

**Community & Services Committee  
28 April 2017**

**Report for Agenda Item 8**

**Department: Finance & Regulatory**

**Brothel Control Bylaw 2011 Review**

**Purpose**

- 1 To provide Council direction to assist in the review of the Brothel Control Bylaw 2011.

**Recommendation**

- 2 That Council:
  1. **Note** the contents of this report;
  2. **Confirm** the proposal for brothels to continue to be permitted in the Queenstown and Wanaka Town Centres only.
  3. **Recommend to Council** that it approves the continuation of the current Queenstown Lakes District Brothel Control Bylaw for public consultation.

Prepared by:



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22/03/2017

Reviewed and Authorised by:



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22/03/2017

**Background**

- 3 The Local Government Act 2002 ("LGA2002") requires that a Bylaw made under the Local Government Act 1974 must be reviewed within five years after the date on which the bylaw was made.
- 4 Any Bylaw not reviewed within five years ceases to have effect two years after this date.

- 5 The Brothel Control Bylaw 2011 was adopted April 27 2011 and will expire on 27 April 2018. A review of this Bylaw is part of the programmed review of Councils Bylaws.

## **Comment**

### **Prostitution Reform Act 2003**

- 6 The Prostitution Reform Act 2003 ("PRA03") does not allow Councils to prohibit brothels, but does provide the ability for Councils to develop a Bylaw that can control the signage/advertising of brothels and the location of a brothel only.
- 7 Any Bylaw developed must follow the same Bylaw making process as stated in the Local Government Act 2002.

### **Local Government Act 2002**

- 8 The Local Government Act 2002 ("LGA 2002"), enables Council to make a Bylaw to address local issues and provides the ability to operate proactively to:
  - a) Protect the public from nuisance;
  - b) Protect, promote, and maintain public health and safety; and
  - c) Minimise the potential for nuisance behaviour in public places. The LGA02 requires consideration as to whether a Bylaw is the most appropriate way of dealing with an issue or perceived issue.
- 9 There are currently no other mechanisms or rules to control the location or signage/advertising of brothels and therefore a Bylaw is the most appropriate way of addressing these matters to effectively manage and control the potential impacts of brothels.
- 10 If the Brothel Control Bylaw 2011 was to lapse, Council would have no ability to regulate and control the advertising and location of Brothels within the district..

### **Proposed Bylaw**

- 11 The current Bylaw provides the ability to have a brothel within a specified area of the Queenstown Town Centre and the Wanaka Town Centre only.
- 12 The rationale for this, was to ensure that any Brothels were in locations where there is CCTV in operation, within close proximity of a Police Station and had large public foot traffic to minimise any potential negative issues that may eventuate if a brothel was on a more remote location across the district.
- 13 These areas were also identified to prevent the potential nuisance of brothels in residential neighbourhoods.
- 14 There are no Brothels currently located within the permitted areas as set by the Bylaw.
- 15 It is proposed that the current Bylaw be continued as this meets the PRA03 requirements, and has prevented any issues of nuisance to date.

## Options

- 16 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

### Option 1- Status Quo

Advantages:

- 17 Continuity, effective management and control of potential impacts of brothels on the public, and the prevention of brothels in residential areas.

Disadvantages:

- 18 No disadvantages have been identified.

### 19 Option 2- No Bylaw

Advantages:

- 20 Council will be perceived as being less bureaucratic

Disadvantages:

- 21 No ability to control or regulate the location and advertising of brothels.
- 22 This report recommends Option 1 for addressing the matter, as this directly addresses the issue or perceived issue of brothels and where they are permitted

## ***Significance and Engagement***

- 23 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy; the Bylaw affects few people and simply continues the existing Brothel Control Bylaw 2011.

## ***Risk***

- 24 This matter relates to the strategic risk SR3 Management Practise - Working within Legislation, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this strategic risk due to the associated legislation and controls surrounding the activity.
- 25 The recommended option considered above mitigates the risk by 'Treating the risk' – putting measures in place which directly impact the risk by regulating and controlling, in accordance with the Local Government Act 2002.

## Financial Implications

- 26 There are operational cost implications resulting from the decision regarding the review of this Bylaw. These costs will be met through current budgets.

## **Council Policies, Strategies and Bylaws**

27 The following Council policies, strategies and bylaws were considered:

- Brothel Control Bylaw 2011
- Enforcement Strategy and Prosecution Policy 2014
- New Zealand Bill of Rights Act 1990 (“BORA”)
- Activities in Public Places Bylaw 2016
- Prostitution Reform Act 2003 (PRA)

28 The recommended option is consistent with the principles set out in the named policy/policies.

29 This matter is included in the 10-Year Plan/Annual Plan

30 Volume 1 – Our Long Term Council Outcomes to encourage compliance and to protect the interests of the district.

## **Local Government Act 2002 Purpose Provisions**

31 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by; governing the effective management and control of potential impacts of brothels on the public and protect the interests of the district.
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

## **Consultation: Community Views and Preferences**

32 The persons who are affected by or interested in this matter are the residents/ratepayers of the Queenstown Lakes’ District community, local Iwi and brothel operators.

33 There has been no consultation undertaken at this time. However, consultation will be undertaken in accordance with the special consultation procedure prescribed under section 156 of the Local Government Act 2002, regarding the continuation of the current bylaw.

## **Attachments**

A Brothel Control Bylaw 2011