that resource consent is required for a brothel or commercial sexual service within 400m of certain public places would not be specific enough given the difficulty in determining which public places would be included and where exactly the 400m area extends. However the Plan Change recognises that in some public areas, due to the presence of child and family orientated entertainment, such as Central Commercial 6, resource consent is required as such activities could be offensive to ordinary members of the public using the area. The Plan Change also requires resource consent for brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre school facilities, churches and other similar religious establishments or a residential activity area.

Officer's Recommendation

It is recommended that the submission lodged by Andrew Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/05	D1	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

That Council acts consistently with other legislation such as Prostitution Act 2003 and the Bylaws Act 1910.

Specific Comments

The Plan Change is consistent with Sections 12 - 15 of the PRA as it specifies that territorial authorities can make bylaws to control signage that advertise commercial sexual services and regulate the location of brothels of any scale but not extending to other businesses of prostitution. Section 15 provides that when considering whether to issue a resource consent for a business of prostitution that the territorial authority must have regard to whether the business is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated or is incompatible with the existing character or use of the area in which the land is situated.

Officer's Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** to the extent that the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected** and the provisions of the Plan Change remain without change.

DPC05/05	D2	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The submitter urges Council to allow brothels and commercial sex services in the same way they would allow for bars and other adult entertainment focussed businesses.

Specific Comments

The Plan Change generally treats brothels and commercial sexual services in the same way as bars and other adult entertainment focused premises to the extent that resource consent is not needed in commercial areas and business areas – except Central Commercial 6 and Petone Commercial Activity Area 1 (ground floor) as outlined in the Section 32 Report. The Plan Change does however require resource consent to be obtained in areas where brothels and commercial sexual services are on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other religious establishments or a residential activity area.

This requirement is not in place for other adult entertainment focused activities and it is considered the word 'adjacent' is not specific enough and could result in problems implementing the provision. Also the use of 'adjacent' is not consistent with the wording used in other provisions of the District Plan where only 'abutting' is used.

Officer's Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** and the provisions of the Plan Change are amended by removing the words 'adjacent to' from the following provisions;

Chapter 5A, "Central Commercial Activity Area". Make amendments to the following:

Add to Rule 5A 2.3 "Discretionary Activities" the following:

"Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area."

Add to Rule 5A 2.3 "Discretionary Activities" the following:

"Brothels and commercial sexual services in the area shown in Appendix Central Commercial 6."

Chapter 5B, "Petone Commercial Activity Area". Make amendments to the following:

Add to Rule 5B 2.1.3 "Discretionary Activities" the following:

"Brothels and commercial sexual services on the ground floor of buildings."

"Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area."

Add to Rule 5B 2.2.1 "Permitted Activities" the following:

"Brothels and commercial sexual services."

Chapter 5C, "Suburban Commercial Activity Area". Make amendments to the following:

Add to Rule 5C 2.3 "Discretionary Activities" the following:

"Brothels and commercial sexual services on the ground floor of buildings."

Add to Rule 5C 2.3 "Discretionary Activities" the following:

"Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area."

Chapter 5D(ii), “ Special Commercial Activity Area - Boulcott Village”. Make amendments to the following:

Add to Rule 5D(ii) 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Changes to Chapter 6 –Business

Chapter 6A, “General Business Activity Area”. Make amendments to the following:

Add to Rule 6A 2.4 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Chapter 6B, “Special Business Activity Area”. Make amendments to the following:

Add to Rule 6B 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

DPC05/05	D3	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The submitter states that it is important that sex workers who are working from home are governed by the same conditions that control any other person who works from home without having to apply for resource consent.

Specific Comments

Businesses of prostitution that fall within the District Plan’s definition of home occupation will be able to operate as a home occupation as the effects of such operations are expected to be compatible with surrounding residential uses.

Officer’s Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** to the extent that the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

DPC05/05	D4	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The submitter states that using buffer zones around sites such as schools is contrary to the aims of the Prostitution Reform Act 2003. Any illegal sexual behaviour is covered by the Summary Offences Act 1981. Consenting adults engaging in commercial sex should not be confused with the acts of a paedophile or the abuse of children.

Specific Comments

The Section 32 Report recognised that a buffer zone of some degree was desired by the wider public as expressed through submissions on the Discussion Document. However the proposed buffer zone created by the provision which requires resource consent for brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other religious establishments or a residential activity area is considered to be unclear. It is considered the word ‘adjacent’ is not specific enough and could result in the provision being interpreted too broadly becoming overly restrictive. Also the use of ‘adjacent’ is not consistent with the wording used in other provisions of the District Plan where only ‘abutting’ is used.

Officer’s Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** and the provisions of the Plan Change are amended by removing the words ‘adjacent to’ from the following provisions;

Chapter 5A, “Central Commercial Activity Area”. Make amendments to the following:

Add to Rule 5A 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Add to Rule 5A 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services in the area shown in Appendix Central Commercial 6.”

Chapter 5B, “Petone Commercial Activity Area”. Make amendments to the following:

Add to Rule 5B 2.1.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on the ground floor of buildings.”

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Add to Rule 5B 2.2.1 “Permitted Activities” the following:

“Brothels and commercial sexual services.”

Chapter 5C, “Suburban Commercial Activity Area”. Make amendments to the following:

Add to Rule 5C 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on the ground floor of buildings.”

Add to Rule 5C 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Chapter 5D(ii), “ Special Commercial Activity Area - Boulcott Village”. Make amendments to the following:

Add to Rule 5D(ii) 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Changes to Chapter 6 –Business

Chapter 6A, “General Business Activity Area”. Make amendments to the following:

Add to Rule 6A 2.4 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

Chapter 6B, “Special Business Activity Area”. Make amendments to the following:

Add to Rule 6B 2.3 “Discretionary Activities” the following:

“Brothels and commercial sexual services on a site abutting or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.”

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

DPC05/05	D5	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

That the definition of brothel as contained within the Prostitution Reform Act 2003 should not be used.

Specific Comments

It is good practice to use the definition from the parent legislation to ensure consistency.

Officer's Recommendation

It is recommended that the submission lodged by the New Zealand Prostitutes Collective be **rejected** and the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

DPC05/05	D6	New Zealand Prostitutes Collective
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Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The submission states its support for brothels being allowed to operate in industrial zones if sex workers so wish, although the nature of industrial zones is not always conducive to providing such facilities as safe street lighting, public transport, pedestrian facilities, and complementary businesses and services.

Specific Comments

There are no activity areas classed as 'Industrial' in Hutt City. However, brothels are permitted in General Business and the Special Business Activity Areas except where located on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities, churches and other similar religious establishments or a residential activity area.

Officer's Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** to the extent that the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

That in respect to individual sex workers and/or small owner operated brothels, we oppose any Council processes that lead to individual sex workers being identified publicly.

Specific Comments

A notified and limited notified resource consent application requires that the applicant's name is included in the public notice, however the application for resource consent does not necessarily have to be made by the sex worker/s.

Officer's Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** to the extent that the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The submission states that sex workers need to have options beyond working for operators. If all brothels are zoned, regardless of their size, to specific areas such as commercial, industrial or business areas, it may result in larger scale brothels becoming the dominant players. Single sex workers and small groups of sex workers would not be able to compete with larger businesses if zoned to the same area as they may find it difficult to afford leases or adapt properties to suit their sex work. It is important that individuals who work in the sex industry do have the option of working from home.

Specific Comments

Trade competition cannot be considered under the RMA and accordingly the Plan Change makes no reference to the size and scale of brothels. Businesses of prostitution that fall within the definition of home occupation are subject to the same rights as any other home occupation.

Officer's Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **accepted** to the extent that the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

Further submission in opposition: Desmond and Gillian Ford

Request of Submitter

The content of signage should be controlled, but the definition of “signage” should not include posters, flyers and stickers issued by the Ministry of Health pertaining to sexual health requirements under Sections 8 and 9 of the Prostitution Reform Act 2003.

Specific Comments

The part of the Plan Change relating to signage only relates to signs advertising brothels and commercial sexual services. The definition of “sign” in the District Plan is broad but does not include advertising matter placed on or within a display window of a shop, business (excluding home occupation) or industrial premises. Therefore it is considered that there is sufficient scope to place posters and flyers up in shop windows. However it is considered that inclusion of the word ‘content’ would clarify what matters can be considered when assessing a resource consent application for signage.

Officer’s Recommendation

It is recommended that the submission lodged by New Zealand Prostitutes Collective be **partially accepted** and the provisions of the Plan Change are amended by adding the word ‘content’ after the word ‘design’ in the provisions relating to signage as follows.

Add to Rule 14B 2.3 “Restricted Discretionary Activities” the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

Add to “Matters in Which Council has restricted its discretion and Standards and Terms” the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

(i) Design, content, location, size, height and appearance of signs

The extent the design, content, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, content, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, content, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

Officer's Recommendation

It is recommended that the further submission lodged by Desmond and Gillian Ford be **rejected**.

DPC05/06	D1	Warren Thessman
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Request of Submitter

That public notification be a requirement.

Specific Comments

Whether a resource consent application is notified is determined on a case by case basis under section 93 of the RMA. Where the environmental effects of an activity are expected to be more than minor the application must be publicly notified. If the effects are expected to be no more than minor and those people Council considers to be adversely affected have given written approval the application need not be notified. If people who may be adversely affected have not given written approval the application will be notified on a limited basis.

Officer's Recommendation

It is recommended that the submission lodged by Warren Thessman be **rejected** and the provisions of the Plan Change remain without change.

DPC05/07	D1	Ministry of Education
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Request of Submitter

That brothels and commercial sexual services within a 250m radius of schools and licensed early childcare centres are non-complying activities in the Central, Petone, Suburban and Special Commercial, General and Special Business, and General and Rural Residential Activity Areas.

Specific Comments

Most schools in Hutt City are within the Residential Activity Area where resource consent is required as a discretionary activity allowing a full consideration of the effects of the proposal. This includes the provisions in the PRA which state regard must be had to whether the business is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated or is incompatible with the existing character or use of the area in which the land is situated.

As discussed in the Section 32 Report provision has been made for schools and licensed early childhood centres that are located in activity areas where brothels and commercial sexual services are permitted activities by requiring consent for "brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities...".

Officer's Recommendation

It is recommended that the submission lodged by the Ministry of Education be **rejected** and the provisions of the Plan Change remain without change.

Request of Submitter

The inclusion of the following policies to each zone:

“To encourage applicants to consult with local schools and the Ministry of Education prior to lodging applications for brothels and commercial sexual services when they are within 250m of schools and licensed early childhood centres.”

“To ensure that brothels and commercial sexual services are managed to avoid, remedy or mitigate adverse effects on schools and licensed early childhood centres.”

“To discourage signage of brothels and commercial sexual services when they are within a 250m radius of schools and licensed early childhood centres.”

Specific Comments

Applicants would be required to consult with schools when they are considered to be adversely affected which depends on each particular application. As discussed in the Section 32 Report provision has been made for schools and licensed early childhood centres that are located in activity areas where brothels and commercial sexual services are permitted activities by requiring consent for “brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre-school facilities...”.

A resource consent is required for all signage relating to brothels and commercial sexual services.

Officer’s Recommendation

It is recommended that the submission lodged by the Ministry of Education be **rejected** and the provisions of the Plan Change remain without change.

Request of Submitter

That if signage is not prohibited by rules they should at least be restricted in size and nature.

Specific Comments

As outlined in the Section 32 Report it is acknowledged that explicit signs advertising brothels and commercial sexual services could have an adverse effect on amenity values and be offensive to members of the public. The Plan Change has restricted discretion to the extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area; are likely to cause a nuisance or serious offence to ordinary members of the public and to the extent the signs are likely to be incompatible with the existing character or use of the area. Accordingly any resource consent application for a sign can be assessed in terms of its compatibility with the existing use of the area, which, where relevant will include schools. However it is considered that inclusion of the word ‘content’ would clarify

what matters can be considered when assessing a resource consent application for signage.

Officer’s Recommendation

It is recommended that the submission lodged by the Ministry of Education be **accepted** and the provisions of the Plan Change are amended by adding the word ‘content’ after the word ‘design’ in the provisions relating to signage as follows.

Add to Rule 14B 2.3 “Restricted Discretionary Activities” the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

Add to “Matters in Which Council has restricted its discretion and Standards and Terms” the following:

“In all Activity Areas all signs advertising brothels and commercial sexual services.”

(i) Design, content, location, size, height and appearance of signs

The extent the design, content, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, content, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, content, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

DPC05/08	D1	Lance David Thomas
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Request of Submitter

That all brothels (including home occupations) be prohibited in and near to any residential areas.

Specific Comments

Resource consent is required for brothels in residential areas and discretion has not been restricted. This allows a full consideration of the effects of the proposal including the provisions in the PRA which states regard must be had to whether the business is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated or is incompatible with the existing character or use of the area in which the land is situated.

For an activity to be classed as a home occupation several conditions must be complied with. The conditions ensure that home occupations have environmental effects that maintain amenity values. As discussed in the Section 32 Report small-scale brothels operating from dwelling houses as home occupations, are unlikely to be distinguishable from other types of home occupations and adverse effects are likely to be minor.

Officer's Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/08	D2	Lance David Thomas
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Request of Submitter

The submission states that "...abutting, adjacent to or on the other side of a road from..." is not anything like sufficient segregation – should be at least 250m – better if 400m.

Specific Comments

Rules in the District Plan need to be specific and enforceable. A rule specifying that resource consent is required for a brothel or commercial sexual service within 250m or 400m of schools, pre-school facilities, churches and other similar religious establishments or residential activities would not be sufficiently specific. The Plan Change requires resource consent for brothels and commercial sexual services on a site abutting, adjacent to or on the opposite side of a road from schools, pre school facilities, churches and other similar religious establishments or a residential activity.

Officer's Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/08	D3	Lance David Thomas
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Request of Submitter

To not allow brothels anywhere as of right, i.e. without resource consent and with respect to the feelings of neighbours – many, many people would not want a brothel in the proximity of their business premises.

Specific Comments

The effects of a brothel are not anticipated to be significantly different from many other commercial businesses and therefore the Plan Change permits brothels and commercial sexual services in commercial and business areas with the exception of the ground floor of the Central Commercial Area 6 and Petone Commercial Activity Area 1.

The RMA is an effects based framework which requires activities to be managed by the environmental effects an activity generates. As outlined in the Section 32 Report it is considered that the environmental effects of brothels and commercial sexual services will not be incompatible with other activities permitted in the Business, Suburban Commercial, Petone Commercial and the Central Commercial Activity Areas (except the Central Commercial Area 6) and accordingly will not require resource consent. The release of the Discussion Document resulted in submissions stating concern with brothels and commercial sexual services establishing near schools and, pre-school facilities and churches/other religious activities. The

submission resulted in the Plan Change controlling the location of brothels and commercial sexual services in such situations as discussed in the Section 32 Report.

Officer’s Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/08	D4	Lance David Thomas
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Request of Submitter

The submission seeks to prohibit brothels near retail shops (supermarkets etc), transport interchanges, recreational facilities and community service facilities.

Specific Comments

This would essentially limit brothels to rural areas and is not an effects based approach as required by the RMA.

Resource consent will be required for brothels and commercial sexual services within all Residential Activity Areas, Central Commercial Area 6 and on sites abutting, adjacent to or on the opposite side of a road from schools, pre-schools facilities, churches and other religious establishments. This is in effect a buffer zone, around sites where it is considered that they brothels and commercial sexual services may be incompatible with existing activities as discussed in the Section 32 Report.

It is considered to be problematic to extend the rule requiring resource consent for all sites abutting, adjacent to or opposite areas where young people gather such as playgrounds, transport hubs and other areas due to the difficulty in clearly identifying and defining such places which will change over time.

Officer’s Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/08	D5	Lance David Thomas
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Request of Submitter

To prohibit soliciting in any public place or any place visible from a public place.

Specific Comments

The issue of street soliciting is best dealt with through bylaws as it is an activity carried out on legal road rather than through the District Plan. This approach is considered acceptable given that street soliciting has not been an issue in Hutt City in the past.

Officer’s Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

Request of Submitter

The submission seeks to place specific stringent restrictions on signage that reflect the shameful nature of the activity, for example, refer to Auckland City Council's bylaw on signs.

Specific Comments

As discussed in the Section 32 Report it is acknowledged that explicit signs advertising brothels and commercial sexual services could have an adverse effect on amenity values and be offensive to members of the public. The Plan Change has restricted discretion to the extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area, are likely to cause a nuisance or serious offence to ordinary members of the public and to the extent the signs are likely to be incompatible with the existing character or use of the area. However it is considered that inclusion of the word 'content' would clarify what matters can be considered when assessing a resource consent application for signage.

Officer's Recommendation

It is recommended that the submission lodged by Lance David Thomas be **accepted** and the provisions of the Plan Change are amended by adding the word 'content' after the word 'design' in the provisions relating to signage as follows.

Add to Rule 14B 2.3 "Restricted Discretionary Activities" the following:

"In all Activity Areas all signs advertising brothels and commercial sexual services."

Add to "Matters in Which Council has restricted its discretion and Standards and Terms" the following:

"In all Activity Areas all signs advertising brothels and commercial sexual services."

(i) Design, content, location, size, height and appearance of signs

The extent the design, content, location, size, height and appearance of signs will have adverse effects on the amenity values of the area.

The extent the design, content, location, size, height and appearance of signs are likely to cause a nuisance or serious offence to ordinary members of the public using the area.

Whether the design, content, location, size, height and appearance of signs are likely to be incompatible with the existing character or use of the area.

Officer's Recommendation

It is recommended that the submission lodged by Lance David Thomas be **rejected** and the provisions of the Plan Change remain without change.

DPC05/09	D1	Eugene and Fiona van Wyk
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Request of Submitter

To not allow brothels and sexual commercial services in public areas.

Specific Comments

As discussed in the Section 32 Report a legal opinion obtained by Local Government New Zealand stated a territorial authority cannot prohibit or ban brothels from all parts of the city.

Officer's Recommendation

It is recommended that the submission lodged by Eugene and Fiona van Wyk be **rejected** and the provisions of the Plan Change remain without change.

DPC05/09	D2	Eugene and Fiona van Wyk
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Request of Submitter

To not allow advertising of brothels and sexual commercial services in public areas.

Specific Comments

As discussed in the Section 32 Report it is acknowledged that explicit signs advertising brothels and commercial sexual services could have an adverse effect on amenity values and be offensive to members of the public. The Plan Change has restricted discretion to the extent the design, location, size, height and appearance of signs will have adverse effects on the amenity values of the area; are likely to cause a nuisance or serious offence to ordinary members of the public and to the extent the signs are likely to be incompatible with the existing character or use of the area. Accordingly any resource consent application for a sign can be assessed in terms of its compatibility with the existing use of the area, which, where relevant will include schools. Prohibiting all signs would not be lawful under the RMA.

Officer's Recommendation

It is recommended that the submission lodged by Eugene and Fiona van Wyk be **rejected** and the provisions of the Plan Change remain without change.

DPC05/10	D1	Angus D Gibb
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Request of Submitter

The submitter opposes any 'legalised' brothels (including home occupations) anywhere near his property or other residential areas.

Specific Comments

If an application is made for a brothel and the submitter is considered to be an affected person he will be consulted and given opportunity to oppose the application.

For an activity to be defined as a home occupation several criteria must be complied with which ensure that home occupation activities have effects that maintain amenity values and are compatible with other residential activity. A rule not allowing

commercial sexual services to be considered a home occupations would not be an effects based approach as is required by the RMA.

Officer’s Recommendation

It is recommended that the submission lodged by Angus D Gibb be **rejected** and the provisions of the Plan Change remain without change.

DPC05/10	D2	Angus D Gibb
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Request of Submitter

Please decline brothels.

Specific Comments

The effects of a brothel are not anticipated to be significantly different from many other commercial businesses and therefore the Plan Change permits brothels and commercial sexual services in commercial and business areas with the exception of Central Commercial Area 6 and the Petone Commercial Activity Area 1.

The RMA is an effects based framework which requires activities to be managed by the environmental effects an activity generates. As discussed in the Section 32 Report it is considered that the environmental effects of brothels and commercial sexual services will not be incompatible with other activities permitted in the Business, Suburban Commercial, Petone Commercial and the Central Commercial Activity Areas (except the Central Commercial Area 6) and accordingly will not require resource consent. The release of the Discussion Document resulted in submissions stating concern with brothels and commercial sexual services establishing near schools and, pre-school facilities and churches/other religious activities. The submission resulted in the Plan Change controlling the location of brothels and commercial sexual services in such situations as discussed in the Section 32 Report.

Officer’s Recommendation

It is recommended that the submission lodged by Angus D Gibb be **rejected** and the provisions of the Plan Change remain without change.

DPC05/11	D1	Parish Council of the parish of the Hutt City Uniting Congregations (Methodist – Presbyterian).
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Further submitters in Opposition: Hutt City Hall Trust

Desmond and Gillian Ford

Request of Submitter

Removal of the words “...churches and other similar religious establishments” from the proposed rule (c).

Specific Comments

It is considered that brothels and commercial sexual services may be inappropriate next to churches and other religious establishments as outlined in the Section 32

Report and consequently resource consent will be required for sites abutting, adjacent to or on the opposite side of a road from churches and other religious establishments. The resource consent process will ensure consultation with churches and other religious establishments is undertaken when an application is made for a brothel next to a church or religious establishment.

Officer's Recommendation

It is recommended that the submission lodged by the Parish Council of the parish of the Hutt City Uniting Congregations (Methodist – Presbyterian) be **rejected** and the provisions of the Plan Change remain without change.

It is recommended that the further submission lodged by Hutt City Hall Trust be **accepted** to the extent that the provisions of the Plan Change remain without change.

DPC05/12	D1	Helen Joan Widdicombe
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Request of submitter

Recognise private operators as defined in the Act and to not zone sole operator brothels into a small area with large operators, as they won't be able to compete.

Specific Comments

Trade competition cannot be considered as stated in section 74(c) of the RMA when preparing or changing a district plan. Accordingly the Plan Change makes no reference to the size and scale of brothels as outlined in the Section 32 Report.

Small scale brothels that operate from dwelling houses and that meet the conditions of a home occupation are permitted without resource consent in the Residential Activity Area.

Officer's Recommendation

It is recommended that the submission lodged by Helen Joan Widdicombe be **rejected** and the provisions of the Plan Change remain without change.

DPC05/13	D1	Jackson Street Programme
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Request of submitter

That brothels and commercial sexual services should not be permitted in Jackson Street between Cuba and Victoria Streets.

Specific Comments

Resource consent will be required for ground floor brothels and commercial sexual services in Petone Commercial Activity Area 1 as such areas are required to have display windows and that brothels and commercial sexual services would adversely affect amenity values and compromise the character of these areas as outlined in the Section 32 Report.

Resource consent will not be required for brothels at first floor level as it is not anticipated that brothels and commercial sexual services would have environmental effects that justify requiring resource consent.

Officer's Recommendation

It is recommended that the submission lodged the Jackson Street Programme be **rejected** and the provisions of the Plan Change remain without change.