

The Christchurch City Council Brothels (Location and Commercial Sexual Services Signage) Bylaw 2013

Q. Why has the Council decided there is a need for a brothels bylaw?

A. Many of the known operator-run brothels were located in the Central City and their business premises are inaccessible or badly damaged following the 2011 earthquakes. These businesses may wish to temporarily or permanently relocate to other parts of the city.

Prior to the Council adopting the new Brothels Bylaw, there were no bylaw controls around where a brothel can set up in the city. This Bylaw provides controls on where brothels can operate, and will send a clear signal as to what is acceptable, and where.

Q. When does the Bylaw come into effect?

A. The Christchurch City Council Brothels (Location and Commercial Sexual Services Signage) Bylaw 2013 comes into effect on **15 April 2013**.

Existing small owner-operated brothels (SOOBs) operating in multi-unit residential complexes **and** compliant with the City Plan rules are permitted to remain until 31 March 2014 to give these businesses enough time to relocate.

Q. What is a small owner-operated brothel (SOOB)?

A. A SOOB is a brothel at which not more than four sex workers work and where each of them retains control over their earnings.

Q. What will the Bylaw achieve?

A. The Bylaw will provide controls on where operator-run brothels can set up business and prevent the display of signage that may cause a nuisance or serious offence to members of the public or is incompatible with the existing character or use of the area.

As well as regulating areas of the city in which operator-run brothels can operate and imposing limits on signage advertising services, the new Bylaw precludes the operation of any brothel type from multi-unit residential complexes, including SOOBs

Existing SOOBs operating in multi-unit residential complexes **and** compliant with the City Plan rules are permitted to remain until 31 March 2014 to give these businesses enough time to relocate.

Q. How will the new Bylaw work?/ What is the new Bylaw meant to do?

A. The Council has adopted a new Bylaw to regulate the location of operator-run brothels and to control signage advertising commercial sexual services. Prior to the Council's adoption of the Bylaw, there were no bylaw controls around where a brothel can set up in the city. The Bylaw will restrict operator-run brothels to certain business areas in the city, and prohibits brothels being located in multi-unit residential complexes. It will only allow signage advertising commercial sexual services in areas where operator-run brothels are allowed. Operator-run brothels and any signage advertising commercial sexual services will not be allowed in the rest of the city.

The Brothels Bylaw can be viewed:

online www.ccc.govt.nz/brothelsbylaw

- at open Council libraries and service centres
- at Council Offices, 53 Hereford Street

In addition, operator-run brothels will not be permitted on a property that shares a boundary with a school or immediately adjacent to any important open space area in the Central City (as shown on the Central City map).

Note: The Bylaw does not restrict the location of small owner-operator brothels except for prohibiting them from multi-unit residential complexes. Existing SOOBs operating in multi-unit residential complexes **and** compliant with the City Plan rules are permitted to remain until 31 March 2014 to give these businesses enough time to relocate.

The Bylaw will also exempt specific existing operator-run brothels from the location regulations by listing them in a schedule to the Bylaw.

Q. How will the Bylaw regulate signage that advertises commercial sexual services?

A. Under the Prostitution Reform Act, the Council can only regulate signage advertising commercial sexual services if it is satisfied that the Bylaw is necessary to prevent the display of signage that 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

Incompatible with the existing character or use of the area in which the land is situated.

Under the Bylaw, signs advertising commercial sexual services will be prohibited in residential areas and other parts of the district, but will be allowed in the same areas in which operator-run brothels can be located. The Bylaw will require that only one sign be displayed and that signage:

- be attached to the premises at which the commercial sexual services are provided;
- clearly display the number of the premises to which the sign relates;
- not be offensive;
- not display any pictorial image;
- not exceed 0.3 square metres in surface area; and
- not be illuminated by any flashing light.

Q. The area that the Brothels Bylaw recommends operator-run brothels can set up business in is relatively large – does this mean the Council thinks there will be a lot of new brothels across the city?

A. No, the Council is not anticipating an increase in the number of brothels setting up business across the city.

The reason several defined areas across the city have been included is to ensure that a reasonable area is provided for this activity.

In 2005 the High Court ruled that the location provisions of the 2004 Bylaw were too restrictive, and removed them from the Bylaw. The 2004 Bylaw allowed brothels to be located only in the Central City area. The Court ruled that this effectively prohibited small owner-operated brothels from operating in the district.

Q. What is defined as a brothel?

A. Section 4(1) of the Prostitution Reform Act 2003 defines a brothel as “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 (such as hotels and motels) if the prostitution occurs under an arrangement initiated elsewhere.”

Prostitution is defined as “the provision of commercial sexual services”.

Q. What is an operator-run brothel?

A. Operator-run brothels are where the brothel is managed by a person who has an operator certificate issued by the Registrar of the District Court in Auckland.

Q. When did consultation on the Bylaw take place?

A. Consultation opened on Monday 11 June and closed on Tuesday 10 July. The Council held drop-in sessions where members of the public could view the proposed bylaw, ask Council staff questions and make a submission.

Q. Has the location of brothels been a problem?

A. In 2009 during earlier stages of reviewing the 2004 Bylaw, the Council did not consider that there was a problem with the location of brothels. Prior to the 2011 Earthquakes there were 13 operator-run brothels in Christchurch with 12 of these operating in the Central City. However, the effects of the earthquakes including closure of the Central City has caused concerns regarding the potential relocation of operator-run brothels to other areas that would not be subject to any regulation. Most operator-run brothels were located in the Central City and are now badly damaged and/or inaccessible. These businesses may wish to relocate to other parts of the city and they may not need resource consent, subject to compliance with standards including noise, hours of operation and parking.

Q. Does this mean brothels have been setting up business all over the city?

A. No, the Council is only aware of one new operator-run brothel that has opened since the 2011 earthquakes.

Q. Can the Council make a bylaw that makes it illegal to set up brothels across the city?

A. The Bylaw needs to be consistent with the aims of the Prostitution Reform Act 2003. The Council may only make a bylaw to *regulate* the location of brothels. It may require that brothels be confined to certain areas of the district, where there is good reason for this, but the Council *does not* have the power to prohibit the establishment of brothels in every area of the district.

Q. Can the Bylaw control street workers?

A. No, street workers are outside the scope of the Bylaw. While the Prostitution Reform Act 2003 provided councils with the power to make bylaws for the location of brothels and signage advertising sexual services, no such power was provided in relation to street prostitution.

There is a (Control of Street Prostitution) Bill before Parliament that, if passed, would allow Councils to use bylaws to regulate this activity

Q. Was the Prostitutes Collective consulted about the Bylaw?

A. The Prostitutes Collective was consulted on the Bylaw.

After the February earthquake, Council staff had **preliminary discussions with the Prostitutes Collective** to gather information on the effects of the earthquakes on the industry and ask if they were aware of any issue relating to signage or the location of brothels.

The Prostitutes Collective had also been consulted at an earlier stage of the review, in late 2009, when the Council consulted the public on the possible revocation of the 2004 Bylaw.

Q. How much did the new Bylaw cost and how was it funded?

A. The cost associated with undertaking the Special Consultative Procedure on any new bylaw is budgeted for in the City and Community Long-term Planning Activity in the Long Term Council Community Plan (LTCCP).

The Council's enforcement officers already respond to complaints about the location and operation of brothels in enforcing the requirements of the district plans.

Q. How will the new Brothels Bylaw be enforced?

A. The Council, through its Enforcement and Compliance Team, will initially work with the businesses to educate them on how compliance with the provisions of the new Bylaw and with the City Plan rules can be achieved if this is at all possible.

If compliance for any reason cannot be established then a graduated enforcement process will be taken. A breach of the bylaw could result in prosecution under the provisions of the Local Government Act 2002 and on conviction a fine of up to \$20,000.

Q. How will these enforcement costs be met?

A. The costs of enforcement would be met from the Council's Enforcement and Inspections Activity. The need for additional resources will be monitored and any increase in costs will be brought to the attention of the Council.

Q. What can I do if I want to complain about a brothel in my neighbourhood?

A. Brothels will need to comply with the 2013 Brothels Bylaw and rules contained in the City Plan.

The Bylaw provides control over the location of the operator-run brothel, whereas prior to the introduction of the 2013 Brothels Bylaw, there were no controls over where an operator-run brothels could locate.

Brothels, like any other business, are subject to rules contained in the City Plan. Those rules vary, depending upon the zone. Since 2005, when the location provisions of the 2004 Bylaw were quashed, the Council has controlled the nature and size of brothels within Christchurch City via the City Plan. The City Plan treats brothels like any other commercial service. The following rules generally apply:

In living zones there is limited scope for a brothel to be established as a permitted activity (that is, without resource consent) unless it is a small-scale home-based business with limited hours of operation.

In business zones the rules are more permissive, but the brothel would need to meet requirements relating to bulk and location, car parking and traffic generation.

If you wish to make a complaint about a brothel you can ring the Council Customer Call Centre on 941 8999 or 0800 800 196. Council Enforcement Officers currently respond to complaints about the location and operation of brothels as part of their role in enforcing district plan requirements.

Q. Will the Council consult with the local community if a brothel is allowed to set up in their area?

A. Under the Bylaw, there are areas where operator-run brothels will not be allowed and areas where they will be allowed. Within the areas operator-run brothels are allowed, they may require a resource consent if the brothel does not comply with the rules of the Christchurch City Plan or the Banks Peninsula Proposed District Plan.

There are three ways in which applications for resource consent can be processed – non-notified, publicly notified or limited notified. The Resource Management Act 1991 provides specific guidance to Councils on whether or not an application is to be notified.

Non-notified Most applications are non-notified, mainly because:

The adverse effects which may result from the proposal are no more than minor.

Any affected persons (usually neighbours) have agreed in writing to the proposal.

Publicly-notified A publicly notified application is advertised in newspapers (The Press, Christchurch Star and Akaroa Mail) and copies are sent to the affected neighbours. Anyone can lodge submissions supporting or opposing the application.

Limited notified A limited notified application is not advertised in the newspapers, but copies are sent to those affected neighbours who have not provided written approval to the application. These neighbours are the only people who are allowed to make a submission on the application. Notified applications take significantly longer to process and are more expensive than non-notified applications.

Q. How is the decision made around whether a resource consent application is non-notified?

A. This decision will be based on the information supplied by the applicant, and reports and/or recommendations from Council staff.

The Council will assess the effects of the proposal against the rules of the district plans which can include visitor and vehicle movements and hours of operation, and the impact these might have on overall residential amenity and coherence.

If these effects on the surrounding environment are considered to be negligible or minor the Council might decide the application is non-notified. If the effects are determined to be more than minor then the application will be publicly notified.

A wide range of factors are taken into account in deciding whether adverse effects are minor. These include the following:

- Whether the activity is provided for in the zone;
- What effects the activity will have on the environment;

- Whether any effects can be avoided or reduced;
- The reasons for the rule(s) that the proposal does not comply with;
- The character of the existing environment;
- Cumulative effects of granting a consent for the development (in association with other consents already granted);
- Environment Court decisions; and
- National Environmental Standards.

Subject to the status of an activity in the district plans, the matters under Section 15(1) of the Prostitution Reform Act may be a mandatory consideration in determining whether a resource consent application is non-notified.

Section 15 requires that:

(1) when considering an application for a resource consent under the Resource Management Act 1991 for a land use relating to a business of prostitution, a territorial authority must have regard to 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 “

Q. The Council had a brothels bylaw, what happened to it?

A. The Council did have a brothels bylaw: the Christchurch City Brothels (Location and Signage) Bylaw 2004.

In 2005 the High Court ruled that the location provisions of the 2004 Bylaw were too restrictive, and removed them from the Bylaw. The 2004 Bylaw allowed brothels to be located only in the Central City area. The Court ruled that this effectively prohibited small owner-operated brothels from operating in the district. Since that time the Council has controlled the nature and size of brothels within the city via the district plan rules.

The remaining parts of the 2004 Bylaw, relating to signage advertising commercial sexual services, expired on 6 July 2011.

The Bylaw has been under review since 2008. Council staff prepared a report in early 2011, proposing a new bylaw relating to signage, and aiming to have a new bylaw in place before the expiry of the 2004 Bylaw. However, the February earthquake meant that this report did not go to Council. Since that time signage advertising commercial sexual services has been subject to the same rules for signage as other activities regulated by the City Plan and the Proposed Banks Peninsula District Plan.

The Council determined at its 22 September 2011 meeting that there was sufficient evidence of a perceived problem relating to both the location of brothels and to signage advertising commercial sexual services to warrant the development of a bylaw and requested that staff develop options for a new bylaw to address both issues.

Q. Since the High Court judgement in 2005, how has the Council controlled the location of brothels?

A. Since 2005, when the location provision of the 2004 Bylaw was quashed, the Council has controlled the nature and size of brothels within the city via the City Plan and the Proposed Banks Peninsula Plan rules and has controlled signage advertising commercial sexual services through the district plans since 6 July 2011.