

Planning Processes for Providing Supported Accommodation for People with Mental Illness

A Survey of Council District Plans
and Discussion Paper

**Written by Tom Bennion
for the Mental Health Commission
with a forward from the Commission**

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The Mental Health Commission thanks Tom Bennion for conducting the survey and writing this discussion paper.

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Foreword from the Commission

The Mental Health Commission's Role

The Mental Health Commission Act 1998 establishes the Commission to ensure the implementation of the national mental health strategy. The Act gives the Commission responsibility for monitoring the performance of all agencies whose policies or practices impact on the strategy. The Act also specifies that the Commission work with the sector 'to eliminate discrimination on the ground of mental illness against people with mental illness and their families'.

Fulfilling these duties has necessarily led to the Commission's familiarity with a number of planning disputes and district plans throughout New Zealand. In order to facilitate better understanding of these issues, the Commission undertook a survey of all district plans and an in-depth analysis of the law relating to the provision of supported accommodation. The result of this work is useful for policy makers, councils and planners round New Zealand.

It is our intention that this paper will help Councils ensure their district plan provides positive action for people with mental illness and also to ensure that the plan only attempts to police the arguable effects from the use of land of community care and accommodation and not the arguable effects of the 'types' of people using the facilities or living in the houses.

Background:

On Mental Health Policy and Supported Housing in New Zealand

People with mental illness live in all communities and come from all walks of life. Currently, approximately 65,000 people use mental illness services in this country. Most of these people live in independent housing and do not have their housing interrupted by an episode of illness. There are only about 3000 people living in supported accommodation.

Changes to mental health service delivery over the last decade have increased the need to ensure that people with serious mental illnesses have access to affordable and appropriate housing. There has been an appalling lack of good housing choices. The public and many politicians have been rightly and openly critical of this neglect. With additional funding to mental health there is now an opportunity to begin to correct this neglect. It is therefore most disappointing to see some service improvements and good housing initiatives thwarted through bad planning decisions. (At the same time, councils may be forgiven for attempting to be vigilant against the development of inappropriate housing. They get most of their information through the media, as do the communities they represent.)

Government policy requires the provision of more and better community-based services for people with mental illness. The best international evidence supports this policy. The driving force behind the emphasis on community

rather than institutions and hospitals has never been about saving money, it is about meeting the needs and rights of people with mental illness. This also requires that people with mental illness be appropriately housed while receiving support services for their illness or disability.

International context

The USA and European experience of escalating homelessness has been ascribed to problems with NIMBY (see page 9) associated with the deinstitutionalisation process.¹ This experience tells us that we must provide adequate housing by taking responsibility as a nation for ensuring that neither individuals nor groups can prevent people from living in their community on the basis of uninformed prejudice. While there is still a lack of Government-funded and supported housing providers in New Zealand, the housing market compensates by providing non-funded boarding houses. Some of these are provided by charitable organisations and some are private businesses. They cannot be closely regulated and are sometimes of poor quality and not appropriate for people with high support needs.

What is the problem?

There have been concerns and fears expressed by the public in a number of places in New Zealand about supported homes for people with mental illness. These concerns often arise because of misunderstandings and misinformation about mental illness. In many instances those with concerns about the concept of more integrated care in communities attempt to use the Resource Management Act to limit community service delivery. The public debate resulting from planning tribunal hearings often receives considerable attention from the media and politicians and the content of this debate illustrates a need for our society to more clearly understand the human rights of all members of our community and to understand issues associated with our mental health.

The majority of people living in supported accommodation pay board or this is paid on their behalf to the housing provider. The only difference between the residents of community homes and other residents of community is that these residents require varying degrees of support to live as others do. There is no reason why people should not be able to live where they choose and be provided with the support services they need. There should be no difference in planning requirements, as the planning effects are the same.

In a very small number of cases councils receive complaints about the behaviour of some people living in established community homes. It is important to understand that these complaints are actually about people's behaviour in their own homes, as any other home in the community. Because

¹ Professor Jennifer Wolch and Michael Dear have written two definitive books relevant here. *"Landscapes of despair: from deinstitutionalisation to homelessness"* (Princeton University Press, 1987) and *Maligned neglect: "Homelessness in an American city"* (1993) Also chapter five in *"Mental Health in Europe"* by Shulamit Ramon (Macmillan Press London 1996)

a person requires support in their daily life, this should not disqualify them from enjoying the same rights as other residents of the community. Planning law and criminal law already offer remedies for complaints that can be substantiated. Local authorities have the power to withdraw the certificate of compliance of a community housing service if the complaint relates to planning issues, and where actual behaviour is an issue the Police or for example the Noise Control Authority could appropriately intervene. However, most complaints are not substantiated and actually demonstrate fear and anxiety based on stereotypes of dangerousness that have no basis in reality.

Risks and consequences of the use of planning law to discriminate against people with mental illness

1. Planning constraints could potentially thwart the successful and efficient use of increased funding for mental health services.
2. Small groups and trusts have to fight expensive and exhausting battles with local bodies to provide housing, which is essential. These groups have to deal with unreasonable and discriminatory insults often in public forums and in the media. Sometimes abuse has occurred in the form of threats to people's physical well being, for example "I'll stick my dogs onto you". One of the consequences of this is that people with mental illness feel even more disenfranchised and unwanted.
3. Another consequence is that sometimes members of the community become more fearful about people who may have a mental illness in their neighbourhoods. This is unwarranted and undermines the substantial anti-discrimination and public awareness work currently funded by government.
4. The persistent way in which a small number of people voice their anxiety towards community-based services is destructive for the majority of people to acknowledge mental health problems and deters people from seeking treatment. This hinders early diagnosis, which has been proven to be crucial to effective treatment.
5. Planning law issues can be misused by some people to gain a platform for media attention and to push political objectives, which rely on misconceptions about mental illness.

Councils responsibilities and the Resource Management Act

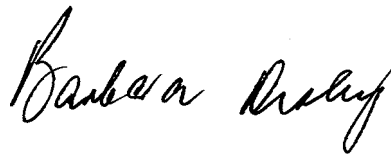
It is necessary for councils to control the effects on the environment of community-based services, where those effects are significant. However, there are no effects to the environment which can be ascribed to the presence of a person or group of people in their home, simply because they have a mental illness. Furthermore councils should not base decisions on people's unfounded fear of effects, which do not exist, however widespread those fears may be. In the case of mental illness there are many misconceptions, and this is why the Government launched a multi-million dollar national plan in 1998 to improve

understanding in society and to dispel the abundant misinformation about mental illness.

The “Like minds, like mine” project (*Project to counter stigma and discrimination associated with mental illness*).

The promotion of wider and better understanding of mental illness and the rights of people with mental illness will encourage a less discriminatory community and alleviate political pressure on local authorities. Like all public health initiatives it is necessary to take a multi-pronged approach, involving educational initiatives, efforts to bring better balance and responsibility to news media coverage of mental health issues, working directly with policy and law-makers, advocating for the rights of people with experience of mental illness, and developing their ability to advocate for themselves. Regional providers of this project are in a good position to offer assistance to local housing providers, and local authorities in raising awareness of their communities.

All government bodies, including local government, have responsibility for treating all members of their community in a fair manner. Belonging and feeling welcome in a community is crucial to everyone’s mental well-being. Robust, just and fair communities allow space to be used for housing, support services, social and recreational activities by and for all its members. Many people, including older people, those with physical illness or physical disabilities, people with intellectual disabilities and people with psychiatric disabilities, live in the community with a range of health needs which require support. Councils need to understand this and make themselves aware of the purpose of government health strategies and how their policies can contribute to it or work against them.



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Chair, Mental Health

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Introduction

The survey is attached as appendix to the discussion.

This survey and discussion paper has been commissioned by the Mental Health Commission because of ongoing problems with community and council responses to proposals to set up supported accommodation and community facilities for people with mental illness.

The problems often manifest themselves in the so-called “Not-In-My-Backyard” or “NIMBY” response to proposals, that is, there is agreement by the community that the particular facility or service is required, but there is dispute over which neighbourhood should bear the “intrusion”. The Ministry for the Environment has recently produced a booklet analysing this broader issue and suggesting approaches to responding to and dealing with community concerns.²

The Mental Health Commission is aware of a further concern about the nature of some district council plans, which include definitions of “community care facilities”, “residential care facilities” and the like and which put limits on the numbers of persons in such facilities. It has been argued that in some cases the rules themselves are inappropriate, or that they are unfairly discriminatory, or are applied in an unfair way.

This paper has been prepared to inform councils, policy makers, and providers about the nature of the problem and suggest improved practices, particularly for councils to follow in drafting and interpreting district plans, in accordance with their obligations under the Resource Management Act 1991, as well as the Human Rights Act 1993, the New Zealand Bill of Rights Act 1990 and case law (both in New Zealand and overseas). This paper suggests what types of rules and policies, in legal and practical terms, might be appropriate in future plans, from the perspectives of mental health, resource management and human rights.

The accompanying survey examines the approach taken in current district plans. Copies of all district plans (transitional plans adopted after 1991 and proposed plans) were examined in the nationwide collection held at the Ministry for the Environment library. The aim was to identify:

1. The extent to which plans vary in the way in which they define and make rules for activities such as “residential dwelling”, “residential care”, “residential institution” etc;
2. How many plans contain rules, which do, or have the potential to, single out people with mental illness and could allow for discrimination against them.

² *Striking a Balance. A Practice Guide on Consultation and Communication for Project Advocates.* Ministry for the Environment, September 1999

In all, 70 plans were examined. The survey is, incidentally, a useful reference tool for providers and councils – although its accuracy can only be guaranteed at the date of publication, and its usefulness will decrease over time as plans are further amended.

Background –

Plan and rule making under the Resource Management Act 1991

Duties of councils when preparing plans

Every district and city council is required to prepare a district plan.³ The Resource Management Act 1991 specifies the matters which councils must consider when they prepare such plans. A council may not go beyond the matters spelt out in the Resource Management Act 1991 and, if directed to consider or include certain things, it is obliged to do so. The matters are:

1. **The functions of the council.**⁴

These include setting out “objectives, policies and methods” to achieve “integrated management” of the effects of the use of land and associated natural and physical resources of the district, and to control the actual or potential effects of such use.⁵ The emphasis on effects is important. If no effects from a particular use of land can be readily identified then a question arises as to why it needs to be separately mentioned in a plan.

2. **Sustainable management**

Part II of the Resource Management Act 1991, which states that the overall purpose of resource management is to achieve “sustainable management”. Briefly, this is defined as allowing people and communities to get on with social, economic and cultural activities, and make provision for their health and safety, while at the same time making sure that any adverse effects on both biological resources and also community resources such as amenity values are avoided, remedied or mitigated.⁶ To give an example, a community should be able to provide for its health by establishing a large new hospital, but if lighting and traffic from the hospital would disturb a nearby residential neighbourhood, some thought has to be given to whether those effects can be mitigated, or whether a different site should be chosen for the hospital altogether.

3. **Decide if the policy is necessary to action sustainable management**

The duty of the council under section 32.⁷ That section provides a test which must be applied to every objective, policy or rule which the council might want to put in its plan. The test is basically, is the objective,

³ s73

⁴ s74(1)

⁵ s31

⁶ s5(2)

⁷ s74(1)

policy or rule really necessary to achieve sustainable management? And, is an objective, policy or rule the most efficient way of achieving the result which is sought – or could some other approach be taken, for example, by providing information to people. The council must also consider what are alternative means of achieving its aims, including doing nothing. The intention of section 32 is to ensure that councils adopt a “systematic and rigorous process of decision making ... calculated to restrain implementation of instruments which may not be soundly conceived or clearly expressed”.⁸

4. Proactive protection of groups with disabilities

The council must make provision for certain particular matters which are spelt out in the Second Schedule to the Resource Management Act 1991.⁹ Included in these particular matters are:

“Any matter relating to the management of any actual or potential effects of any use, development or protection ... including on –

The community or any group within the community (including minorities, children, and disabled people)”.¹⁰

At the time of writing, there had been no authoritative statement from the courts about this provision and what it might require. However, the Act clearly indicates that councils must be proactive in preventing new developments and activities in the district from affecting disadvantaged groups within the community. Conversely, this also suggests that councils must take a positive approach in their planning to groups under disability. Certainly any measures which might increase the chances of discrimination against people with mental illness would be very difficult to justify.¹¹

5. Other legislation and legal rules

Councils must consider their powers under specific legislation which forms a background to their powers and duties under the RMA 1991. These include statutes such as the Local Government Act 1974, New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. Councils may also have to consider to a limited extent the international obligations to which central government has committed itself, even if those have not yet been translated into legislation.¹²

⁸ *Foodstuffs (Otago Southland) Properties Ltd v Dunedin CC* W53/93 (1993) 2 NZRMA 497

⁹ s75(1) and Second Schedule Part II “Matters Related to Districts”

¹⁰ Second Schedule Part II clause 2

¹¹ *Hawkes Bay Hospital Board v Napier City Council* (1986) 11 NZTPA 404, 409-410). The case refers to a provision under the Town and Country Planning Act 1977 (Second Schedule cl 1) which has been reproduced and expanded in the RMA 1991, Second Schedule, Part II cl 2

¹² *St Columba's Environmental House Group v Hawkes Bay RC* W85/94 [1994] 12 NZRMA 560 and see below

Types of rules

Through the district plan, councils are able to control the effects of particular uses of land by way of rules which prohibit, regulate or allow activities.¹³ A district plan will typically divide the area under the control of the council into a series of zones such as residential, commercial, industrial, etc. The plan will spell out the objectives of the council for each zone and the policies to reach those objectives. Finally, it will provide specific methods to put the policies into effect in each zone. Rules are one of a number of methods which can be used.

Rules may be of these types:

- **Permitted** – the activity is permitted and no resource consent is required.
- **Controlled** – the activity is permitted but resource consent is required before the activity can be undertaken, and the council must give it. In other words, the council seeks to control certain aspects of the use.
- **Discretionary** – a resource consent is required before the activity can be undertaken, and the council may refuse to grant one. An important sub-category is “discretionary – restricted” – where the council may refuse a consent, but only on certain grounds.
- **Non-complying** – a resource consent is required. The plan is indicating that the activity will not ordinarily be allowed in the zone, but a special case can be made (for example, service stations in residential zones).
- **Prohibited** – the activity may not be undertaken in the zone.

Notification

The type of rule which applies to an activity determines whether the public will be notified and invited to make submissions before the activity can commence. Because of discriminatory attitudes among some in the community, mental health providers are naturally nervous about public notification leading to a NIMBY situation. Adverse advance publicity can effectively destroy a project which relies on quiet integration with the existing community.

The legal rules governing notification are complicated. The presumption is that public notification will occur.¹⁴ However, there are important exceptions.

- If the activity is *permitted*, no notification is required. If there is uncertainty about whether an activity is permitted, or if a land user wants to provide documentary proof that a use is permitted, a “certificate of compliance” can be obtained from the council.¹⁵ A key issue then becomes whether the proposed activity falls within the permitted rule. This question has been the subject of several court cases.

¹³ s76(1)

¹⁴ s93(1)

¹⁵ s139

If the activity is *controlled*, either:

- the plan may state that notification is not required,¹⁶ or
- notification is not required if written consent for the activity can be obtained from all neighbours who the council thinks may be adversely affected.¹⁷ But if written consent is not obtained from any one of them then public notification must proceed.
- If the activity is “*discretionary – restricted*”, the plan may state that notification is not required.¹⁸
- If the activity is *discretionary* or *non-complying*, but the council considers that the effects of the activity will be “minor”, notification is not required if written consent for the activity can be obtained from all neighbours who the council thinks may be adversely affected.¹⁹ But if consent is not obtained from any one of them then public notification must proceed.
- If the council believes that any activity might raise “special circumstances”, it may require public notification, no matter whether it is controlled, discretionary or non-complying and no matter whether any of the above exceptions apply.²⁰

In recent years these exemptions to notification have been a matter of some controversy in the courts.²¹ In general, an activity which is defined as discretionary, discretionary restricted or non-complying by a rule and is perceived to be in any way contentious by a district council, it will more than likely require some sort of public notification.

Discrimination and the Resource Management Act 1991

When preparing plans and making rules, councils must also take into account other statutes, such as the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990. If the Resource Management Act 1991 implicitly or explicitly allowed for discrimination which reduced the availability of accommodation or services for people with mental illness, then it would override these statutes.²² But there is no indication that it does so, and indeed every indication that any such discrimination should be avoided.²³

¹⁶ §94(1)(b)

¹⁷ §94(1)(c)

¹⁸ §94(1A)

¹⁹ §94(2) “Minor” is not defined in the Act

²⁰ “Special circumstances” is not defined in the Act. It may include for eg, the location of a subdivision on slip prone land, or construction of a large block of flats next to a single storey residential neighbourhood

²¹ The leading case is *Bayley and Ors v Manukau City Council and Anor* [1998] NZRMA 513

²² See for example Human Rights Act 1993 s151(1)

²³ In *Wellington CC v Ryan* W166/95 (1995) a case involving the Satan Slaves motorcycle gang, the Environment Court refused to make wide-ranging orders limiting the number of people who could be on a residential premises and prohibiting all music, despite large and unruly parties on the premises, finding that this would be a breach of human rights. In *Building Industry v Christchurch City Council* AP78/96 the High Court considered that a person could however voluntarily give up rights under the Bill of Rights Act in agreeing to conditions in a resource consent. See also N Wheen “The Angle Grinder, the Swastika, and the Airport: Resource Management and the NZ Bill of Rights Act 1990” (1995) Bill of Rights Bulletin p54

Disability is a prohibited ground of discrimination in the Human Rights Act 1993, which includes discrimination on the grounds of “psychiatric illness”.²⁴ It is specifically unlawful to directly refuse the use of land or accommodation on the basis of psychiatric illness.²⁵ Even more pertinent, the Act provides that persons (which can include councils), may not impose any “practice, requirement or condition” which results in indirect discrimination unless they can show “good reason” for that discrimination.²⁶

The rights which are of particular importance to people with mental illness and are recognised by the NZ Bill of Rights Act²⁷ include not only the right to freedom from cruel, inhuman or degrading treatment or punishment,²⁸ and liberty and security of the person,²⁹ but also freedom of movement, association and choice of residence.³⁰

District councils are also required to take into account international documents which the New Zealand government has signed, as a “relevant consideration” when they are preparing plans.³¹ The court judgments which have considered this aspect of planning have been concerned with environmental and trade treaties – but all relevant international instruments which have a bearing on resource management should be given full consideration.

The major instruments and declarations on the rights of people with disabilities in international law include:

- The UN Charter, Art.55: UN will promote ‘higher standards of living, full employment, and conditions of economic and social progress and development’...for all people;
- The Universal Declaration of Human Rights: provides that ‘everyone’ is entitled to the right to life, liberty and security of person, social security, an adequate standard of living, education and full participation in the cultural life of the community;
- The UN International Covenant on Civil and Political Rights: right to life, liberty, and security of person, to privacy, to freedom from cruel, inhuman or degrading punishment, to recognition as a person before the law, and to freedom of expression and opinion;
- The UN Declaration on Social Progress and Development proclaims the necessity of protecting the rights of physically and mentally disadvantaged persons and assuring their welfare and rehabilitation.³²

²⁴ s21(1)(h)(iii)

²⁵ s53

²⁶ s65

²⁷ And by the ICCPR from which the BOR was drawn up

²⁸ s9 BORA: art 7 ICCPR

²⁹ Art 9 ICCPR

³⁰ ss17 and 18 BORA; Art 12 ICCPR. The Human Rights Committee says re Art 26 in General Comment 18: art 26 : “prohibits discrimination in law or in fact in any field regulated and protected by public authorities” the application of the principle of non-discrimination contained in Article 26 is not limited to those rights which are provided for in the Covenant

³¹ *St Columbas Environmental House Group v Hawkes Bay RC* W85/94 applying *Tavita v Minister of Immigration* CA 266/93 and see also *Protestants Universal v Nelson City Council* W121/96 (1996) and *Kaimanawa Wild Horse Preservation Society Inc* A27/97

³² Source: NZ Handbook on International Human Rights, MFAT, 1998

In addition, the *UN Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care* and the *Standard Rules on the Equalisation of Opportunities for Persons with Disabilities* set out more specific rights to equal treatment and adequate resources to participate in the community with equality.³³ These UN principles can provide guidance even though there is as yet no formal recognition of them in law.³⁴

Background research that influenced current practice

In 1995, the Environmental Policy & Management Research Centre of the University of Otago published *Community Care Facilities: A Guide for Planners and Service Providers*³⁵ which looked at community care facilities generally (ie not just those involving people with mental illness), and included a telephone survey of twenty large councils to examine their approach to the issue. That study recommended that new plans under the Resource Management Act 1991 should include a specific permitted category of “community care home”, limited to 10 occupants, including staff, and a controlled activity beyond that number.³⁶

While the authors of that paper appreciated that “It could be argued that the retention of ... such a specific land use category is contrary to the new Act’s intention to focus planning on controlling the effects of resource use, rather than the nature of activities themselves”, community care was a “special case” precisely because of the frequent opposition to such facilities. Consequently, it was:

“important to focus upon the nature of the land use activity itself in statutory terms in order to uphold explicitly the right of service dependent people to live in the environment of their choice.”³⁷

Thus that study concluded that the very fact of public resistance to such facilities was a reason to refer to them specifically in the plan. The study also concluded that, if over 10 people were involved in such a facility, then there could be effects on amenity values to be concerned about.

³³ Since the Human Rights Commission reports to the Prime Minister on the desirability of taking action to give better protection to human rights and “to ensure better compliance with standards laid down in international instruments on human rights” s5(1)(H)(i)

³⁴ See Mulgan “Implementing International Human Rights Norms in the Domestic Context: The Role of a National Institution” (1993) 5 *Canta LR* 235, 238 and Denys Court “Mental Disorder and Human Rights: The Importance of a Presumption of Competence” *Auckland University Law Review* (1994)

³⁵ BJ Gleeson, HF Gooder & PA Memon. Environmental Policy & Management Research Centre. Pub. No. 7. 1995

³⁶ pp26-28

³⁷ p26

Supported accommodation for people with mental illness
– the nature of the activity

The numbers of people staying long-term in psychiatric hospitals has declined significantly in New Zealand since the 1950s, and the move to community-based treatment for mental illness can be traced to that period. The development of drugs which could significantly reduce the effects of mental illness was a key factor in that decline.³⁸

Since 1963, United States mental health policy has been based on the right of people with mental disability to live in the community in the least restrictive environment.³⁹ Community mental health services in New Zealand have followed this approach. Initially they were developed around increasing outpatient treatment from psychiatric hospitals, with specialist community treatment models being developed and applied from the 1980s.⁴⁰

Today, in any one month, between 35,000 and 40,000 adults will use secondary or specialist mental health services in New Zealand. Health care for these people is overwhelmingly delivered in a community setting. In other words, treatment for mental illness within the community is the norm and has been in New Zealand for at least 15-20 years.

While the term “deinstitutionalisation” is commonly used to describe the overall change in direction of mental health services in the last 4-5 decades, that no longer accurately describes community services. As noted above, such services have for many years been a standard feature of mental health services and they deal with people coming from a variety of living situations, mostly from community living situations. They are not simply refuges in the community for formerly institutionalised patients.

Discrimination against community mental health services by the application of restrictive zoning rules has been experienced overseas, most notably in the United States. The possibility that this might occur in New Zealand was recognised when such services were being established in the 1980s.⁴¹

An important component of community services and treatment for people with mental illness is what is commonly termed “supported accommodation”. A recent report of the Surgeon General of the United States on adult mental health has described the concept as follows:

When deinstitutionalization led to the need for more community housing, the residential programs that were developed replicated institutional programs (Carling, 1989). Although residential programs varied in the degree of oversight and services, they generally proved to be ineffective in meeting consumers’ needs.

³⁸ H Haines & M Abbott “Deinstitutionalization and Social Policy in NZ: Historical Trends” *Community Mental Health in NZ* vol 1 No 2 Feb 1985 pp44-56

³⁹ See M Levine “The History and Politics of Community Mental Health”, 1981 OUP

⁴⁰ Haines (footnote 39)

⁴¹ See John Dawson “The Development of Community Mental Health Services in New Zealand: Implications for Law Reform” *Community Mental Health in New Zealand* vol 1 no 1 July 1984 pp12-30

Moreover, living in such programs added to stigma. Because of these shortfalls, greater emphasis has been placed on conventional housing supplemented by appropriate assistance tailored to individual need (Srebnik et al., 1995). This new concept, called supported housing, moves away from “placing” clients, grouping clients by disability, staff monopolizing decision making, and use of transitional settings and standardized levels of service (Carling, 1989; Lehman & Newman, 1996). Instead, supported housing focuses on consumers having a permanent home that is integrated socially, is self-chosen, and encourages empowerment and skills development. The services and supports offered are individualized, flexible, and responsive to changing consumer needs. Thus, instead of fitting a person into a housing program “slot,” consumers choose their housing, where they receive support services. The level of support is expected to fluctuate over time. With residents living in conventional housing, some of the stigma attached to group homes and residential treatment programs is avoided.

In New Zealand, “supported accommodation” covers a range of activities from private flat arrangements where residents have their own residential tenancy agreements through to arrangements where there are common lounge and kitchen areas. Despite the range of approaches, these activities share the following common characteristics:

- Located in residential areas – almost invariably using existing residential buildings
- Usually between 6-15 people in a dwelling or dwellings
- Focus on individual choice as far as possible
- Focus on gaining or retaining skills for living in the residential community (including work and/or activities away from the dwelling during the day)
- Medium term rather than short term (over 6 months and up to 3 years)
- Medical needs (assessment, any intensive treatment) met mainly or fully off site.
- Between 1-3 staff who may either live on site or a nearby site, who remain on site during the day only and on call at other times, or are rostered in 8 or 12 hour rotations, or some variation of these
- No custodial or secure arrangements for any person, although some people may be subject to community treatment orders under the Mental Health (Compulsory Assessment and Treatment) Act 1992. This order deems a person able to live in the community while receiving treatment. The order is compulsory and requires that in certain circumstances the person accept the treatment given.

NB this last point is a Red Herring : it is not relevant, since custodial matters and compulsory treatment are not the business of councils or the RMA. But because of common misconceptions about people with mental illness we feel that we have to include it.

The above list suggests that the actual activity may vary in its “look and feel” across a broad spectrum from a residential set of flats or houses indistinguishable from standard residential dwellings of unrelated people, with an active caretaker or caretakers, through to a boarding house arrangement.

The number of people living in this type of situation is extremely small – over 2500 people nationwide.⁴²

The Otago University study was concerned that deinstitutionalisation, along with privatisation of health care services, would lead to “for-profit” agencies moving into this sector and seeking to establish larger facilities to take advantage of economies of scale.⁴³

To date, despite some privatisation of health care in this area, most providers are not for profit, but rather non-profit incorporated charitable trusts operating on a business model for their internal management. Organisations receiving public funding are also subject to reporting and audit criteria. The assumption that private providers will succeed in establishing larger premises needs to take account of the fact that any provider of mental health care drawing on the public purse will be required to follow the model of community treatment and assisting people to live a normal life in the community, and not simply institutionalising them in a large facility.

Supported accommodation for people with mental illness

Adverse effects of activities

The focus of the RMA 1991 is on the effect of activities. The definition of “effect” provided in the Act is wide. Effects can be positive or adverse, temporary or permanent, past present or future. The term “effect” also includes any cumulative effect which arises over time or in combination with other effects, a potential effect of high probability, and a potential effect of low probability which has a high potential impact.⁴⁴

The above discussion of the nature of “supported accommodation” provides some indication of the effects which the Act and councils could be concerned with. What follows assumes that supported accommodation is being provided for groups of up to about 15 people. Beyond that, there may be arguments about whether the basic scale of the activity is suitable in a residential setting, in the same way that a hotel or large boarding house in a residential street may require some controls placed over it in terms of parking, traffic, outside lighting, etc.

⁴² Or 180 supported housing places per 250,000 population. MHC paper 1999 p17

⁴³ p12

⁴⁴ s3

Site requirements

On the assumption that supported accommodation is provided in a residential zone and in an existing dwelling or dwellings, there will be no effects in terms of construction, site coverage, setbacks, yards, height, etc, which are not essentially the same as that for residential dwellings or boardinghouses.

Traffic and parking

Assuming that existing dwellings are used, traffic and parking effects should fall within the range of effects from ordinary residential dwellings or boarding houses. This would include people leaving for and returning from work or activities during the day and in the evening, and the arrival and departure of staff and the arrival and departure of visitors. It would be surprising if the use of vehicles by people with mental illness were any more than that of the general community, and one suspects it is somewhat less.

Signs

Providers of supported accommodation do not advertise the fact on site, in keeping with the focus on integration with the community and to avoid any potential for labelling and discrimination.

Health and safety

The belief that people with mental illness are likely to commit violent crimes out of proportion to their numbers in the population is widely held and is one of the main reasons that people with mental illness experience discrimination. The belief has been shown in many studies to be unfounded.⁴⁵

Almost all residents in supported accommodation have either previously lived elsewhere in the local community, or if they are returning from a stay in a psychiatric hospital, may choose to live anywhere in the community.⁴⁶ It is consequently difficult to see how the effects of supported accommodation can differ from unsupported accommodation.

It has been argued that community fears, even if unfounded, are nevertheless a real “effect” which must be taken into account.⁴⁷ However, the RMA has no power over people, only over land use matters.

⁴⁵ Law commission report 30, 1994 p37, quoting from Monaghan, “Mental Disorder and Violent Behaviour: Perceptions and Evidence” (1992) *American Psychologist* 511, 519

⁴⁶ For example, a 1993 survey of members of Schizophrenia Fellowship, found that 46% lived with their families and 38% lived in their own or rented flats. Quoted in “Mental Health in NZ from a Public Health Perspective” p369

⁴⁷ A point made in the study by the University of Otago, which pointed out that councils may in such an event then have a duty to manage this effect by educating communities as to what the real impact of these homes is likely to be. pp18–19

Amenity values

Amenity is a notoriously slippery concept. Amenity values are defined in the RMA 1991 as:

Those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.⁴⁸

Amenity can include not only matters such as site requirements, traffic and parking and security which are dealt with above, but also visual amenity, lighting, noise, and landscaping.⁴⁹

Since supported accommodation is essentially the same as any other residential dwelling or flat or boarding house in terms of outward appearance, traffic and parking, signs etc, it is difficult to see what other adverse effects it might have on amenity values.⁵⁰

There is no good reason to think that the noise and lighting from supported accommodation would differ from other residential sites, nor that the needs and regard for privacy would vary at all.

One adverse "effect" cited in connection with amenity values is the suggestion that property values can be affected if it is known that supported accommodation is present on a particular street. Diminution in property value is, in general, not a matter which is taken into account in resource management decision making.⁵¹ In any event, there is no evidence that supported accommodation has led to property values declining anywhere in New Zealand, and overseas research overwhelmingly supports the view that there is no such effect.⁵²

There is one potentially adverse effect on overall amenity which does require consideration however. That is the cumulative effect of several sites of supported accommodation along the same or in immediately neighbouring streets. The area may become ghettoised and identified as a de facto "mental health zone". This may in turn lead to labelling and discrimination against the people who live in the supported houses. The benefits of discrete supported accommodation in a residential setting are reduced and residents are no longer interacting with the full residential community and the experiences which it offers.

⁴⁸ s2

⁴⁹ See for example the list in Ministry for the Environment. Amenity Values under the RMA 1991. Defining amenity values with suitable specificity. Working paper 7. October 1996. Appendix 1

⁵⁰ The United States experience supports this view. See "There Goes the Neighbourhood ... A Summary of Studies Addressing the Most Often Expressed Fears about the Effects of Group Homes on Neighbourhoods in which They are Placed." Community Residences Information Services programme CPL Bibliography No 258. April 1990

⁵¹ Queenstown Property Holdings Ltd v Queenstown DC [1998] NZRMA

⁵² The United States experience supports this view. See "There Goes the Neighbourhood ... A Summary of Studies Addressing the Most Often Expressed Fears about the Effects of Group Homes on Neighbourhoods in which They are Placed." Community Residences Information Services programme CPL Bibliography No 258. April 1990. This paper examines 56 on the effects of group homes and finds limited evidence for a change in property values in only one study. The rest report no change or a positive effect on property values

Positive effects

Residential services for people with mental illness have a number of positive effects. Smaller residential services reduce the need for a hospital or larger service settings. The policy of community care is based on a desire to improve the health of people and is backed by research and experience which strongly suggests that, correctly applied, it does lead to improved health. The process, and the initiatives into supported accommodation which result from it, are an integral part of the current national policy for improving the health of people with mental illness and thus the health and well-being of the community as a whole. That policy of community-based care also finds expression in legislation such as the 1992 Act with its concept of community treatment orders. There is also international support for and commitment to this approach.⁵³

As noted above, if most people in supported accommodation already live in the community, then the provision of appropriate housing would seem in general to have a positive effect on community well-being. Improved safety, amenity and even property values have been reported in overseas research.

⁵³ See below

Summary of Survey

Against this background, what provision do council plans make with regard to the supported accommodation of people with mental illness?⁵⁴

The survey looked at district plans compiled or in operation since the introduction of the Resource Management Act 1991 in order to:

- Identify definitions which could be relevant to housing for people with mental illness;
- List the rules that would apply in residential zones associated with such definitions, and also rural zones where they were differences with residential zones were noted;
- Identify any associated policies which explicitly address the issue of housing for people with mental illness.

For each district or city council, the plan most recently developed since the introduction of the RMA 1991 was examined. In most cases this was a proposed district or city plan. Operative transitional plans were not therefore examined, except in rare instances where a proposed plan developed under the RMA 1991 had not to date been notified because a council had just completed or nearly completed its plan when the RMA 1991 became operative. In two cases draft plans were examined. While these have no actual legal effect, they usually provide a good indication of what will be in the proposed plan.

While the survey looked at provisions dealing specifically with, or which could be applied to, accommodation for people with mental illness, it needs to be remembered that in each plan, in addition to the rules that have been identified, there are usually general provisions and requirements that could apply to accommodation for people with mental illness living together.

The plans which were examined are held in the national collection at the Ministry for the Environment library in Wellington. After finding the relevant provisions, each council was contacted to verify whether the correct rules and definitions have been recorded.

In all, the plans from 73 councils were examined. Fifty-four councils responded to the request to verify the provisions.

Trends identified from the survey

It is difficult to draw from such a survey definite conclusions about how each council will deal with supported accommodation for people with mental illness and related community treatment proposals. This is because each proposal has its own specific features, and the result from the inter-

⁵⁴ The full results of the survey can be found in the appendix to this paper

relationship between plan rules, plan definitions and policy cannot be estimated for every case.

Nevertheless, the survey does show some important trends, and demonstrates the ways in which councils have approached the issue.

In general, it seems that:

- most plans show some awareness of programmes of community treatment and services for disability in general and for mental illness.
- many include definitions for community care facilities or similar.

The definitions varied considerably and the approach to the issue varied considerably. Three basic planning responses were identified.

1. No specific reference to the issue either in rules or policies. Accordingly, it is hard to determine what the approach might be – whether permissive or regulatory.
2. Specific reference to activities which could include supported accommodation, and a permissive regime. Usually there was a reference to residential activities such as including activities like supported accommodation.
3. Specific reference to activities which could include supported accommodation, and a regulatory approach, ie, the activity is either controlled, discretionary or non-complying depending on certain features such as numbers of people and/or staff involved.

Definitions

The survey found that many plans have definitions for facilities providing support for people which are managed by associations or institutions other than an ordinary landlord. Although there were some common features to many of them, there was considerable variation in the types and breadth of situations which they sought to cover. A typical definition is:

“Residential Care Activity means a building or collection of buildings in which boarding, lodging and live-in social, mental or physical health support is provided for between 6-12 persons, other than the members of the family of the principal care-giver, including old person’s homes, emergency housing, refuge centres and halfway houses, and drug and alcohol rehabilitation centres.”⁵⁵

These definitions typically include these elements:

- type of facility
- type of care/support provided

⁵⁵ Dunedin City Proposed Plan

- number of persons using the facility.

An example of a definition using all of these elements:

“Community Care Housing means housing managed by any public authority, religious institution or non-profit making organisation for the rehabilitation or care of any group or persons and accommodating five or more persons in addition to staff. It includes emergency housing, housing for battered women, housing for the disabled, “half way houses” and therapeutic or convalescent homes for psychiatric or former psychiatric patients.”⁵⁶

A similar example, which also attempts to provide some clinical elements in its definition:

“Community Care Facility means facilities which provides residential care or support for five or more people, and/or day care services, to service dependent groups, including, but not limited to people deinstitutionalised from psychiatric hospitals, or large scale intellectual disability facilities.”⁵⁷

In the former case there is an attempt to cover “former psychiatric patients” (whatever that might mean), and in the latter “people deinstitutionalised from psychiatric hospitals”. In both cases reasonably broad generalisations about mental illness are involved, and it is uncertain what their clinical basis is, or whether the detail has been thought through in terms of environmental effects.

Perhaps the most peculiar example in terms of definitions is found in the Papakura District Council Proposed Plan. This specifically excludes from its definition of “Household Unit” (a permitted activity):

“a residence owned or controlled by any person who uses the residence either directly or indirectly for the purposes of accommodating more than two violent or sexual offenders (provided that this shall not apply where the home is occupied by a single family in which the persons are related) whether or not that person has been convicted of that offence, who have been released from a penal institution or from any other full-time custodial detention, psychiatric hospital, or drug rehabilitation programme and shall include any residence provided to such persons whether it be by way of conditional sale, lease (including the option to purchase [sic]), periodic tenancy, licence or otherwise.”

⁵⁶ City of Hamilton Town Plan. Second Review of the Hamilton City District Planning Scheme. Operative 19 December 1992

⁵⁷ Lower Hutt Proposed District Plan

Policy behind the definitions and rules

Of those plans that include a definition for community care housing or similar, a number do not make any reference in the residential policies to the need for the separate definition. Others provide an explanation which gives limited guidance on the effects which the plan and rules are concerned with. For example, Variation 3 to the Proposed Wairoa District Plan Review has a separate definition for “residential institution”⁵⁸ on the basis that it is policy to “ensure that the character, scale, and intensity of activities and development is consistent with the environment and amenity values” and to “control development to maintain a pleasant, safe and healthy residential environment.”

Likewise, the Opotiki District Proposed Plan provides distinct rules restricting the use of land for “Residential care facilities” in the residential zone on the basis that such activities must be managed “so that they will not detract from the amenity values of adjoining properties or the quality of the residential environment.”

Other plans provide a more detailed rationale. The Dunedin City Proposed Plan, quoted above, has an extensive definition of what a “Residential Care Activity” is. The rules in the plan provide that, in all residential zones, residential care activities are discretionary activities (unrestricted). The residential policy is stated as follows:

“Provide for community support and residential care activities within residential areas. ...

“Community support and residential care activities enable the community to provide for its health, safety and well being. These activities need to be recognised and provided for within residential areas, although care needs to be taken to avoid, remedy or mitigate any adverse effects that may result. Community support and residential care activities attract significantly greater levels of activity than purely residential uses. This is primarily due to the size of the buildings accommodating such facilities, the number of people using them and the frequency with which they are used. These effects have the potential to reduce the levels of neighbourhood amenity.”

An issue here is whether these general statements adequately reflect an understanding of the range of accommodation which can be provided.

This range is mentioned in the Proposed Rotorua District Plan, which spells

⁵⁸ Residential Institution means a building where accommodation, care and supervision is provided for five or more persons, other than management and staff and includes such activities as resthomes, hospitals, convalescent homes and boarding establishments

out the following policy:

“Community Housing: In the field of health administration there has been a recent shift in emphasis from institutional care to placing people in community housing in a normal residential environment, where possible. There are also groups in the community such as psychologically disturbed people, rape victims and victims of domestic violence who require community housing.

An upper limit on the number of people living in community housing is required to ensure that the residential character of the locality is maintained. It is important to note, however, that such facilities will normally be small in size because of the deliberate policy of government agencies of having such people living in domestic surroundings. While community housing will be generally provided for as a Permitted Activity within the Residential Zones, a consent for a Discretionary Activity will be required if the community house will adjoin other community houses.”

The plan sets this upper limit at 8 persons. While, on its face, this is a very full explanation, it is still vague about the actual effects which the plan is concerned with. (What does “ensure that the residential character of the locality is maintained”, actually mean?). There is an implication that these groups may be a threat to the residential character, but it is not made clear how. The plan includes a criteria for assessing discretionary activities: “Public Safety - Any Discretionary Activity should not adversely affect public safety in a significant manner. Conditions may be imposed on any consent for a Discretionary Activity to avoid any adverse effects on public safety.”

A more positive and definite statement of policies which apply in residential areas is provided in the Rangitikei Proposed District Plan, namely:

“Encourage all developments and activities to be designed and operated in such a way as to:
Promote community health; and
Promote personal safety and security, and
Minimise risks of accident, injury, or crime occurring in public places.”

This plan does not have a separate definition and rules for residential or community care facilities.

In general, the most common policy reasons for particular definitions and rules for community care housing and residential centres are:

- A broad reference to “amenity values”
- Concern about the degree of incapacity of the persons in the residence
- The temporary nature of the accommodation provided in comparison to ordinary residential uses – often with a reference to board and lodging.

If there is a particular concern of councils that people with mental illness might cause adverse effects by increasing crime, or reducing the health and safety of an area (matters commonly raised in objections to such facilities), it is interesting that no plan spells this out explicitly.

In terms of the actual physical effects of supported accommodation discussed above, it seems that the Palmerston North District Council comes closest to that analysis with its policy:

“Provided care is taken with regard to matters such as parking and the size of the activity, community homes generally remain compatible with the residential environment and benefit from the quietness and amenity values of the Residential Zone.”

This unevenness in policy, definitions and rules may reflect inadequate information at the council level about developments in services for people with mental health in the past 10-15 years.

Rules

The Gisborne plan (Gisborne District Council Combined Regional Land and District Plan – Proposed) defines a “Residential Care Home” as “a building or buildings which provides live-in accommodation for a group of people, who may or may not be living as one household unit, who require on-going mental or physical health care, provided by one or more full-time staff, including public or private hospitals”. It makes this a discretionary restricted activity and the discretion is exercised over:

- a) scale of activity
- b) noise
- c) height
- d) outdoor storage
- e) landscaping and fencing
- f) parking, access and manoeuvring
- g) location of site and buildings
- h) site area
- i) financial contributions

Yet it is very unclear why activities ranging from a few people in a common residential home right through to full-scale hospitals should attract such scrutiny and consideration. It seems odd that the nature of an activity, involving care of people with illness should concern the council, noise, for example. And what exactly has outdoor storage got to do with this type of use of land? Or landscaping?

Some plans make different rules apply in different zones, but it is not obvious that any effects arising from the use are related to the zones. For example, the Manukau City Proposed District Plan provides that “residential centres”

accommodating not more than 10 persons, inclusive of owners' family and staff, are non-complying in the Residential Heritage (RH) zones 1-4, permitted in the RH zones 5-8, the Main Residential (MR) zone, the Integrated Intensive Housing (IH) zone and the Residential Settlement Serviced (RSS) zone and discretionary in the Residential Settlement Unserviced (RSU) zone. Residential Centres accommodating more than 10 persons are non-complying in RH 1-4 zones, restricted discretionary in RH 5-8, MR, IH, RSS zones, and discretionary in the RSU zone. The plan does not explain why the presence of heritage should require tighter controls on such residential centres.

The North Shore City Proposed District Plan provides that "Residential Care Centres" or "Boarding Houses" housing up to 5 residents (including live-in support staff) are permitted in all residential zones (there are 7 of them) except the built zone. But in the Residential Expansion Zone and Albany Centre Expansion Zone, the same activity is a controlled activity. It is puzzling to know why the exception is made. The general policy is to provide "opportunities for residential care centres, including IHC and half-way houses within the residential area at an intensity and scale compatible with other residential development."

The general figure for the number of persons who can be in a residential care facility as a permitted use is five persons – sometimes plans specify whether this does or does not include staff. Some plans refer to 8 persons, a few go beyond this to 10 or 12.

Some plans take a blanket approach. For example, the Thames Coromandel Proposed District Plan, makes "Residential Community Care Facilities" discretionary in all zones except one – where they are non-complying. Such facilities are defined as "a place of residence where people with mental or physical health problems or who require short term care can stay under the guidance or care of a resident nurse or other person who is in charge of the premises" (and includes retirement villages, elderly persons' homes or sheltered housing, halfway houses such as womens' refuges, psychiatric or IHC type community housing and school hostels).

Similarly, in the Opotiki District Proposed Plan "an activity providing residential accommodation for 4 or more people who need physical, medical or psychiatric support, and who are unable to live independently" will be discretionary in residential, mixed and coastal residential zones.

Alternative approaches

Some plans take a quite different approach.

Some simply do not have a separate definition for residential care facilities. It is not clear however, whether those councils are simply not concerned with any possible environmental effects from such facilities, or if they informally control them through other rule requirements.

The Otago University telephone survey of councils found that some councils had little concern about such facilities while others admitted that they would exercise informal controls via measures such as standards for residential activities in the plan. This raises the issue of whether, if discriminatory attitudes exist, it is better to positively provide for such facilities in the plan, to avoid informal control and discrimination. The Otago University study came down in favour of this approach.

Some plans mention residential care facilities but include them within residential activities. For example, the South Taranaki Proposed District Plan provides that “residential activity” shall include “group care facilities where unrelated people live together on a 24 hour basis, such as retirement homes, foster care homes and homes for the disabled.”

Another example is the Wellington City Proposed District Plan which provides that “Residential Activity” means “the use of premises for any domestic or related purpose by persons living alone or in family and/or non-family groups (whether any person is subject to care, supervision or not)”.⁵⁹

Obviously these plans take quite a different approach to the possible effects of such facilities. One could expect that this might occur in country areas and smaller towns where population pressure and therefore the possibility of conflicting activities is less. But that pattern does not seem to hold generally.⁶⁰

The Christchurch City District plan provides:

“Community care of people with special needs. A number of community groups are working in the field of providing community care for the mentally and physically disabled, and prisoner release programmes. An important aspect of the process is the integration of these people back into the community, on the basis that people are best treated in their own environment supported as necessary by health care professionals. This is seen as a community responsibility.

Many mentally and physically disabled people and released prisoners are able to live in houses as family units throughout residential areas. For these groups it is important housing to be close to public transport and shopping centres. (see objectives 9.1, 9.2, 9.3.)”

This appears to be the only plan which refers to these requirements in a positive light. The policy seems to reflect the requirement that the district plan consider positively minorities and the disabled. The question is why many other plans do not approach this issue in the same way.

⁵⁹ See also Wanganui plan

⁶⁰ See, for example, the Thames and Opoitiki plans already mentioned

Court responses to the current rules

These sorts of provisions in plans have been the subject of several cases in the Planning Tribunal and Environment Court in recent years.⁶¹ The cases have generally focused around disputed definitions in district plans, that is, whether the proposed activity falls under restrictive definitions of community housing or similar, or whether it is an ordinary residential use, which is usually permitted under the district plan.

Generally, the decisions have concerned proposals where a group of people with a common disability are living in the one house, and are subject to some programme of care and support. In such situations, the use may still be deemed a purely residential one, depending on several factors. Judge Treadwell has summed it up in this way:

What is evident from the cases is that the number of persons being accommodated together with staffing and supervision levels and ratios is the essential difference between a dwelling-house/residence or an institution of some type. At the lower end of the scale balancing towards residential is a situation where people are in effect living together as one unit with minimum supervision and with a degree of permanence. This is in contrast to a situation where there is a greater number of persons than would normally be expected in a residential unit; those housed are of a transitory nature; and there is a significant degree of supervision or training associated with that activity.⁶²

In *Whanganui Community Trust*, it was held that 6 persons living together, with a separate flat for a staff member, who provided assistance to the residents as needed and not in any supervisory and/or coercive role, should be regarded as an ordinary flatting situation and a “dwelling house” in terms of the local plan, and not a “residential institution”. “Residential institution” was defined in that case as any “hostel, convalescent home, boarding establishment or charitable institution providing board and lodging and having accommodation for 4 or more persons other than management and staff”.

The particular elements which persuaded the court that the activity was a dwelling house included:

- (a) the degree of supervision and control exercised by the staff member on site was benign and help was available as needed and was not supervisory and/or coercive;
- (b) that the activity was not greatly different from a flatting situation with on-site nursing;

⁶¹ For example: *Hawkesbury* (1992) 2 NZRMA 267 *Community Living Trust v Dunedin City Council* (June 1992), *Waitakere City Council v Auckland Area Health Board* (1992) 2 NZRMA 274, *Whanganui Community Living Trust v Whanganui District Council* (1993) 2 NZRMA 443, *Community Housing Ltd v Masterton District Council* (W 60/96), *Sunset Community Residents Assoc Inc v McGeorge & Youth Horizons Trust* (A 137/97)

⁶² *Community Housing Ltd v Masterton District Council*

- (c) the occupants were more or less able to do as they please under a form of watchful guidance;
- (d) the occupants were screened to ensure no propensity for crime (are they ever?);
- (e) the care provided was not the type of care required in a convalescent home;
- (f) the home would be a permanent residence;
- (g) social and medical care would be an ancillary factor;
- (h) the home was not a halfway house;
- (i) staff were available and slept over, but did not live on site;
- (j) residents could come and go as they pleased, had their own keys, and undertook day to day chores without supervision;
- (k) any element of boarding ie having food provided, was absent.

To date there has been no case challenging a plan provision of this sort outright. However, in the *Hawkes Bay* case the proposal was to convert 6 separate apartments into a single building. The Court used the terms “hostel” and “half-way house” to describe the building after it had been turned from six separate apartments into one unit. The Court also made this comment:

If the building were purchased “as is” and left as six flats, one of which was occupied by a supervisor, and the other five flats occupied by transitional patients, there would be nothing whatsoever which could stop the Hospital Board from embarking upon that particular exercise without permission from anyone.⁶³

Councils may not assume that the mere fact the people have mental illness is an effect on the environment. This is because the people who will be living in the flats are perfectly entitled to live anywhere in the community.⁶⁴

The courts have also stated that councils may not assume that the mere fact that people are concentrated in one street rather than spread throughout a city or area is relevant in terms of environmental effects. It may actually reduce any possible effects which the community might be concerned about.⁶⁵ Indeed, in several cases it has been held that the provision of support for people with low to moderate disabilities reduces effects on the residential environment – since these people may otherwise live unsupervised in the community.⁶⁶

Nor may councils, in considering particular proposals, discriminate against a proposal simply on the basis that mental illness is involved, as opposed to any other illness or disability or use.⁶⁷

⁶³ (*Hawkes Bay Hospital Board v Napier City Council* 11 NZTPA 404 at 409

⁶⁴ See for example *Department of Corrections v Dunedin* CC C131/97

⁶⁵ *Ammon v New Plymouth District Council* W27/97 p7-8

⁶⁶ See *Hawkes Bay* case p408 & *Nita A/A* and *Otara Petitioners Committee* A115/98

⁶⁷ *Nita A/A* and *Otara Petitioners Committee* A115/98 p7

The courts have determined that community fears about a proposed activity can be considered as an adverse effect. However, they can only be given weight if they are reasonably based on a real risk:

If a Council or the Court finds that there is an unacceptable risk of adverse physical health effects then it is likely to refuse consent anyway. If the risk is acceptable then fears of certain members of the community or even of sufficient people to be regarded as a 'community', would be unlikely to persuade the Council or at least the Court that consent should be refused, because the individual's or the community's stance is unreasonable.⁶⁸

Finally, the High Court has suggested that, when it comes to the interpretation of definitions in district plans, the purpose and effects based approach of the Resource Management Act might be relevant to all aspects of the interpretation of plan rules. For example, where there is ambiguity in the wording of a rule, a court would find it hard to distinguish between supported accommodation from ordinary residential accommodation on the basis that one was a commercial activity and the other was not, if the effects on the environment would not be any different.⁶⁹

Overseas decisions

In addition to decisions in the New Zealand courts, there is some interest in these issues overseas which has generated litigation. The situation revealed by the survey has strong parallels with planning in the United States, where the provision of housing for people with mental illness has generated zoning rules similar to those in the New Zealand district plans.⁷⁰

A leading case on this issue in the United States involved a non-profit group seeking to lease a house for 13 people with mental illness to receive training in independent living skills from staff who would be present 24 hours per day. The residents were to have jobs in the community and their stay at the premises would be voluntary. The planning rules for the zone permitted boarding and lodging houses as well as apartments and multiple dwellings. The city planners regarded the use as a hospital and required the non-profit group to apply for a special-use permit. The matter went before the Supreme Court on the basis that rights to equal protection and treatment under the US Constitution had been violated. The city argued that it was concerned that the activity would take place on a 500-year flood plain and that residents might be endangered. The Supreme Court found that argument unworthy of belief and irrational, since the city did not seek to protect apartment and lodging house dwellers from the same risks. The court concluded that:

⁶⁸ *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66 at para 190 and also see J Hassan & M Kyriak "RF emissions and adverse health effects" (1999) 3 Butterworths RMB 66

⁶⁹ *Hawkesbury Avenue, Somme Street And Browns Road Residents Association Incorporated V Merivale Retirement Village Limited* AP137/98 Chisholm J pp 9 & 11

⁷⁰ For an excellent summary see A Kanter "A Home of One's Own: The Fair Housing Amendments Act of 1988 and Housing Discrimination Against People with Mental Disabilities" 43 (1994) *The American University Law Review* 925

“mere negative attitudes, or fear ...are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings, and the like.”⁷¹

Although the case arose under constitutional protections which are peculiar to the United States, the essential ruling was that some rational reason was required to treat one group of people differently from other groups in the community. The *Cleyburne* decision has been quoted with approval in New Zealand.⁷²

In 1988 the United States government amended the Fair Housing Act 1968 to provide protection from discrimination for people with disabilities. Under this amendment, the Supreme Court in 1995 in *City of Edmonds v. Oxford House* held that zoning laws cannot be used to keep people with disabilities out of a neighbourhood. While communities might reasonably set occupancy limits, space requirements and other restrictions on houses occupied by unrelated people, like group homes, they could only do so if they also applied to everyone living in the area, whether related or not. While New Zealand does not have the equivalent of the Fair Housing Act, the general principle of non-discrimination in the provision of accommodation is contained in the Human Rights Act 1993 and associated human rights legislation and instruments applicable in New Zealand.

Conclusions

1. Many plans contain definitions, rules and policies for community care centres in a way which can affect the location of accommodation for people with mental illness.
2. Many of the definitions of community care centres are quite broad.
3. It is questionable whether some of these rules have adequately considered the effects on the environment of the activity which they seek to control. It certainly does not appear that the possible positive effects of such activities have been considered.
4. It is questionable whether some of these rules have adequately considered the requirement under s32 to consider whether this approach of restricting land use on the basis of the type of activity is the most efficient or cost effective approach.
5. Very few plans incorporating such rules give a comprehensive statement of the effects on the environment which the rules seek to control. Many refer to general amenity values.
6. Some plans containing such rules provide greater control in some zones as opposed to others with no apparent rationale for that difference.

⁷¹ 326, per Justice White in *City of Cleyburne v Cleyburne Living Centre Inc* 473 US 432 (1985)

⁷² *Hawkes Bay Hospital Board v Napier City Council* 11 NZTPA 404

7. Only one plan provides a detailed rationale in support of community care facilities and refers to the positive effects they may have on the community.

A preferred approach

The Otago University study concluded that, given community prejudices, formal recognition of community care housing and similar activities should be made in plans, as a means of ensuring that those uses would not be subject to informal discrimination. The solution proposed was a rule allowing community care housing of up to 10 residents as a permitted activity, and a controlled activity over that number, which would give the council (and not the general public) the ability to monitor any issues arising from larger numbers of residents.⁷³ Implementing that standard would at least considerably reduce the potential which exists in some plans for discrimination against people with mental illness on the basis of poor understanding, either in district councils or the community.

On the other hand, even agreeing on an appropriate definition for community care housing can be problematic, and arguments over the creation and interpretation of the definition can provide room for prejudices to be introduced. Nor does such an approach, while immediately practical, get to the root of the issue in the long term, or inspire the community to positively provide for those with a disability, which the RMA 1991 seems to suggest is a part of sustainable management.

In addition, it goes somewhat against the general thrust of the RMA 1991 to make specific provision for an activity simply on the basis that a general prejudice may exist against it. The analysis exercise required under section 32 would seem to contradict that approach. The Act also envisages that one of the methods for achieving the purpose of the Act other than by way of rules is the provision of information.⁷⁴ This might be a situation where such an approach should be taken.

More generally:

- Plans should spell out explicitly what the concerns are with accommodation of this nature. In particular, if “residential amenity” or safety are an issue, that should be given some definition.
- Plans should appreciate the range of possible services which may exist and avoid general rules which may be inappropriate.
- Planners should consider the positive effects of such facilities on community health and safety.
- Planners should work from factual information about mental illness, since community fear which is not reasonable cannot be taken into account.

⁷³ p28

⁷⁴ s32(1)(a)(ii)

Appendix

Survey of Plans of District and City Councils

Introduction

This survey looked at district plans compiled or in operation since the introduction of the Resource Management Act 1991 to:

- Identify definitions in each plan which could be relevant to housing for people with mental illness;
- List the rules that would apply in residential zones associated with such definitions;
- Identify any associated policies which explicitly address the issue of housing for people with mental illness and other disabilities.

For each district the survey examined the most recent plan developed since the introduction of the RMA 1991. In almost all cases this was a proposed district plan. Operative transitional plans were not therefore examined, except in rare instances where a proposed plan developed under the RMA 1991 had not yet been notified because a council had just completed or nearly completed a plan as the RMA 1991 came into effect. In two cases draft proposed plans were examined.

While the survey looked at provisions dealing specifically with, or which might be applied to, accommodation for people with mental illness, it must be remembered that in each plan, in addition to the rules that have been identified, there may be other general provisions and requirements that could apply to accommodation for people with mental illness living together.

The plans which were examined are held in a national collection at the Ministry for the Environment library in Wellington. After finding the relevant provisions, most councils were contacted to verify whether the correct rules and definitions have been recorded.

In all, the plans of 73 district and city councils were examined. 54 councils had provided a response to the provisions they were sent by the closing date for the survey.

Plans where councils had not responded by the close off date:

Far North	Opotiki
Gore	Queenstown
Grey	Rodney
Kawerau	South Taranaki
Masterton	Wanganui
Napier	Whangarei

The Survey

PLAN NAME	ASHBURTON PROPOSED DISTRICT PLAN
Status	Notified March 1995
Definitions	<p>Community Activity means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual wellbeing, but excludes recreational activities. A community activity includes schools, hospitals, doctors surgeries and other health professionals, churches, halls, libraries, community centres, police centres, police stations, fire stations, courthouses, probation and detention centres.</p> <p>Residential Activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings, leisure activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refuge accommodation, and the use of holiday homes which is not commercial.</p>
Residential and Rural Rules	Residential activities are permitted community activities discretionary. Relevant are rules relating to site density, setbacks, recessions planes, outdoor living space, carparks etc.
Residential Policies	<p>To enable a mixture of housing and lifestyles in urban areas by avoiding the distinction between, and restrictions on, various residential types.</p> <p>To avoid the establishment in residential areas of activities which, for reasons of their nature of specific aspects of their operation, will detract from the residential character and amenity of the locality.</p>

PLAN NAME	AUCKLAND CITY PROPOSED DISTRICT PLAN ISTHMUS SECTION
Status	Operative November 1999
Definitions	<p>Household Unit means a separate housekeeping unit, consisting of either:</p> <p>(a) one person; and up to four people un-associated with the household; or</p> <p>...</p> <p>(c) a group of not more than eight persons unrelated by blood, marriage, adoption or legal guardianship.</p> <p>And includes any of the normal domestic household activities which may occur on the premises.</p> <p>Residential Unit means a building, a room or group of rooms, used, designed or intended to be used exclusively by one or more persons as a single, independent and separate household unit.</p> <p>Non-permanent accommodation for care means land or buildings used, designed or capable of being used for residential accommodation by up to 8 people (exclusive of the manager and/or manager's family) where:</p> <p>(a) management, care, and support are provided during the continuance of the activity; and</p> <p>(b) the premises are not used by members of the travelling public or persons required by law to reside in particular premises.</p>
Residential Rules	The use of a residential unit for residential purposes is a permitted activity in all residential zones. Non-permanent accommodation for care is a restricted discretionary activity.

PLAN NAME **AUCKLAND CITY OPERATIVE DISTRICT PLAN 1996
– HAURAKI GULF ISLANDS SECTION**

Status	Operative
Definitions	Dwelling means a building or part thereof designed and used principally as a self-contained residence and includes homestay accommodation where lodging is provided or intended to be provided for reward or payment for not more than five (5) guests. Rehabilitation Facilities means land and buildings which together are used for the purpose of providing for physical, psychological or social rehabilitation.
Residential Rules	Dwellings and rehabilitation facilities are permitted.

PLAN NAME **AUCKLAND CITY PROPOSED DISTRICT PLAN
– CENTRAL AREA SECTION**

Status	Notified October 1997
Definitions	Accommodation means accommodation whether permanent or temporary. Community Care Facilities means facilities that provide services of a community or caring nature. Generally community care facilities provide the service on site or have employees at the site on a regular basis.
Residential Rules	Generally, accommodation and community care facilities are permitted activities. They are controlled activities in the residential precincts.

PLAN NAME **BANKS PENINSULA PROPOSED DISTRICT PLAN**

Status	Notified January 1997
Definitions	Dwelling means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes ... Accommodation where lodging is provided, or intended to be provided, for reward or payment, for not more than 5 guests on a site... Health care facilities means land and buildings used for the provision of services relating to the physical and mental health of people and/or animals and includes medical centres, hospitals, convalescent homes, clinics, gymnasias and veterinary hospitals.
Residential Rules	Dwellings are permitted and health care facilities are discretionary.

PLAN NAME **BULLER DISTRICT PLAN**

Status	Operative
Definitions	Residential activity means any use of land where permanent accommodation in a dwelling, apartment or institutional home is the primary purpose, and no persons are employed other than for the purposes of caring for permanent residents.
Residential Rules	Any use of land complying with standards is permitted.

PLAN NAME CARTERTON DISTRICT PLAN

Status	Operative March 2000 Community Activity means the use of any land or premises for any activity or service which has an individual or community health, welfare, care, safety, educational, recreational, cultural, ceremonial spiritual, art or craft purpose.
Definitions	Community Services includes educational facilities, places of worship, libraries, hospitals, retirement homes and rest homes, community halls, kohanga reo, and childcare centres, but excludes entertainment facilities. Residential activities means all activities normally carried out in a place of residence used by persons living alone or in family and/or non-family groups whether any person is subject to care, supervision or not. Includes the buildings and areas accommodating such activities including dwellings; papakainga housing; but excludes multi unit residential activities in the urban area. Includes residential businesses but excludes home hosting, board and lodging, hotels and motels or similar travellers' accommodation for more than 5 people in addition to the occupier's family. Residential institutions includes hospitals, convalescent homes or boarding schools providing board and lodging.
Residential Rules	Residential activities and community services are permitted subject to standards. Residential institutions are discretionary.
Rural Rules	Residential activities and community services are permitted subject to standards. Residential institutions are discretionary.

PLAN NAME CENTRAL HAWKES BAY DISTRICT PLAN

Status	Operative January 1999
Definitions	Residential Unit means a building providing living accommodation for one household, and includes IHC Community Homes. Residential Institution means a building where accommodation, care and supervision is provided for five or more persons, other than management and staff, and includes such activities as resthomes, hospitals, convalescent homes and boarding institutions.
Residential Rules	Residential units not exceeding two per property are a predominant activity. Residential institutions are a conditional activity. Guidelines are provided for residential institutions exceeding 100m ² gross floor area.
Residential Policies	Policy: to provide for residential units as predominant activities. Policy: to control the development of other residential type activities.
Rural Rules	Rural settlements: residential units are predominant, residential institutions are conditional.
Rural township rules	One residential unit is a predominant use. Residential institutions are conditional activities.

PLAN NAME CENTRAL OTAGO PROPOSED DISTRICT PLAN

Status	Notified July 1998
Definitions	Residential activity means a use of land and buildings by people for the purpose of living accommodation in a household unit and includes a dwelling or dwelling unit. It includes accessory buildings, sleepouts, leisure activities associated with needs generated principally from living on the site; home occupation as defined; and homestay as defined.
Residential Rules	Residential activities are permitted in the Residential, Business, Rural Settlements and Industrial Resource Areas, subject to compliance with relevant standards, and controlled in the Rural Resource Area.
Residential Policies	7.2.1 Residential character – Residential Resource Area. To ensure that the character and amenity values of residential areas are protected by ensuring that the adverse effects of [the following] are avoided, remedied or mitigated: ... (i) The loss of a sense of amenity, security and companionship by non-residential activities.

PLAN NAME CHRISTCHURCH CITY PROPOSED PLAN

Status	Notified July 1995
Definitions	Residential Activity means the use of land and/or buildings for the purpose of living accommodation; and includes the use of land and/or buildings for: <ul style="list-style-type: none">• The provision of accommodation to a maximum of four travellers at a tariff where the registered proprietor resides on the site;• Emergency and refuge accommodation; and• The use of land and/or buildings for supervised living accommodation and any associated caregivers where the residents are not detained on the site; But does not include: <ul style="list-style-type: none">• Travellers' accommodation activities (other than those specified above); and• The use of land and/or buildings for custodial and/or supervised living accommodation where the residents are detained on the site.
Residential Rules	In the Living Zones, any residential activity which complies with all of the development standards and all of the critical standards is a permitted activity.
Residential Policies	Community care of people with special needs: A number of community groups are working in the field of providing community care for the mentally and physically disabled, and prisoner release programmes. An important aspect of the process is the integration of these people back into the community, on the basis that people are best treated in their own environment supported as necessary by health care professionals. This is seen as a community responsibility. Many mentally and physically disabled people and released prisoners are able to live in houses as family units throughout residential areas. For these groups it is important housing to be close to public transport and shopping centres.

PLAN NAME CLUTHA DISTRICT COUNCIL PLAN

Status	Operative June 1998
Definitions	<p>Residential activity means a use of land and buildings by people for the purpose of living accommodation in a household unit and includes a dwelling house. It includes accessory buildings, leisure activities associated with needs generated principally from living on the site, and home occupation as defined; and private hotel as defined.</p> <p>Private Hotel means any building in which board is provided or is intended to be provided for no more than 5 boarders or lodgers, other than members of the family of the occupier, or person in charge and control of the building, for reward or payment; and includes a boarding house, but does not include a building forming part of a camping ground, licensed premises or travellers accommodation (as defined).</p>
Residential Rules	Residential activities are permitted if they conform with rules 4, 6, 7 (yard, height, storage, noise, signs, unreticulated sites, verandahs). Activities that do not fit within the definition of residential activities are non-residential activities and are permitted subject to compliance with performance standards.
Residential Policies	<p>Policy to minimise the adverse effects that activities can have on the existing amenity levels of the District's Urban areas.</p> <p>To maximise private choice of residential dwelling types and location.</p>
Rural Rules	<p>Residential activities are permitted if they comply with standards.</p> <p>Residential activities are permitted if they comply with standards.</p>

PLAN NAME GISBORNE DISTRICT PLAN

Status	Notified November 1997
Definitions	<p>Residential activity means the use of premises for any domestic or related purpose by persons living alone or in family or non-family groups (whether any person is subject to care or supervision), and shall include emergency and refuge accommodation. Residential activity shall not include home occupation, visitor accommodation or residential care homes, camp grounds or motor camps.</p> <p>Residential care homes means a building or buildings which provides live in accommodation for five or more people, who require on-going health care or supervision provided by paid staff, including public or private hospitals and rest homes.</p>
Residential Rules	<p>Residential activities are permitted in all residential zones provided they comply with the General Rules.</p> <p>Residential care homes are restricted discretionary activities:</p> <p>Council shall restrict its discretion to the matters specified (re scale, noise, height, parking, location of site and buildings, safety and security of the neighbourhood, etc).</p>
Rural Rules	Activities not listed as permitted activities but which comply with the General Rules are discretionary in the rural zone.
Rules in other zones	The Commercial, Industrial, Reserve and Port zone chapters do not address the issue of residential care homes. These activities are provided for in a generic "catch-all" as non-complying activities. Residential activities are provided for in a limited manner in the Commercial and Industrial zones but would generally require a resource consent as either a restricted discretionary, discretionary or non-complying activity.

PLAN NAME HAMILTON CITY PROPOSED DISTRICT PLAN

Status	Notified November 1999 Community Care Housing means residential accommodation occupied by five or more persons in addition to staff in which groups and organisations provide residential care and support to individuals with special physical, intellectual, psychiatric or emergency accommodation needs, but does not include secure units.
Residential Rules	Residential Zone: Community care housing for up to 12 people including staff is a controlled activity, in respect of site and building layout and design, parking, loading and access and hours of operation. Where the occupancy is between 5 and 12 people, inclusive of staff, a live-in supervisor shall be required. Community care housing for over 12 people is a discretionary activity.

PLAN NAME HASTINGS PROPOSED PLAN

Status	Proposed November 1997
Definitions	Residential activity means the use of land and buildings by people for the purpose of permanent living accommodation, and includes, residential buildings, residential units buildings, secondary residential buildings and associated accessory buildings. Health Care Services means land and buildings used in whole or in part by one or more public or private providers of health care, including surgeries, clinics (medical or veterinary) and hospitals, but excludes medical insurance brokers.
Residential Rules	Residential activities are permitted in residential and rural zones, as are homes for the aged. Health care services are discretionary.

PLAN NAME HAURAKI DISTRICT COUNCIL OPERATIVE PLAN

Status	Operative September 1997
Definitions	Community housing means a place of residence for persons with mental or other health problems or victims of rape, violence and domestic or similar problems, and includes home care facilities. Residential Institution means a building(s) in which board, lodging or live in health (mental, social and physical) support is provided. This includes housing for the elderly, boarding houses, emergency housing, refuge centres and halfway houses. Residential purposes or activities means the construction of a dwelling and any use of the dwelling, land or other buildings for purposes ancillary or incidental to a dwelling such as home occupations and home stay.
Residential Rules	Discretionary if more than nine. Residential activities, and residential institutions and community housing comprising of no more than nine persons are permitted. Residential institutions, comprising more than nine and not more than twelve beds are controlled activities. Any permitted or controlled activity that exceeds the limits specified in the definition, the activity listing and any other activity not otherwise mentioned are discretionary activities.
Rural Rules	Within the rural zone, two dwellings per separate lot are permitted activities. Any activity not provided as a permitted, controlled or discretionary activity is non-complying. This would include a residential institution or community housing. In the Rural Residential zone, Rural Residential Activities (i.e. activities that are predominantly residential, with rural activities being ancillary or accessory) are permitted. Any activity that exceeds the limits specified in the definition, the activity listing and any other activity not otherwise listed are discretionary. A residential institution or community housing would be classified as a discretionary activity whereas an individual living in their own dwelling would be categorized as a permitted activity.

PLAN NAME HOROWHENUA DISTRICT PLAN

Status	Operative September 1999
Definitions	Community Activity (also community facility) means the use and development of any land or premises for any activity or service which provides for individual or community health, welfare, care, safety, educational, recreational. Cultural, ceremonial, spiritual, art, or craft purpose; and includes buildings, structures and other development associated with the activity. Residential Activity means the use, occupation, or inhabitation of any land or buildings by people for the purpose of residential accommodation; and includes domestic occupations and pastimes and activities undertaken which are usually associated with residential accommodation; and includes any emergency housing facility, refuge, or health care for up to five persons plus support staff.
Residential Rules	Residential activities and use of existing community facilities permitted.
Residential Policies	Encourage all developments and activities to be designed and operated in such a way as to: <ul style="list-style-type: none"> • Promote community health; and • Promote personal safety and security; and • Minimise the risks of accident, injury, or crime occurring in public places.
Rural Rules	Residential activities and use of existing community facilities permitted.

PLAN NAME PROPOSED HURUNUI DISTRICT PLAN

Status	Notified September 1995
Definitions	Community services include educational institutions, places of worship, libraries, hospitals, resthomes, community halls, childcare centres. Residential means the use of premises primarily for dwelling.
Residential and Rural Rules	Activities are permitted if they comply with conditions relating to height, sunlight, noise, traffic, setbacks, etc.

PLAN NAME HUTT CITY PROPOSED DISTRICT PLAN

Plan status	Decisions on submissions published November 1998. There are still references in relation to the provision of community care facilities which have yet to be heard or determined.
Definitions	Community Care Facility means a facility, other than a dwelling house, where residential health care in the form of therapeutic and rehabilitation services are provided. It includes all refuges and hostels for youth at risk. Dwelling house means a self-contained home of a single household unit, used for living purposes and includes buildings where board and lodgings are provided for up to and including 5 people (but excluding community care facilities), an apartment, a fully detached unit, semi-detached unit, and a townhouse.
Residential Rules	Dwellings are permitted. Community care facilities are discretionary in the general residential area. Non-complying in the historic residential activity area, the special residential activity area and the landscape protection residential activity area. Discretionary in the hill residential activity area.
Residential Policies	Policies for the General Residential Activity Area: To restrict the range of non-residential, and commercial activities to those which will not affect adversely the residential character or amenity values. To avoid, remedy or mitigate the adverse effects of higher dwelling densities on the surrounding area, caused by height of buildings, intensity, scale and location. To ensure that the size, scale and nature of non-residential activities and any associated storage of hazardous substances, light spill, noise, glare, vehicle and pedestrian activity does not have adverse effects upon surrounding properties.

PLAN NAME CITY OF INVERCARGILL PROPOSED PLAN

Status	Notified January 1998
Definitions	Residence means premises used for any domestic purposes living alone or in a family and/or non-family groups, whether any person is subjected to care, supervision, or not...but does not include...other premises where residential accommodation for five or more persons is offered at a daily tariff.
Residential Rules	In the urban, suburban and rural areas, residences are permitted, and premises where residential accommodation for five or more persons is offered, are discretionary.

PLAN NAME KAIKOURA DISTRICT PLAN

Status	Transitional District Plan since 1989
Definitions	<p>Community Activity means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual well-being, but excludes recreational activities. A community facility includes schools, hospitals, resthomes, doctors surgeries and other health professionals, churches, marae, halls, libraries, community centres, police stations, fire stations, courthouses, probation and detention centres, government and local government offices.</p> <p>Residential Activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings, recreational activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refuge accommodation but exclude visitor accommodation, and the non-commercial use of holiday homes.</p>
Residential Rules	Residential activities are permitted; community activities are discretionary. In the settlement zone, residential and community activities are permitted. In the business area, residential and community activities are permitted.
Residential Policies	To avoid or mitigate development which would detract from the predominant character, scale and amenity of the particular residential environment.
Rural Rules	Residential activities are permitted; community activities are discretionary.

PLAN NAME KAIPARA DISTRICT PROPOSED PLAN

Status	Operative February 1997
Definitions	Welfare home means a building intended for accommodating people with physical, mental or social disabilities and includes a men's or women's refuge.
Residential Rules	Rest homes and welfare homes are controlled activities. Residential dwellings containing one household unit per site are permitted activities subject to environmental standards.

PLAN NAME MACKENZIE DISTRICT COUNCIL PROPOSED PLAN

Status	Notified February 1997
Definitions	<p>Community activities and facilities means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual wellbeing, but excludes recreational activities. A community care activity includes schools, day-care facilities, hospitals, doctors' surgeries and other health professionals, churches, halls, libraries, community centres, emergency service facilities, courthouses, probation and detention centres.</p> <p>Residential activity means the use of lands and buildings for the purpose of permanent living accommodation, including all associated accessory buildings, leisure activities, and the keeping of domestic livestock. For the purpose of this definition, residential activity shall include residential community care homes for up to and including six people and management staff, and emergency and refuge accommodation.</p>
Residential Rules	<p>Residential activities are permitted if they comply with conditions relating to density, height, access, keeping of animals, etc.</p> <p>Any other activity is permitted subject to conditions.</p>
Residential Policies	To ensure that activities in residential areas do not adversely affect the natural and physical environment the safety of residents and the pleasantness and amenity enjoyed in these areas.

PLAN NAME MANAWATU DISTRICT PROPOSED PLAN

Status	Notified August 1998
Definitions	<p>Community activities include residential centres, but no definition is provided.</p> <p>Homes for the aged means institutions that provide board and care for five or more elderly persons.</p>
Residential Rules	Dwelling units are permitted in the residential zone, if they comply with standards. Traveller's accommodation, boarding houses and homes for the aged are discretionary.

PLAN NAME MANUKAU CITY PROPOSED DISTRICT PLAN

Status	Notified 1995
Definitions	<p>Residential Centre means a premise in which board or lodging is provided or intended to be provided, for boarders or lodgers, and includes hostels, emergency housing, orphanages, refuge centres, halfway houses but excludes all the following (a)–(c):</p> <ul style="list-style-type: none">(a) a building forming part of a hotel, motel, motor camp; and(b) private and public hospitals;(c) any premises for persons who are remanded or accommodated pursuant to the Criminal Justice Act 1985.
Residential Rules	<p>Residential Centres accommodating not more than 10 persons inclusive of owners' family and staff are permitted in the Residential (traditional suburban) Heritage, Main Residential Integrated Intensive Housing and Residential Settlement Services zones. They are discretionary in the residential settlement unserviced zone, and non-complying in the residential (Built Form) heritage and Residential (Flora) Heritage zones.</p> <p>Residential Centres accommodating more than 10 persons are restricted discretionary in the Residential (traditional suburban) Heritage, Main Residential Integrated Intensive Housing and Residential Settlement Services zones.</p>

**Continued/
Non-regulatory
methods**

Establishing Residential Centres: the Manukau Healthy City Charter, together with the Community Homes Protocol, provides the appropriate framework for the establishment of Residential Centres including community homes within Manukau City. The Council expects all agencies involved in the establishment of residential centres (whether permitted activities or not) to undertake an appropriate level of community consultation before a residential centre is established. Methods of consultation may include:

- Neighbourhood support group
- Door knocking
- Notices of intention in the public notices of newspapers
- Letterbox drops

Regular liaison with private and government agencies who are supporting community homes is also anticipated.

PLAN NAME MATAMATA PIAKO PROPOSED DISTRICT PLAN

Status	Revised version issued (post submissions) June 1998
Definitions	<p>Accommodation facilities means any form of residential accommodation which does not comply with the definition of dwelling or dependent persons dwelling and includes boarding houses, hotels, hostels, motels, camping grounds, retirement villages and resthomes for the rehabilitation of any group.</p> <p>Dwelling means a self contained residential unit designed for or occupied exclusively by one household and includes apartments, semi-detached and detached houses, home units, town houses, boarding houses and community homes accommodating fewer than six people at any one time and similar forms of residential development. A dwelling may also include attached self contained suites when occupied by a member of the same family, and garages part of the same building which are primarily for storage of the occupants' vehicles, tools and the like.</p>
Residential Rules	<p>In the residential zone, one dwelling per site is permitted, subject to development controls, which relate to height, density, etc.</p> <p>Accommodation facilities are discretionary.</p>
Rural Rules	One dwelling per property greater than 4.2 ha. Accommodation facilities are discretionary.

PLAN NAME MARLBOROUGH DISTRICT COUNCIL – MARLBOROUGH SOUNDS PROPOSED RESOURCE MANAGEMENT PLAN

Status	Notified July 1995. An amended document incorporating decisions on submissions was released January 1998.
Definitions	<p>Community Facility means the use of land and buildings for the primary purpose of public health, welfare, care, safety, education, culture and spiritual well-being. Community facilities include schools, hospitals, doctors' surgeries, veterinary clinics and other private health professionals, churches, public recreation and entertainment facilities, halls, libraries, community centres, court houses, community correction centres.</p> <p>Residential Activity means land and buildings used by people for the purpose of living accommodation where occupiers voluntarily intend to live at the site for a period of one month or more, and will generally refer to the site as their house and permanent address; and includes accessory buildings and leisure activities. For the purposes of this definition, residential activity shall include emergency and refuge accommodation but does not include visitor accommodation, camping grounds or homestays.</p>

Continued

Residential Unit means a residential activity which consists of a single self-contained housekeeping unit, whether of one or more persons, and includes accessory buildings and a family flat. Where more than one kitchen facility is provided on the site, other than a kitchen facility for a family flat there shall be deemed to be more than one residential unit. For the purposes of this definition a residential unit shall include a holiday home, emergency unit or refuge.

Residential Rules

In the Urban Residential Zone, residential activities are permitted. Community facilities are discretionary activities.
In the Sounds Residential Zone, residential activities are permitted, provided that only one dwellinghouse per allotment is allowed as a permitted activity. Community facilities are discretionary activities.

Rural Rules

Community facilities and additional residential accommodation are discretionary activities.

PLAN NAME MARLBOROUGH DISTRICT COUNCIL PROPOSED WAIRAU/ AWATERE DISTRICT PLAN

Status

Notified November 1997. An amended document October 1998 incorporates decisions on submissions.

Definitions

Community Housing: irrespective of the supplier of accommodation, community housing includes facilities from which groups provide residential support to individuals with needs which include, but are not limited to, the following: physical, intellectual or psychiatric disabilities; emergency accommodation; women's refuges; children who can not live at home; and people with addictive behaviours.

Community Facility means the use of land and buildings for the primary purpose of public health, welfare, care, safety, education, culture and spiritual well-being, but excludes recreational activities. Community facilities include schools, hospitals, doctors' surgeries, veterinary clinics and other private health professionals, churches, halls, libraries, community centres, daycare centres, court houses, community correction centres.

Residential Activity means land and buildings used by people for the purpose of living accommodation where occupiers voluntarily intend to live at the site for a period of one month or more, and will generally refer to the site as their house and permanent address; and includes accessory buildings and leisure activities. For the purposes of this definition, residential activity shall include community, emergency and refuge accommodation but does not include visitor accommodation, camping grounds or homestays.

Residential Rules

Rural Residential zone: Residential activity is a permitted activity, Community Housing is non-complying.
Urban Residential zone: residential activity is permitted, community facilities are discretionary
Township Residential Zone: residential activity is permitted, community facilities are discretionary.

Residential Policies

Enable the provision of a range of residential accommodation types to suit the needs of people of all ages and the needs of people with disabilities.

Rural Rules

Community housing is non-complying.

PLAN NAME NELSON PROPOSED RESOURCE MANAGEMENT PLAN

Status	Notified 1996, revised version issued December 1999
Definitions	<p>Residential Activity means the use of land and buildings by people for living accommodation where the occupiers intend to live at the site for a period of one month or more, and will generally refer to the site as their home and permanent address; and includes accessory buildings and leisure activities.</p> <p>For the purpose of this definition, residential activity shall include:</p> <ul style="list-style-type: none">a) accommodation offered to not more than four travellers for a daily tariff in association with a permanent resident as described above, orb) emergency and refuge accommodation, orc) accommodation for supervision staff and residents, where residents are subject to care or supervision (e.g. homes for persons with disabilities, and homes for the elderly), but not places where residents are subject to detention.
Residential Rules	Residential activities are permitted.

PLAN NAME NEW PLYMOUTH PROPOSED DISTRICT PLAN

Status	Notified November 1998
Definitions	None directly relevant.
Residential Rules	Effects-based rules dealing with siting of buildings, traffic generation, parking, servicing, noise, lighting, signs with stated permitted parameters which if exceeded will require resource consent approval.

PLAN NAME NORTH SHORE CITY PROPOSED DISTRICT PLAN

Status	Notified October 1994
Definitions	Residential Care Centre means any building in which board, lodging, and live-in mental or physical health support is provided, including emergency housing, refuge centres and halfway houses, but excludes private or public hospitals.
Residential Rules	<p>Residential Care Centres or Boarding Houses housing up to 7 residents (including live-in support staff) are permitted in all residential zones [there are 7 of them] except the built zone.</p> <p>Residential Care Centres or Boarding Houses housing 8 or more residents are discretionary in all residential zones except the Natural Zone where it is discretionary in the natural 2B zone only (ie. Non-complying in the Natural 2A, 2A1, 2C zones).</p> <p>In the Residential Expansion Zone and Albany Centre Expansion Zone, Boarding Houses and Residential Care Centres for up to 5 persons are controlled activities.</p>
Residential Policies	<p>16.3.5 Housing Choice</p> <p>Objective To provide a diverse range of living environment and housing opportunities in order to meet the varied needs of the community in a manner which is compatible with the maintenance of and protection of residential amenity and environmental values.</p> <p>Policy By providing opportunities for residential care centres, including IHC and half-way houses within the residential area at an intensity and scale compatible with other residential development.</p>

PLAN NAME **OTOROHANGA DISTRICT PLAN**

Status	Operative July 1999
Definitions	No relevant definitions.
Residential Rules	Activities are permitted if they comply with all of the relevant standards. Standards relate to traffic, signs, height, etc.

PLAN NAME **PALMERSTON NORTH CITY – THE PROPOSED DISTRICT PLAN**

Status	Notified July 1995. There are no appeals relating to the residential section of the plan.
Definitions	Community House means land and/or buildings in which board and live-in health care support is provided for more than five people. This includes homes for the elderly and halfway houses.
Residential Rules	Community Homes are permitted provided they comply with the specified performance standards.
Residential Policies	Explanation: Community homes are intended to provide accommodation for groups in the community such as the elderly who require both accommodation and ongoing health care. Such facilities tend to generate few effects which are different from those of a standard dwelling. Provided care is taken with regard to matters such as parking and the size of the activity, community homes generally remain compatible with the residential environment and benefit from the quietness and amenity values of the Residential Zone.

PLAN NAME **PAPAKURA DISTRICT PLAN**

Status	Operative June 1999
Definitions	Rehabilitation Facilities means land and buildings which together are used for the purpose of providing for physical, psychological or social needs. Residential activities means activities comprising one or more household units and includes residential accommodation for physical, psychological or social support. The following list is provided for the purpose of specifying the activities permitted under the category of residential activities: Boarding houses, pensioner household units, papakainga housing, single and multiple household units, motels, hotels, holiday flats, motor and tourist lodges. Temporary household unit means a relocateable household unit of not more than 80m ² gross floor area for the accommodation of a person or persons meeting one or more of the following criteria: Either: an aged or disabled person or persons who, without the physical care and support of the persons occupying the larger household unit on the same site would be incapable of an independent existence; Or: person or persons without whose physical care and support the aged or disabled occupant(s) of the larger household unit on the same site would be incapable of an independent existence; Or: a caregiver.
Residential Rules	Residential activities are permitted where they meet performance standards relating to bulk and location, glare, noise.

PLAN NAME PORIRUA CITY DISTRICT PLAN

Status	Operative November 1999
Definitions	Dwelling means a building or buildings, or any part thereof, whether temporary or permanent, which is used for domestic purposes by an individual, a family, or a non-family group... Non-Residential Activities: Any activity on any site within the suburban zone, or in any building, other than a residential activity, and includes: <ul style="list-style-type: none">• hospitals, or related activities entailing the professional care of any person or persons;...
Suburban zone rules	Dwellings and non-residential activities are permitted if they comply with the relevant standards.

PLAN NAME RANGITIKEI DISTRICT PLAN

Status	Operative July 1999
Definitions	Community activity means the use of any land or premises for any activity or service which has an individual or community health, welfare, care, safety, educational, recreational, cultural, ceremonial, spiritual, art, or craft purpose. Community facility means any land, building, or premises which provides any community activity; and includes any school, playcentre, hospital, medical or health centre or surgery, church, place of worship, hall, library, public art gallery, or community centre. Residential activity means the use, occupation, or inhabitation of any land or buildings by people for the purpose of residential accommodation; and includes domestic occupations and pastimes and activities undertaken which are usually associated with residential accommodation; and includes any emergency housing facility or refuge.
Residential Rules	Residential activities are permitted; performance standards relate to building height, noise, light and glare, parking, signs, etc. community activities are permitted if they comply with standards.
Residential Policies	Encourage all developments and activities to be designed and operated in such a way as to: Promote community health; and Promote personal safety and security, and Minimise risks of accident, injury, or crime occurring in public places.
Rural Rules	Residential activities are permitted; performance standards relate to building height, noise, light and glare, parking, signs, etc. Community activities are permitted if they comply with standards.

PLAN NAME ROTORUA PROPOSED DISTRICT PLAN

Status	Notified. There have been no appeals in relation to community housing.
Definitions	Community Housing means a place of residence for persons with mental or other health problems or victims of rape, violence, and domestic or similar problems, and includes home care facilities.
Residential Rules	Community housing with a maximum of eight overnight residents per lot is permitted.

PLAN NAME RUAPEHU PROPOSED DISTRICT PLAN

Status	Notified December 1994
Definitions	Hospital activity means: a) any institution for the reception, treatment, and convalescence of persons requiring medical treatment of suffering from any disease; or b) any maternity hospital; or c) any convalescent home (including those for the aged); or d) any retirement village or complex; and includes all clinics, dispensaries, out-patient departments, services, offices and other accessory activities maintained in connection with, or incidental to, the primary hospital activity. Residential activity means any use of land or a building or part of a building for the purposes of permanent living accommodation and includes accessory buildings and ancillary uses secondary and associated with residential living, and includes papakainga, dwelling units and flats.
Residential Rules	Residential activities and hospital activities are permitted. Conditions for permitted activities relate to amenity and health.
Low Residential zone	Residential and Boarding house Activities are permitted. For boarding house activities, compliance with conditions relating to scale and integration is required for the activity to be a permitted activity. Any permitted activity specified in Rule RL 3.1 which cannot meet all the relevant conditions for permitted activities is a restricted discretionary activity. The following activities are Discretionary: Recreation and community activity, ...healthcare services activity,...hospital activity, ...boarding house activity for more than 10 persons. Other activities are non-complying.
Rural Rules	Residential activities are permitted. Hospital activities not mentioned, so must be non-complying. Conditions for permitted activities relate to amenity, health, appropriateness.

PLAN NAME SELWYN DISTRICT PLAN – PAPARUA COUNTY SCHEME

Status	Operative 1985
Definitions	Dwelling means those parts of one or more buildings which together comprise, or are intended to comprise, the residence of a single household unit.
Residential Rules	Dwellings are a predominant use (subject to general provisions).

PLAN NAME SELWYN DISTRICT PLAN – MALVERN COUNTY SCHEME

Status	Operative September 1990
Definitions	Dwelling house means a detached residential building designed for and occupied exclusively as one household unit, and includes the occasional hosting of up to four guests, on a commercial basis. Boarding house means a residential building, not being a licensed hotel, in which board and/or lodging is provided or is intended to be provided for five or more boarders or lodgers, for reward or payment, and includes a private or unlicensed hotel and a private residential club. Residential institutions means a hostel, hospital, convalescent home, boarding school, or charitable institution, providing board and lodging and having accommodation for four or more persons other than management and staff.
Residential Rules	Dwellings are a predominant use in residential zones.

PLAN NAME SELWYN DISTRICT PLAN – ELLESMERE COUNTY SCHEME

Status	Operative January 1982
Definitions	Dwelling house means a detached residential building or group of residential buildings designed for and occupied exclusively as one household unit. Residential institution means a hostel, hospital (other than a mental hospital), convalescent home, boarding school, or charitable institution providing board and lodging and having accommodation for four or more persons other than management and staff.
Residential Rules	Dwellings are a predominant use (general provisions apply). In the residential zone, convalescent homes and boarding houses are a conditional use.

PLAN NAME STRATFORD DISTRICT PLAN

Status	Operative December 1997
Definitions	Dwelling means a residential building designed to accommodate one family or household.
Residential Rules	Residential dwellings, retirement homes and rest homes are permitted, if they comply with all relevant standards. Hospitals are discretionary.

PLAN NAME SOUTH WAIKATO DISTRICT PLAN

Status	Operative June 1998
Definitions	Community Care Housing means housing managed by any public authority, religious institution or organisation for the rehabilitation or care or any group. It includes emergency housing, housing for battered women, housing for the disabled, "half way houses" and therapeutic or convalescent homes for psychiatric or former psychiatric patients.
Residential Rules	Community care housing for up to 8 persons in care is permitted, discretionary for more than 8 in care.
Rural Rules	Community care housing and boarding houses are non-complying.

PLAN NAME SOUTH WAIRARAPA DISTRICT PLAN

Status	Operative November 1998
Definitions	Residential activity means all activities normally carried out and conducive to a place of residence including home hosting and home occupations, the residential buildings and areas accommodating such activity including dwellings, papakainga housing, dwelling units, apartment houses, blocks of flats, boarding houses, elderly persons' housing; but does not include transient accommodation, residential institutions or hotels. Residential Institution means a hostel, hospital, old peoples homes, convalescent home, boarding school, or charitable institution providing board and lodging and having accommodation for four or more persons other than management and staff.
Residential and Rural Rules	All activities which comply with standards and terms are permitted. Relevant is parking and any other relevant to particular site.

PLAN NAME SOUTHLAND DISTRICT PLAN

Status	Operative June 1999
Definitions	Residential Activity means a use of lands and buildings by people for the purpose of permanent living accommodation in a household unit where the majority of occupiers intend to live at the site for a period of one month or more of continuous occupation per annum and will generally refer to the site as their home and permanent address. It includes accessory buildings and leisure activities associated with needs generated principally from living on the site.
Residential Rules	Residential activities that conform with the rules set out in residential activity performance standards are permitted. Standards relate to yard requirements, height, outdoor living and privacy requirements, outdoor storage, signs, noise, parking.
Rural Rules	Residential activities are permitted subject to compliance to the relevant rules and performance standards.

PLAN NAME TARARUA OPERATIVE DISTRICT PLAN

Status	Operative March 1998
Definitions	Residential unit means a self-contained dwelling house, flat, or unit which is used primarily for permanent or long-stay residential activity and may be either attached to, or detached from, other activities or residential units on the site. Residential accommodation means the use of any land or premises primarily for permanent or long-stay residential activity and, in addition to dwellinghouses and other residential units, it includes retirement and convalescent homes...
Residential Rules	Residential accommodation is a permitted activity.
Residential Policies	To enable the establishment of activities and facilities which meet the environmental, economic, social, recreational, educational, and cultural needs of the district's inhabitants, in locations where their effects are compatible with the surrounding area. To ensure than any actual or potential adverse environmental effects of activities are avoided, remedied or mitigated.
Rural Rules	Dwelling houses are permitted. Residential accommodation not specifically mentioned.

PLAN NAME TASMAN PROPOSED RESOURCE MANAGEMENT PLAN – UPDATE NO4

Status	Notified August 1999
Definitions	Residential activity means the use of land and buildings by people for the purpose of living accommodation, including all associated accessory buildings, leisure activities, the keeping of domestic livestock, and including emergency and refuge accommodation.
Residential Rules	Activities must comply to rules governing the effects of vehicles, emissions, glare, noise, etc.

PLAN NAME PROPOSED TIMARU DISTRICT PLAN

Status	Notified October 1995. Amended version incorporating decisions on submissions released April 1998.
Definitions	<p>Boarding or Lodging House or Hostel see the definition of Community Service in Clause 3.0.2 of the first schedule of the Building Regulations 1992 which currently applies to residential buildings housing six or more people including boarding houses, halls of residence, hostels and nurses homes but does not include travellers' accommodation.</p> <p>Community Care Facility applies to a residential building or use where a large degree of assistance or care is extended to the principal users. There are two types:</p> <p>(a) Unrestrained; where the principal users are free to come and go. Examples; a hospital, an old people's home or a health camp.</p> <p>(b) Restrained; where the principal users are legally or physically constrained in their movements. Examples: a borstal or drug rehabilitation centre, an old people's home where substantial care is extended, a prison or hospital.</p>
Residential Rules	<p>Residential 1 zone: Boarding or lodging houses, community care facilities (unrestrained), or hostels or travellers accommodation providing for up to 10 people are permitted activities subject to complying with all the Performance standards for this zone and the General Rules.</p> <p>Residential 2 zone:</p> <p>(a) For land between the Terrace and the Main South Railway Line boarding and lodging houses, hostels or community care facilities (unrestrained) or travellers accommodation are permitted.</p> <p>(b) For other areas of this zone boarding or lodging houses, hostels or community care facilities (unrestrained) with up to 10 beds are permitted.</p> <p>Activities not mentioned are non-complying.</p> <p>Residential 3 zone: Boarding or lodging houses, or hostels, or community care facilities (unrestrained) are discretionary activities.</p> <p>All residential uses not listed as permitted or controlled are discretionary in the Residential 4 Zone.</p> <p>Community care facilities are permitted in the commercial zones.</p>
Rural Rules	Rural 1 zone: community care facilities are discretionary.

PLAN NAME UPPER HUTT CITY PROPOSED DISTRICT PLAN

Status	Notified August 1998
Definitions	<p>Boarding house means a residential building, not being a licensed hotel, in which board and lodging is provided or is intended to be provided for five or more boarders or lodgers, for reward or payment, and includes a private hotel and private residential club, but does not include Community Care Housing.</p> <p>Community Care Housing means housing managed by any public authority, religious or charitable organisation or institution for the rehabilitation or care of any group of persons.</p> <p>Residential Institution means a hostel, hospital, convalescent home, community care housing, boarding school, or charitable institution providing board and lodging and having accommodation for more than five persons other than management and staff.</p> <p>Rest Home means any nursing home, convalescent home, all stages of rest homes and other like facilities of a similar genus.</p>
Residential Rules	Residential accommodation (including resthomes, residential institutions) on arterial or distributor/ collector streets is permitted.
Rural Rules	Community care housing and residential institutions are discretionary.

PLAN NAME PROPOSED WAIMAKARIRI DISTRICT PLAN

Status	Notified June 1998
Residential and Rural Rules	Activities are permitted if they comply with the relevant standards, and if they meet the relevant parking requirements.
Residential Policies	<p>Within the urban environment subdivision, land use, development and protection should avoid, or mitigate adverse effects on:</p> <ul style="list-style-type: none"> • the rural setting of the District's towns and settlements • efficient and effective functioning of roads • ease and efficiency of access • urban waterways, and downstream effects on rural waterways • low scale, low density housing • quiet and safe environments <p>Maintain and enhance the characteristics of residential zones that give them their particular character and quality of environment.</p>
Rural policies	Maintain and enhance the amenity values and environmental qualities of open space and quietness that contribute to the distinctive character of the rural zone.

PLAN NAME WAIMATE PROPOSED DISTRICT PLAN

Status	<p>Notified April 1996</p> <p>Residential activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings, leisure activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refugee accommodation.</p>
Residential Rules	Residential activities are permitted if they comply with site and zone standards. The activity would not necessarily be permitted if it was on a large scale or other health services were provided.
Rural Rules	Residential activities are permitted if they comply with site and zone standards.

PLAN NAME WAIPA DISTRICT PLAN

Status	Operative 1997
Definitions	<p>Boarding house means a residential building, not being licensed premises, in which board and/or lodging is provided or is intended to be provided for five or more persons for reward or payment; and includes a guest house, a private or unlicensed hotel and a private residential club.</p> <p>Dwelling house shall have the same meaning as in the Act (RMA 1991), as follows: Any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of the residence; but does not include the land upon which the residence is sited.</p> <p>Residential activity means the use of lands and buildings by people for the purpose of permanent living accommodation in a household unit where the majority of occupiers intend to live at the site for a period of one month or more of continuous occupation per annum and will generally refer to the site as their home and permanent address, It includes accessory buildings and leisure activities associated with needs generated principally from living on the site.</p>
Residential Rules	Residential institutions, old people's homes and boarding houses are permitted if they comply with the relevant standards.
Rural Rules	<p>Boarding houses and residential activities are permitted if the number of persons engaged in the activity at any one time on the site shall not exceed 5 persons, the number of guests which are provided with board and lodging and/or meals shall not exceed 10 persons at any one time.</p> <p>For large scale activities other rules may apply, relating to the protection of prime agricultural land, and the size of activities.</p>

PLAN NAME WAIROA DISTRICT PLAN

Status	Notified September 1999
Definitions	No relevant definitions.
Residential Rules	Any activity that complies with all the standards and conditions for permitted activities are permitted. Any activities unable to comply with these standards are discretionary. The standards relate to noise, odour, glare, privacy, signs, etc.

PLAN NAME WAITAKI DISTRICT COUNCIL PROPOSED PLAN

Status	Notified December 1996
Definitions	<p>Community Activity – Live-in means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, cultural and/or spiritual wellbeing. Live-in community activities, providing living and sleeping facilities on the site either on a permanent or temporary basis for people who require care or who require accommodation for educational purposes. Live-in community activities include hospitals, resthomes, education boarding houses, but excludes general community activities and recreational activities.</p> <p>Residential activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings, recreational activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refuge accommodation, and residential care facilities for up to six persons and support staff but excludes visitor accommodation, and the non-commercial use of holiday homes.</p>
Residential Rules	Residential activities are permitted, community live-in activities are discretionary. Same in the rural-residential zone. Live-in community activities are permitted in the township zone.
Rural Rules	Residential activities are permitted, community live-in activities are discretionary.

PLAN NAME WAITOMO DISTRICT PLAN

Status	Notified June 1999
Definitions	Dwelling means a residential building designed and used principally as a self-contained residence for persons who normally permanently reside on the site, and within which there is not more than one kitchen.
Residential Rules	Any activity is permitted that complied with the conditions for permitted activities set out in the rules.
Rural Rules	Any activity is permitted that complies with standards.

PLAN NAME WELLINGTON CITY PROPOSED DISTRICT PLAN

Status	Notified July 1994
Definitions	Residential Activity means the use of premises for any domestic or related purpose by persons living alone or in family and/or non-family groups (whether any person is subject to care, supervision or not)...
Residential Rules	Residential activities are permitted as long as they comply with conditions relating to noise, parking, access.

PLAN NAME WESTERN BAY OF PLENTY PROPOSED DISTRICT PLAN

Status	Notified July 1994
Definitions	Accommodation Facilities means any form of residential accommodation which does not comply with the definition of dwelling or minor dwelling and includes boarding houses, hotels, hostels, motels, camping grounds, retirement villages and resthomes for the rehabilitation and care of any group. Dwelling means a self-contained residential unit designed for or occupied exclusively by one household and includes apartments, semi-detached houses, home units, town houses and similar forms of residential development.
Residential Rules	In the rural-residential zone, accommodation facilities for a maximum of 4 persons are discretionary. Dwellings are permitted. In the future urban zone, dwellings and accommodation facilities for a maximum of 4 persons are permitted. Accommodation facilities for more than 4 are discretionary. In the residential zone, dwellings and accommodation facilities for a max of 4 are permitted. Accommodation facilities for more than 4 are discretionary. Commercial zone and industrial zone – accommodation facilities are permitted.
Residential Policies	Ensure that the scale of buildings are in character with that of the zone in which they are located.
Rural Rules	In the rural G and H zones dwellings and accommodation facilities for more a max of 4 are permitted. They are discretionary for more than 4.

PLAN NAME WESTLAND DISTRICT PROPOSED PLAN

Status	Notified June 1995. Parts of plan are operative.
Definitions	Residential activity means any use of land for the purposes of residential accommodation in a dwelling, apartment or institutional home, not more than 5 extra people are boarding with the residents, and no persons are employed other than for the purposes of caring for residents or boarders.
Residential Rules	In all zones, residential activities which comply with standards are permitted except for the rural zone where all new residential activities are controlled. (existing are permitted).
Residential Policies	A range of activities should be able to locate in the urban areas provided that any adverse effects on the environment or neighbouring land uses are avoided, remedied or mitigated. The effects of activities which can have significant adverse effects on amenities and the well being of residents should generally be avoided, remedied or mitigated.
Rural Rules	Permitted in all zones except rural as stated above.

PLAN NAME WHAKATANE TRANSITIONAL DISTRICT PLAN

Status	Operative 1990 (pre Resource Management Act)
Residential Rules	Dwelling houses, including additional small units and outside habitable rooms are predominant uses. Hostels, unlicensed residential clubs, boarding houses and lodging houses are discretionary uses. Institutions, hospitals, convalescent and nursing homes, child care centres, churches, Sunday schools and church halls, old peoples homes, medical centres, veterinary clinics and existing churches are conditional uses.

Plans where a check with the council has not been completed.

PLAN NAME DUNEDIN CITY PROPOSED PLAN

Status	Notified July 1995.
Definitions	<p>Boarding House means land and buildings used to accommodate persons where a service such as cooking, laundering, washing and cleaning is provided as part of the occupiers' rental and accommodation is provided for more than six persons other than the members of the immediate household.</p> <p>Household Unit means one or more persons whether related or not, who live together in a dwelling which is self-contained at least in respect of sleeping, cooking, dining, bathing and toilet facilities and household unit of accommodation means accommodation for such a unit.</p> <p>Residential Activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings.</p> <p>Residential Care Activity means a building or collection of buildings in which boarding, lodging and live-in social, mental or physical health support is provided for between 6-12 persons, other than the members of the family of the principal care-giver, including old person's homes, emergency housing, refuge centres and halfway houses, and drug and alcohol rehabilitation centres.</p>
Residential Rules	In all residential zones, residential care activities are discretionary activities (unrestricted). In zone 3, boarding houses are permitted activities.
Residential Policies	<p>Provide for community support and residential care activities within residential areas.</p> <p>Community support and residential care activities enable the community to provide for its health, safety and well being. These activities need to be recognised and provided for within residential areas, although care needs to be taken to avoid, remedy or mitigate any adverse effects that may result. Community support and residential care activities attract significantly greater levels of activity than purely residential uses. This is primarily due to the size of the buildings accommodating such facilities, the number of people using them and the frequency with which they are used. These effects have the potential to reduce the levels of neighbourhood amenity.</p>

PLAN NAME FAR NORTH PROPOSED DISTRICT PLAN

Status	Notified October 1996
Definitions	<p>Household means a separate housekeeping unit, which may include a group unrelated by blood, marriage, adoption or legal guardianship and may include:</p> <ul style="list-style-type: none"> (i) any of the normal domestic household activities which may occur on the premises, and (ii) up to 4 people unassociated with the housekeeping unit. <p>Residential unit means a building, a room or group of rooms, used, designed or intended to be used exclusively by one or more persons as a single, independent and separate household.</p>
Residential Rules	Activities are permitted if they comply with critical, community and development standards. The standards relate to residential intensity, scale of activities, building height, etc, hours of operation, noise, traffic movements.
Rural Rules	Activities are permitted if they comply with critical, community and development standards. The standards relate to residential intensity, scale of activities, building height, etc, hours of operation, noise, traffic movements.

PLAN NAME FRANKLIN DISTRICT COUNCIL PROPOSED PLAN

Status	Notified May 1994
Definitions	Special Housing Development means a residential development intended to suit the particular residential needs and characteristics of a homogenous group of people and includes any building or buildings used to provide board, lodging, or any form of live-in or on-site physical or mental health support for five (5) or more people. The development may involve one or more housing or accommodation types (such as detached or attached units, or boarding or shared-room accommodation) and may include ancillary facilities for medical care, recreation, fitness, counselling, training, dining, or other communal or personal service provided they are available only to the residents of the development. For the avoidance of doubt Special Housing Development includes housing for the elderly constructed by the Council or other public body, licensed Rest Homes or "homes for the aged", "retirement villages", papakainga, "half way houses", and housing for the physically or mentally challenged but does not include a camping ground or motor camp.
Residential Rules	Special Housing Developments are discretionary (restricted assessment) activities.
Residential Policies	That the activity standards of the Residential and Rural-Residential zones be administered to facilitate, in appropriate ways, the establishment or development of special areas, facilities or design features for children, ethnic minorities, or for retired, elderly or disabled people. That the zone specifies a threshold scale or intensity for each non-residential or institution activity beyond which a resource consent will be required.
Rural Residential Zone	Special Housing Developments are discretionary activities.
Rural Rules	Special Housing Developments are non-complying.

PLAN NAME GORE DISTRICT COUNCIL PROPOSED PLAN

Status	Notified November 1995
Definitions	Residential activity means the use of premises for any domestic or related purposes by persons living alone or in a family and/or non-family groups, whether any person is subjected to care, supervision, or not, and includes shearers and staff accommodation but does not include work from home, hotels, motels, camping grounds, motorcamps, farm home stays or other premises where residential accommodation for five or more travellers or offered at a daily tariff or other specified times.

PLAN NAME GREY DRAFT DISTRICT PLAN

Status	No legal status, published February 1998
Definitions	Residential activity means the use of land and buildings by people for the purpose of permanent living accommodation, including all associated accessory buildings, leisure activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refuge accommodation, and the use of holiday homes which is not commercial.
Residential Rules	Residential activities are permitted in the residential area and the township area.
Rural Rules	Residential activities are permitted in the rural-residential area and the rural area.

PLAN NAME KAPITI COAST COUNCIL PROPOSED DISTRICT PLAN

Status	Notified September 1995
Definitions	<p>Boarding House means a building, not a licensed hotel, in which board and lodging is provided for or is intended to be provided for reward and payment and includes "women's refuges" or similar and "halfway houses".</p> <p>Dwelling includes a building or buildings or any part thereof whether temporary or permanent which is used for domestic purposes by an individual, a family or a non-family group.</p> <p>Non-Residential Activities includes any activity on any site or in any building other than a residential activity and includes:</p> <ul style="list-style-type: none">• Hospitals or related activities entailing the professional care of any person or persons• Hotels, motels, camping grounds and all other places of accommodation where accommodation for six or more persons is offered on a daily tariff• School facilities, buildings and associated grounds and halls for activities or services having either a social, community, sporting, ceremonial, cultural, educational, recreational, worship or spiritual purpose. <p>Residential Activity means the residential occupation or inhabitation by people of any residential dwelling unit or accessory building; together with the usual occupations, pastimes and activities that those residents or inhabitants undertake.</p>
Residential Rules	<p>One dwelling ... and ancillary buildings are permitted provided they comply with all the permitted activity standards.</p> <p>Hospitals, Rest Homes and Community facilities are discretionary activities within the Ldn 55 Contour.</p>
Rural Rules	<p>One dwelling ... and ancillary buildings are permitted provided they comply with all the permitted activity standards.</p> <p>Hospitals, Rest Homes and Community facilities are discretionary activities within the Ldn 55 Contour.</p>

PLAN NAME MASTERTON DISTRICT COUNCIL PROPOSED PLAN

Status	Notified March 1994
Definitions	<p>Community services include educational institutions, places of worship, libraries, hospitals, retirement homes and resthomes, community halls, kohanga reo, and childcare centres, but excludes entertainment facilities.</p> <p>Dwelling house means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; but excludes accessory buildings and the land upon which the residence is sited.</p> <p>Residential means the use of premises primarily for dwelling.</p>
Residential Rules	<p>Residential activities are permitted. Community services are discretionary. See also general amenity rules which are to do with lighting, noise, yards, space and density, signs, etc.</p>
Rural Rules	<p>Residential activities are permitted. Community services are discretionary.</p>

**PLAN NAME CITY OF NAPIER PROPOSED DISTRICT PLAN
– AHURIRI SECTION**

Status	Notified August 1997
Definitions	<p>Residential Activity means the use of premises by persons living alone or in family and/or non-family groups (whether any person is subject to care, supervision or not), but does not include home occupations, hotels, motels, camping grounds, motorcamps or other residential accommodation for more than five persons.</p> <p>Residential Care Centre means a building such as a retirement home, old person's home, convalescent home, nursing home, rest home, women's or men's refuge, kaumatua flats, hospital, hostel, or charitable institution in which board and lodging or lodging alone is provided or intended to be provided and supervisor or carer is provided. This does not include a Day Care Centre.</p>
Residential Rules	<p>In the Residential Zones: residential care centres with facilities for up to and including 5 residents other than staff and/or family are permitted activities provided they comply with conditions relating to:</p> <ul style="list-style-type: none">• yards, height, open space, site coverage, density, noise, light spill;• vehicle parking, access, loading and manoeuvring;• signs; and• a landscaped area adjacent to road boundary. <p>Residential care centres with facilities for more than 5 residents, other than staff and their family are discretionary activities.</p>
Residential Policies	<p>Avoid the loss of the existing residential character of the area caused by the expansion of non-residential activities.</p> <p>Ensure that the use of land within the area does not give rise to effects which are inconsistent with residential activities.</p>
Commercial Buffer zone rules	<p>Residential care centres are permitted activities, provided they comply with conditions relating to:</p> <ul style="list-style-type: none">• yards, height, open space, site coverage, density, noise, light spill;• vehicle parking, access, loading and manoeuvring;• signs; and• a landscaped area adjacent to road boundary.
Ahuriri Mixed Uses Zone	<p>In the Residential Zones: residential care centres with facilities for up to and including 5 residents other than staff and/or family are permitted activities provided they comply with conditions relating to:</p> <ul style="list-style-type: none">• yards, height, open space, site coverage, density, noise, light spill;• vehicle parking, access, loading and manoeuvring;• signs; and• a landscaped area adjacent to road boundary. <p>Residential care centres with facilities for more than 5 residents, other than staff and their family are discretionary activities.</p>

PLAN NAME OPOTIKI DISTRICT PROPOSED PLAN

Status	Notified September 1998
Definitions	Community activity means an activity which provides social and cultural services and facilities for the general public in respect of health, education, religion, and leisure, and may be associated with health clinics, schools, and churches. Residential care facility means an activity providing residential accommodation for 4 or more people who need physical, medical or psychiatric support, and who are unable to live independently.
Residential Rules	In the town centre zone, residential accommodation is controlled on the second level and discretionary at the ground floor level. Residential care facilities not mentioned so non-complying. One dwelling per site is permitted in the residential zone. Residential care facilities are a discretionary activity in the residential zone. One dwelling per site is permitted in the mixed activities zone. Residential care facilities are a discretionary activity in the mixed activities zone. In the Coastal residential zone, one dwelling per site is permitted and residential care facilities are a discretionary activity.
Residential Policies	Management of activities within the residential zone so that they will not detract from the amenity values of adjoining properties or the quality of the residential environment.
Rural Rules	Dwellings are permitted. Residential care facilities not mentioned, so non-complying.

PLAN NAME QUEENSTOWN – LAKES DISTRICT COUNCIL PROPOSED PLAN

Status	Notified October 1995
Definitions	Community Activity means the use of land and buildings for the primary purpose of health, welfare, care, safety, education, culture and/or spiritual well-being, but excludes recreational activities. A community activity includes schools, hospitals, doctors, surgeries and other health professionals, churches, halls, libraries, community centres, police stations, fire stations, courthouses, probation and detention centres, government and local government offices. Residential Activity means the use of land and buildings for the purpose of permanent living accommodation, including all associated accessory buildings, recreational activities and the keeping of domestic livestock. For the purposes of this definition, residential activity shall include emergency and refuge accommodation but excludes visitor accommodation, and the non-commercial use of holiday homes.
Residential Rules	Community and residential activities are permitted. Community activities are controlled in the residential new development zone.

PLAN NAME RODNEY DISTRICT PLAN

Status	Operative March 1993
Definitions	Boarding house (hostel) means a residential building in which lodging and/or boarding is provided or intended to be provided (with or without reward) for 5 or more lodgers, (other than members of the family of the occupier or person in charge or control of the building), and includes a halfway house, private hotel and a guest house, but excludes a motel, and premises licensed under the Sale of Liquor Act 1962, or any Act in substitution therefore.
Residential Rules	Boarding houses accommodating not more than 10 persons inclusive of owner, family and staff: in zones 1,2 3A-F, 4, 7 are permitted, controlled in zone 11, discretionary if more than 10 persons in zones 1, 2, 2A, 3A-F, 4, 7, 11, 13. However, plan change No 26, notified May 1997, says boarding houses for no more than 10 persons (including staff) are discretionary in the low intensity residential activity area, discretionary for no more than 11 (incl. staff) in medium intensity residential activity area and in high intensity area. In the Gulf Harbour Activity area, boarding houses for 10 or less persons are controlled; discretionary for more than 10.
Rural Rules	Boarding houses are discretionary activities in rural zones 2, 3, 4, 5, but having regard to scale, particularly in the rural settlement zones. Convalescent homes are discretionary in rural zone 1.

PLAN NAME SOUTH TARANAKI PROPOSED DISTRICT PLAN

Status	Notified August 1996
Definitions	Residential activity means any activity normally undertaken by people living in a dwelling unit, except home occupations. It includes group care facilities where unrelated people live together on a 24 hour basis, such as retirement homes, foster care homes and homes for the disabled.
Residential Rules	Residential activities are permitted (subject to performance standards).
Rural Rules	Residential activities are permitted (subject to performance standards).

PLAN NAME THAMES COROMANDEL PROPOSED DISTRICT PLAN

Status	Notified
Definitions	<p>House means the residence of a single household including ... households where up to 6 residents (permanent or temporary) live under the care of staff (who may also live in the same house).</p> <p>Residential Community Care Facility means a place of residence where more than six people with physical or intellectual disabilities or who require short term care can stay under the guidance or care of a resident nurse or other person who is in charge of the premises. Residential Community Care Facilities include:</p> <ul style="list-style-type: none">• Retirement villages• Elderly persons homes or shelters• Halfway houses – such as womens' refuges• Psychiatric or IHC type community housing• School hostels.
Residential Rules	Houses are permitted. Residential Community Care Facilities are discretionary.

[Redacted]

Definitions	Residential Activities means the use of land, building, or any other facility, for domestic living purposes by people living alone or in family or non-family groups, and includes dwelling units and accessory buildings, residential care facilities, health care facilities, religious establishments, educational facilities, day nurseries/ creches, marae, home occupations and community facilities. Residential Care Facilities means a building or complex of buildings, or any other facility, used or intended to be used, to provide board, lodging and care in a supervised environment with management staff, and includes home for the aged, retirement village, hostel or other similar places and having accommodation for five or more persons other than management or staff.
Residential Rules	Residential activities are permitted which comply with conditions relating to noise, light, vibration, air discharge and hazardous substances.
Central Commercial Zone	Residential activities and residential care facilities are permitted if they comply with conditions relating to noise, light, air discharge, hazardous substances, no residences on ground floor, parking, advertising.
Rural Rules	Residential activity are permitted if they comply with conditions relating to noise, light, vibration, air discharge, ...parking...

PLAN NAME WHANGAREI DISTRICT PLAN

Status	Draft – no legal status. Published December 1997.
Definitions	Residential Activity means land and buildings used by people for the purpose of living accommodation where the occupiers voluntarily intend to live at the site for a period of one month or more, and will generally refer to the site as their home and permanent address; and includes accessory buildings and leisure activities. For the purposes of this activity, residential activity shall include: a) accommodation offered to not more than four travellers for a tariff in association with a permanent resident as described above; b) emergency and refuge accommodation.
Residential Rules	Permitted if complies with conditions.
Business 4 Environment	Any activity is permitted if b) It does not involve the care of children, elderly or sick people.
Rural Rules	Permitted if complies with conditions.

