

# **Draft Strategy of Waitakere City Council in response to the Prostitution Reform Act.**

**December 2004**

## **1. The aim of this document**

The aim of this document is to seek comment on Council's proposed strategy to the business of prostitution and to the sex industry in Waitakere City.

Prostitution is now a decriminalised activity as a result of the Prostitution Reform Act which came into effect in June 2003. The Act was developed as a response to a variety of issues, in particular the protection of sex workers. Prior to the passage of this Act, prostitution was an illegal activity and as a result Council did not have a position on it.

This draft strategy is a response to the predicted effects of the legislation on the sex industry in Waitakere, and incorporates the views of key stakeholders. The views of the community are now being sought.

At the end of the feedback period, the comments and views of the community will be taken into account during the review of the strategy. A report will then be submitted to Council's Planning and Regulatory Committee in April or May 2005, which will summarise the feedback, present any changes to the strategy, and discuss likely costs, time frames and legal issues associated with bringing the strategy into life. The public will have further opportunity to comment on the strategy before it is endorsed.

Council is proposing to adopt a strategy that provides for a holistic and collaborative approach to 'manage' adverse effects that may stem from commercial sex activities, and in particular, prostitution. Council is keen for its response to the decriminalisation of prostitution to be appropriate and that any controls it puts in place over the commercial sex industry are reasonable, practicable and equitable.

Council has a responsibility to consider how best to 'manage' the potential negative effects, and of prime concern are the amenity impacts on neighbourhoods and on property values. Given the nature of the concern, it is difficult to justify the use of a strong enforcement approach, by for example, imposing strict conditions on the location of brothels through a bylaw. This would leave us open to legal challenge on the grounds of unreasonableness. In addition, there are resourcing issues, as the experience of other Councils will testify to. For these reasons, the focus of the strategy is on reducing environmental effects, and not on implementing blanket bans or banning brothels from residential areas.

Regulatory controls in the draft strategy cover signage, environmental effects, and hygiene requirements. Non-regulatory controls concern urban design, monitoring issues, and the merits of a regional perspective.

In the development of this strategy, Council has engaged key stakeholders, including representatives of the Police, Auckland Regional Public Health Service, the New

Zealand Prostitutes' Collective and owners of local massage parlours. An internal work team has been formed with members including officers from Consents, Legal Services, Strategy and Development, Field Services and City Services. Workshops have been held with Councillors, Chairs of Community Boards, Police officers and Health Service representatives. A regional approach has also been adopted with officers from the other Councils in the Auckland region meeting to discuss suitable approaches and to share lessons.

## **2. The scope of the Prostitution Reform Act**

The Prostitution Reform Act (2003) decriminalises prostitution and provides a framework that is concerned with safeguarding the human rights of sex workers and promotes their occupational health and safety. The intention of the Act is to make sex work safer, and to give statutory agencies responsibility to help achieve this outcome. The Act does not endorse or morally sanction prostitution or its use.

The Act applies to massage parlours, brothels, including small-owner operated brothels and street prostitution. In the Act, definitions are given to 'brothels', 'small-owner operated brothels', 'businesses of prostitution' and 'commercial sex premises' (see Appendix 1). The Act enables local councils to control: (a) signage that advertises commercial sexual services; (b) the location of brothels; and (c) the location of businesses of prostitution (see Appendix 1 for more details about the Act's provisions concerning local Councils).

## **3. The current situation regarding prostitution in Waitakere and the local region**

### **a. Size of the commercial sex industry in Waitakere**

The size of the current commercial sex industry in Waitakere City is small as there is no nightlife centre that provides opportunity for people to come into contact with the industry. There are currently seven massage parlours and two brothels within Waitakere. These premises are considered to be well-managed and the Council is not aware of any particular problems connected to these. Council requires them to obtain a licence in order to operate under our Massage Facilities Bylaw.

There have been several occasions where issues regarding commercial sex activities have come to the attention of Council. Council staff are currently engaged in processes to investigate and manage these issues. Interested parties have been invited to attend public Committee meetings and to engage in the process of developing this strategy in response to the Prostitution Reform Act.

In Waitakere City, there are around 20 private sex workers known to be operating from private addresses. Private sex workers tend to value discretion, don't usually advertise their address and work by appointment.

Street prostitution does not appear to be a major issue. There have been reports of a few incidents of street work in Henderson and New Lynn, but these have been sporadic.

### **b. The sex industry in the wider Auckland region**

The majority of brothels in the Auckland region are located in Auckland City. Most street prostitution is carried out in specific areas, such as Karangahape Road and Fort Street. Massage parlours have also concentrated in certain areas, such as Panmure, and areas around the central business district, such as Newton. These parlours are now offering a wider range of services to entertain clients, such as alcohol sales, pool tables and video games. A further trend is that sex shops have begun to establish in suburban shopping areas of Auckland City.

Within the Auckland region there are a number of Asian migrant sex workers and operators, who have become involved in the industry. It is suspected this may be partly due to problems experienced with settling and discrimination.

#### **4. Potential issues for Waitakere in respect to the commercial sex industry**

Whilst it is not clear what effects the legalisation of prostitution will have upon the sex industry, most evidence suggests that some increase can be expected. This is the case, for example in Australia, where prostitution was legalised in 1994.

A number of potential issues and negative impacts of the commercial sex industry in Waitakere City following the passing of the Prostitution Reform Act have been identified by the Council and other key stakeholders. These 'community harms' provided the focus in the development of the strategy. The first five issues are of direct relevance to Council.

##### **a. Increase in the size of the industry**

The legalisation of prostitution may mean more people will attempt to start up brothels or massage parlours in Waitakere, and that street prostitution could increase in certain areas.

Council has received approximately nine enquiries about establishing massage parlours/brothels in Waitakere since June 2003 (when the Prostitution Reform Act came into force). Three new massage parlours and one brothel have emerged in the past six months. The common view amongst key stakeholders is that many ventures will fail as it is a tough industry to enter.

Other factors that may increase the size of the sex industry include:

- Increasing urbanisation and cosmopolitan atmosphere
- Increasing number of tourists
- Relaxation of liquor laws, particularly extended drinking hours in the inner city
- New entertainment facilities, such as casinos
- Attempts by the sex industry to create new markets in urban areas

These factors are less likely to lead to an increase in the sex industry in Waitakere than in Auckland, due to the small size of the industry and the lack of night-time entertainment facilities (that include adult entertainment businesses). Casinos are unlikely to flourish in Waitakere due to the gambling policy which places caps on the number of pokies in the area.

#### **b. The location of brothels and commercial sexual services**

Commercial sex businesses may have a negative impact on amenity values (such as the natural or physical qualities and characteristics of an area, property values). The potential adverse effect upon amenity values is what makes commercial sex businesses different from other entertainment businesses (such as pubs, clubs and gambling venues).

The question of whether commercial sex businesses are unsuitable or incompatible with the use and character of the area, may become a particular issue, if the commercial sex industry becomes more suburbanised (by moving into residential areas). There may be adverse impacts upon:

- The character of suburban town centres and residential areas
- Property values (residential & commercial)
- Levels of business activity

There is a possibility that commercial sex businesses will cluster in low cost premises in small suburban shopping centres. Such areas in Waitakere include Glen Eden Mall, New Lynn and Henderson town centres. These clusters can give rise to 'red light districts' which tend to have distinctive characteristics.

These impacts have implications for Waitakere City Council's strategic goals for the city. The Council is working with a range of partners including business and community groups to revitalise the city's town centres to make them attractive, economically vital, safe and people friendly.

Under the Prostitution Reform Act, local councils have a new power to regulate the location of brothels through a bylaw. This is in addition to the ability of councils to regulate businesses of prostitution through the provisions of the District Plan.

#### **c. Suitability of signage advertising commercial sexual services**

Signs that advertise commercial sexual services have the potential to cause offence to ordinary members of the public using the area, and to be incompatible with the surrounding use of the area.

The Prostitution Reform Act addresses these concerns by enabling Councils to prohibit or regulate signage that advertises commercial sex services. This is a new regulatory tool for controlling signage. Council already places restrictions on signage of commercial premises through the District Plan.

#### **d. Exposure of young people**

There is community concern over the location of commercial sex premises in the community, particularly with 'sensitive sites' such as schools, daycare centres and playgrounds. This is due to a desire to limit the exposure of children and young people to commercial sex activities.

Councils can place controls upon the location of commercial sex premises through the District Plan, by for example, specifying minimum distances from 'sensitive sites' that are mainly used by children. The location of brothels can be controlled by Council via a bylaw, as provided for by the Prostitution Reform Act.

**e. The spread of sexually transmitted infections**

To reduce the risk of sexually transmitted infections, sex workers and their clients must adopt safe sex practices. In addition, operators of businesses (with 5 or more sex workers) must: adopt and promote safe sex practices; provide health information to sex workers and their clients, and minimise the risk of sex workers or clients acquiring or transmitting sexually transmissible infections.

The Prostitution Reform Act states that the Medical officer of Health is responsible for appointing the health inspectors who inspect premises to ensure that operators are promoting safer sex practices and that sex workers and clients adopt safer sex practices.

Council already plays a role in reducing the spread of infections, by setting hygiene standards through the Massage Facilities Bylaw.

**f. Operators of large brothels**

There are concerns that large brothels (with 5 or more sex workers) will be managed by unsuitable operators. If large brothels are managed poorly, there may be a risk to the general well-being and health and safety of sex workers and clients.

Under the Prostitution Reform Act, operators of large brothels (with 5 or more sex workers) are required to obtain a licence from the District Court. The operator must fulfil certain criteria (for example, be 18 years or over, and have a clean criminal record) when making an application to the Court.

**g. Crime and public safety**

There are concerns that commercial sexual activities in a neighbourhood will mean that area becomes associated with increased crime problems and poor perceptions of safety. Typically, members of the general public perceive themselves to be at risk from offensive behaviour, harassment, or violence due to clients visiting sexual premises or due to street prostitution. In Waitakere, street prostitution is not considered by the police or Council to be a significant issue. The local police are not aware of any strong links between organised crime and the sex industry.

The police have responsibility to deal with complaints from the public, such as disorderly behaviour, nuisance, harassment, and violence. However, incidents of this kind are more likely to be associated with bars and nightclubs than with the commercial sex industry.

**h. Media advertising**

Inappropriate or offensive media advertising could cause offence to the community. Mindful of this, the Prostitution Reform Act imposed a partial advertising ban. It states that commercial sexual services can only be advertised in the classified advertisements section of the newspaper or periodical. Advertising is not allowed on radio, television, or at a public cinema, or other parts of a newspaper or periodical.

The Broadcasting Standards Authority will deal with complaints about media advertisements.

**5. Council's proposed strategy**

#### **a. Role of Council**

The role of Council in response to the passing of the Prostitution Reform Act is to seek to 'manage' the potential negative impacts of prostitution and to make it safer. It is not for Council to re-criminalise these activities or to enter into a debate on the morality of prostitution. Nevertheless, this proposed framework recognises the sensitive nature of the issue and we are trying to deal with it in a way that reflects prevailing community values.

#### **b. Proposal of a long-term strategy**

As its response, Council is proposing to adopt a long-term strategy to address matters such as nuisance and environmental issues like health, public safety, signage and location of brothels.

This strategy will integrate different approaches and contain a mixture of regulatory approaches and voluntary codes of conduct or guidelines. The intention is to put in place the necessary regulations and planning controls to avoid, remedy or mitigate the adverse community and environmental effects of any prostitution activities that have been decriminalised by the Prostitution Reform Act.

Council intends to adopt a holistic and 'collaborative' approach by continuing to work with key stakeholders, rather than taking a punitive and enforcement based approach.

#### **c. Scope of the strategy**

The scope of the proposed strategy is wider than the Prostitution Reform Act, as it will apply to all 'commercial sex activities'. Such activities include massage parlours, street prostitution, small owner operated brothels and larger business operated enterprises (as covered by the Prostitution Reform Act). The strategy will also apply to activities such as strip clubs, rap clubs, lap dancing bars, escort agencies, 'peep shows', adult cinemas and adult bookshops and adult video shops.

#### **d. What the strategy comprises**

In developing this proposed strategy, Council had a range of options available to it which are regulatory and non-regulatory in nature. Six options have been provisionally selected to be included in the strategy. The preferred options, the nature of these, and the likely timeframe in developing them are listed below. More details are provided in Appendix 2, Table 1. A number of other options not preferred by Council, but which could be incorporated into the strategy are set out in Appendix 3, Table 2.

<b>Preferred options for inclusion in the strategy</b>	<b>Nature</b>	<b>Likely timeframe to develop</b>
(1) Signage controls	Regulatory	9 months
(2) Control of environment effects	Regulatory	9 months
(3) Controls on hygiene requirements	Regulatory	9 months
(4) Guidelines on urban design	Non-regulatory	6 months
(5) Monitor the sex industry	Non-regulatory	2 months
(6) Retain a regional perspective	Non-regulatory	Ongoing work

#### **e. The objectives of the strategy**

The objectives of the proposed strategy are as follows:

- a. to reduce, where possible, adverse environmental impacts arising from the sex industry (in particular, amenity values);
- b. to be aware of key developments concerning the prostitution industry in Waitakere City;
- c. to work collaboratively, where possible, with key stakeholders;
- d. to develop responses, where appropriate, to significant issues that arise;
- e. to enforce minimum standards of hygiene in commercial sex premises; and
- f. to retain a regional perspective, where possible, by collaborative working with other Councils.

These objectives are congruent with Council's strategic objectives. There are three 'Eco City' outcomes for sustainability that are likely to directly benefit from the proposed strategy, which are: to encourage social and economic activity in its urban and rural centres; to encourage the development of strong and safe communities; and to provide a home for innovative economic activities.

#### **f. Rationale of the strategy**

Council is proposing to adopt a strategy that provides for a holistic and collaborative approach to 'manage' adverse effects that may stem from commercial sex activities, and in particular, prostitution. Council is keen for its response to the decriminalisation of prostitution to be appropriate and that any controls it puts in place over the commercial sex industry are reasonable, practicable and equitable.

Council has a responsibility to consider how best to 'manage' the potential negative effects, and of prime concern is the environmental impacts on neighbourhoods and on property values. For this reason, the focus of the strategy is on reducing environmental effects, and not on implementing blanket bans or banning brothels from residential areas.

As key stakeholders are of the view that we do not have a problem with prostitution in Waitakere City, it is difficult to justify the use of a heavy enforcement approach. Therefore, if we were to impose strict conditions on the location of brothels through a bylaw, we would be leaving ourselves open to legal challenge on the grounds of unreasonableness. In addition, there are resourcing issues, as the experience of other Councils will testify to. For example, the cost to Auckland City Council of introducing regulation to control the location of brothels exceeded \$55,000. Any controls over the location of brothels will need to be actively enforced, and this poses the issue of using resources to regulate an industry that is not posing a significant problem.

Other Councils in the Auckland region have taken a regulatory and enforcement approach, and there are various reasons for this. For instance, the scale of the sex industry in Auckland City and the predicted growth into suburban areas has been a key issue for Auckland City Council. Details of the responses taken by other Councils towards prostitution can be found in Appendix 4.

## **6. FEEDBACK FORM**

The public are invited to comment on the options chosen by Council.

To be finalised at a later date.

# APPENDIX 1 – Definitions and provisions of the Prostitution Reform Act (2003)

## 1. Definitions

In the Prostitution Reform Act, the terms 'brothel', 'business of prostitution', 'commercial sexual services' and 'small owner-operated brothel' are defined as follows:

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

*"Business of prostitution* means a business of providing, or arranging the provision of, commercial sexual services."

*"Commercial sexual services* means sexual services that-

- (a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and
- (b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person)."

*"Small owner-operated brothel* means a brothel –

- (a) at which not more than 4 sex workers work; and
- (b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel."

## 2. Powers granted to Councils

The key issues arising from the PRA as it relates to local Councils are specified in Sections 12 to 15. The powers granted to Councils are discussed below.

### 1. Signage controls (Section 12)

Councils are empowered to make bylaws to prohibit or regulate signage that advertises commercial sexual services that is visible from a public place. Councils can continue to manage signs under the District Plan.

### 2. Brothels (Section 14)

The Prostitution Reform Act allows the control and location of 'brothels' through bylaws or the District Plan. Councils are empowered to make bylaws to regulate the location of brothels of any scale, but not the location of commercial sexual services.

### 3. Businesses of prostitution (Section 15)

The Prostitution Reform Act recognises that Councils can exercise control over businesses of prostitution through resource conditions of District Plans. The Act includes two statutory criteria that Council must pay regard to. These are, whether the business of prostitution:

- (a) is likely to cause a nuisance or serious offence to ordinary members of the public using the area in which the land is situated; or
- (b) is incompatible with the existing character or use of the area in which the land is situated."

Appendix 2 - Table 1. Council's preferred options to be included in the strategy

Preferred options	Comments
<p><b>(1) Controls on signage</b> Council can control signage of commercial sexual services through a bylaw. It can impose restrictions on content, form or amount of signage on display. This is a new power created by the Prostitution Reform Act.</p> <p>Council currently regulates the dimensions and design of signs through the District Plan.</p>	<p><b>Strengths of this option:</b></p> <ol style="list-style-type: none"> <li>Will prevent signs from causing a nuisance or serious offence to ordinary members of the public, or incompatibility with the amenity values and character the area;</li> <li>This will provide additional control over current District Plan provisions.</li> </ol>
<p><b>(2) Control of environmental effects across the city</b> The location of commercial sexual activities will be controlled in order to reduce environmental effects and potential nuisance. These effects are the key concern of Council.</p> <p>This would be achieved by introducing a new City Wide rule into the District Plan. This Rule would operate in addition to Rules that apply to non-residential activities in a particular 'environment'.</p> <p>Applications for a resource consent for a 'commercial sex activity' are required to be assessed for potential environmental impacts, as stated in the Prostitution Reform Act, Section 15 (for details see Appendix 1). These impacts will be stated in the City Wide Rule and</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>The idea of controlling the location of commercial sex activities through the District Plan is to cover off environmental effects and any potential nuisance. This can be more effectively done via the District Plan, rather than through a bylaw stating where brothels can and cannot be located.</li> <li>The focus is upon reducing environmental effects of commercial sex activities, rather than banning them from certain areas. Council is not proposing any blanket bans as this may create problems with clustering elsewhere and the associated 'red light districts'.</li> <li>The District Plan can control the location of all commercial sex activities and not just brothels, which means it is more comprehensive than a bylaw which can only control brothels.</li> <li>A specified distance between brothels will help prevent 'clustering' which can give rise to 'red light districts'.</li> <li>The requirement of a resource consent ensures Council has contact with owners/proprietors from the outset.</li> </ol>

A70

<p>applicants will be judged on criteria, such as:</p> <ul style="list-style-type: none"> <li>• distance between different commercial sex premises</li> <li>• levels of noise</li> <li>• levels of odour, dust, glare and vibration</li> </ul>	
<p><b>(3) Controls on hygiene requirements</b>  Council will be reviewing its Massage Facilities Bylaw in light of the Prostitution Reform Act to ensure that the current licensing, annual inspection regime and health standards are in keeping with the intention of the Prostitution Reform Act.</p> <p>Currently, Council environmental health inspectors visit massage parlours each year to check compliance on hygiene. Inspectors also visit if specific complaints are made about massage parlours. If hygiene standards are not met, this can eventuate in Council revoking the licence.</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Has a health and safety focus for both employees and clients.</li> <li>2. Would ensure suitable standards of hygiene in all brothels and massage parlours.</li> <li>3. The emphasis upon hygiene and therefore general well-being and health of sex workers and clients is in keeping with the aims of the Prostitution Reform Act.</li> <li>4. There is support amongst the providers for set hygiene standards.</li> <li>5. The locations of brothels and massage parlours in Waitakere City are known to Council.</li> </ol> <p><b>Weakness</b></p> <ol style="list-style-type: none"> <li>1. Hygiene standards are difficult to monitor through annual inspections.</li> <li>2. The exact number of brothels is not known, particularly, the smaller ones that tend to work in residential areas.</li> </ol>
<p><b>(4) Develop guidelines to address urban design issues</b>  Guidelines on design issues relating to appearance, materials, and suitability for the area.</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Would improve appearance of commercial sex activities.</li> <li>2. Help ensure that commercial sex premises blend in with the surrounding area.</li> <li>3. Ensure that the premises are more 'tasteful' in their street frontage (and not appear seedy).</li> <li>4. A collaborate approach involving Council, commercial sex industry owners, residential organisations and local businesses.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Voluntary arrangement so no obligation to comply.</li> </ol>

A71

<p>2. May be difficult to agree on guidelines, and achieve 'consensus'.</p> <p>3. Interested parties may have different goals and objectives.</p> <p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Council will become aware of changes in the industry that may impact upon the wellbeing of the community.</li> <li>2. Council can be responsive to issues occurring in the community.</li> <li>3. Council will have good links with relevant agencies and organisations (such as police, health and safety, prostitutes collective, support agencies).</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Resourcing issues associated with monitoring.</li> <li>2. The development of a robust monitoring system will need to be established.</li> </ol>	<p><b>(5) Monitor the situation with the commercial sex industry</b></p> <p>The aim being to keep track of developments in the commercial sex industry of Waitakere.</p> <p>Monitoring is likely to be achieved by:</p> <ul style="list-style-type: none"> <li>• Liaising with the local police.</li> <li>• Setting up a system to filter out public comments and views.</li> <li>• Liaising with other Councils in Auckland region.</li> <li>• Information sharing about other 'social' issues such as alcohol and gambling in Waitakere.</li> </ul>
<p><b>Strengths</b></p> <ol style="list-style-type: none"> <li>1. Regional links help to ensure consistency in approaches, where applicable.</li> <li>2. Good information sharing.</li> <li>3. Problems and solutions can be tackled at a regional level.</li> <li>4. Knowledge sharing: lessons can be learnt and best practice followed, where possible.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Differences in the commercial sex industry across the Auckland region make it difficult to adopt a regional approach.</li> </ol>	<p><b>(6) Adopt a regional approach with other local Councils</b></p> <p>A working group has been established across the Councils in the Auckland Region.</p>

A72

Appendix 3 - Table 2: Options not preferred by the Council

Option	Strengths and weaknesses
<p><b>(7) No action is taken</b> Regulation of the commercial sex industry by Council would be restricted to what is already in place.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• A licensing system for massage parlours and brothels.</li> <li>• Controls on hygiene standards.</li> <li>• Resource consent conditions for brothel and massage parlour owners applying to operate as a business ('a non-residential activity').</li> </ul>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Endorses the notion that further regulation is not needed as prostitution has been decriminalised.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Disregards the potential negative effects that commercial sex activities can have on the community (for example, the impact upon the character and nature of an area and the risk of 'red light' districts).</li> <li>2. The potential adverse impact upon Council's strategic goals of achieving 'strong communities' and a 'strong innovative economy'.</li> </ol>
<p><b>(8) Controls on street prostitution</b> It is not considered necessary at this point to introduce controls on soliciting in public places.</p> <p>There is the option for Council to introduce a bylaw to prevent soliciting or trading from occurring in public places. This may be justified on the basis that prostitution can legally occur on premises where the health and safety of workers and clients is subject to the Prostitution Reform Act.</p>	<p><b>Strengths</b></p> <ol style="list-style-type: none"> <li>1. The decision not to act is rational and reasonable, given that there is not a problem.</li> <li>2. A collaborative approach between the Council and the police, will help to ensure that any emergent problems are responded to.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. The risk that a problem will emerge.</li> </ol>
<p><b>(9) Controls on location of brothels</b> Council could seek to control the location of brothels throughout Waitakere City through a bylaw. This power</p>	<p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Given the fact that we don't have a problem with brothels in Waitakere City, it is difficult to justify the costs of proposing a bylaw to control the location of brothels.</li> </ol>

A73

<p>was created by the Prostitution Reform Act.</p> <p>The Bylaw could state the permitted distance of brothels:</p> <ul style="list-style-type: none"> <li>• from sensitive sites such as schools, playgrounds, churches, and nurseries</li> <li>• from residential areas</li> <li>• from commercial areas</li> </ul>	<ol style="list-style-type: none"> <li>2. "Buffering" around residential areas or sensitive sites (such as schools, playgrounds, churches, and nurseries) will severely restrict location options and lead to the aggregation of 'red light districts'. These districts could affect the well-being of business areas or residential areas.</li> <li>3. "Buffering" will create new hurdles, as the future location of residential areas and schools could be affected by brothels already in existence.</li> <li>4. A Bylaw can specify the areas that brothels can and cannot be located in. However, these location rules may not adequately address environmental effects (such as noise, suitability for the nature and character of an area).</li> <li>5. The Bylaw will need to reflect the relationship between location and possible adverse environmental effects.</li> <li>6. The District Plan is the best way of regulating the location of commercial sex activities. There are 2 reasons: (a) It is more comprehensive as it can regulate all commercial sex activities, including brothels. (b) The District Plan is the best way of addressing the adverse environmental effects of commercial sex activities.</li> <li>7. Council cannot have a bylaw just because the Prostitution Reform Act allows us to create one. There are requirements laid out in the Local Government Act (2002), such as the need to demonstrate that a bylaw is the most appropriate way of addressing the problem. Failure to comply would leave Council open to legal challenge.</li> </ol>
<p><b>(10) Controls on environmental effects in select areas</b></p> <p>Council could opt to control the location of commercial sex activities in particular areas of Waitakere City.</p> <p>This would involve District Plan changes to Rules of 11 residential areas (known as Human Environments).</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Would ensure that commercial sex services are allowed only in certain activity areas.</li> <li>2. May act as a disincentive for owners to establish in some areas due to the non-residential activity status.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Would be difficult to control clustering as this would require the inclusion of additional rules relating to distance.</li> <li>2. Would not apply to small owner-operated brothels as these currently fall</li> </ol>

A74

<p>It would only apply to large brothels (with 5 or more sex workers). Small owner-operated brothels already meet the requirements of the 'home occupation' rules in the District Plan. Home occupation rules currently require an assessment of the following effects:</p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Traffic generation</li> <li>• Car parking</li> <li>• Visual impact -- appearance</li> <li>• Neighbourhood character/amenity values</li> <li>• Safety of residents of the neighbourhood (eg. lighting)</li> </ul>	<p>under the control of 'home occupation' Rules in the District Plan.</p>
<p><b>(11) Control of commercial sex premises with a liquor or gambling licence</b></p> <p>Council could establish controls on mixed use establishments, for example those that offer commercial sex services and the sale of liquor and gambling.</p> <p>This would mean that commercial sex premises would be subject to some of the same regulation as licensed and gambling establishments. This would be achieved through provisions in the District Plan and policies.</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. Most likely to apply to larger sex premises (which are more likely to have liquor licenses and the bulk of the trade).</li> <li>2. Simplifies controls in the adult entertainment industry.</li> <li>3. Streamlined approach to personal safety issues (given that alcohol is often associated with anti-social and violent behaviour).</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Only commercial sex premises with a liquor or gambling licence would be subject to this rule.</li> <li>2. May create a situation where commercial sex premises do not seek a liquor licence to avoid this rule.</li> </ol>
<p><b>(12) Change 'retail sales' definition and 'home occupation' definition to exclude commercial sex premises</b></p> <p>Council could control the establishment of commercial sex premises in the residential areas of the city, but not in</p>	<p><b>Strengths of this option</b></p> <ol style="list-style-type: none"> <li>1. The public would be notified of an application for a resource consent. This would occur mainly in residential areas.</li> </ol> <p><b>Weaknesses</b></p> <ol style="list-style-type: none"> <li>1. Complaints about an application may include social as well as environmental effects. This may make it difficult to respond to social</li> </ol>

<p>the commercial areas of the city.</p>	<p>issues as the District Plan is mainly concerned with environmental effects.  2. Commercial sex premises may be forced into areas that would be non-notifiable, which are typically commercial areas.</p>
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A76

## APPENDIX 4 - Approaches taken by the other local Councils

Council	Prostitution Bylaw scope	Location controls	Signage	Licence system	Outlaws home occupation
Auckland City Council	Bylaw controls location, signage and establishes a licensing system.	<ul style="list-style-type: none"> <li>• Brothels in the central business district are prohibited from certain precincts, such as the residential, educational and transport precincts.</li> <li>• Brothels in the rest of Auckland City are prohibited from residential zones and have to be at least 250m from 'sensitive sites' such as education facilities, places of worship, community facilities and major public transport interchanges.</li> <li>• Distances between brothels are controlled.</li> <li>• Brothels may not operate at ground level.</li> </ul>	Yes	Yes	Yes
North Shore	Currently consulting on proposed bylaw to control location, signs, and establish a licensing system.	<ul style="list-style-type: none"> <li>• Brothels restricted to business zones and have to be at least 250m from residential zones and at least 125m from 'sensitive sites'.</li> <li>• Distances between brothels are controlled.</li> <li>• Brothels may not face roads at street level.</li> </ul>	Yes	Yes	Yes
Manukau City	Bylaw controls location. A licensing system includes maintenance and hygiene standards.	<ul style="list-style-type: none"> <li>• Brothels restricted to specified business zones with buffer distances from 'sensitive sites'.</li> </ul>	Yes.	Yes	Yes
Rodney District	Bylaw controls location and signage.	<ul style="list-style-type: none"> <li>• Brothels permitted in retail and mixed business zones and have to be at least 100m from residential zones and 200m from 'sensitive sites'.</li> </ul>	Yes	No	No

A77

Hamilton City	Bylaw controls location and signage, and prohibits street soliciting.	<ul style="list-style-type: none"> <li>Distances between brothels are controlled.</li> <li>Brothels cannot have a street front display.</li> <li>Brothels have to be at least 100m from 'sensitive sites'.</li> </ul>	Yes	No	No
Wellington City	Bylaw controls location and signage.	<ul style="list-style-type: none"> <li>Commercial sex premises are banned from key areas in the CBD.</li> </ul>	Yes	No	No
Christchurch City	Bylaw controls location and signage.	<ul style="list-style-type: none"> <li>Brothels allowed only in certain parts of the CBD.</li> </ul>	Yes	No	Yes

A78