



**PROPOSED QUEENSTOWN LAKES DISTRICT
COUNCIL BROTHEL CONTROL BYLAW 2017**

STATEMENT OF PROPOSAL

INTRODUCTION

- 1 The Queenstown Lakes District Council (**Council**) has the power to make bylaws under the Prostitution Reform Act 2003 (**the Act**) to regulate the location of brothels and signage that advertises commercial sexual services. This bylaw making power is in addition to the Council's general power under the Local Government Act 2002 (**LGA**) to make bylaws in order 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.
- 2 The Council has completed a review of the Council's Brothel Control Bylaw 2011 (**current bylaw**). The Council considers that the current bylaw should be revoked and replaced with the proposed Brothel Control Bylaw 2017 (**proposed bylaw**). The proposed bylaw will substantially continue the controls under the current bylaw, but will include a number of amendments to update and clarify the scope of the regulation.

PROPOSAL

- 3 The Council has completed a review of the current bylaw, which is due to expire on 27 April 2018. The Council is not currently aware of any brothels operating within the District. Nevertheless, the Council considers that the current bylaw is working appropriately, and provides for reasonable regulation of the location of brothels and associated signage.
- 4 It is proposed that the existing rules in the current bylaw are substantially continued, with some modifications to improve clarity, including:
 - a. amending the terms "premises" and "public place" to align with the definitions in the Act.
 - b. amending the clause regulating the location of brothels so that it applies to any person who establishes, operates or permits the operation of a brothel.
 - c. amending the clause regulating the display of brothel signage so that it applies to any person erecting, or displaying any publicly visible sign advertising a brothel.
 - d. replacing the requirement that brothel signage comply with the Signage Bylaw 2006 (now revoked), with a requirement that brothel signage comply with the Queenstown Lakes District Council District Plan, which contains the standard signage rules applicable in the District.
 - e. inserting a new clause that provides that no person (such as a building owner) may permit the erection or display of any sign advertising a brothel, unless it complies with the terms of the proposed bylaw.
 - f. updating the maps of permitted areas within the Queenstown and Wanaka Town Centres to include street names and improved image resolution, and separating the maps into different schedules.
- 5 This Statement of Proposal has been prepared in accordance with the requirements of sections 83 and 86 of the LGA, and includes:

- a. The reason for the proposal;
- b. Consideration of whether a bylaw is the most appropriate way to address the perceived problem;
- c. Consideration of whether the proposed bylaw is the most appropriate form of bylaw;
- d. Consideration of any implications under the New Zealand Bill of Rights Act 1990;
- e. A statement that the Brothel Control Bylaw 2011 is to be revoked;
- f. A draft of the proposed Brothel Control Bylaw 2017.

REASON FOR PROPOSAL

- 6 The current bylaw is due to expire on 27 April 2018. The Act requires that the Council implement the same procedure for adopting a bylaw under the Act as for a bylaw adopted under the LGA, with one important difference: the proposed bylaw can be inconsistent with the New Zealand Bill of Rights Act 1990 (**NZBORA**).
- 7 The Act provides that the Council may make a bylaw for the purposes of regulating the location of brothels. A brothel includes a premises kept or habitually used for the purposes of prostitution, but does not include accommodation that is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere. The Act does not envisage the Council imposing a blanket ban on the establishment of brothels within the District. However, the Council can restrict the location of brothels to certain areas in order to reduce or prevent harmful effects, such as nuisances.
- 8 The Council has a broad power under the Act to prohibit or regulate advertising of commercial sexual services (**brothel advertising**) that are visible from a public place. The Council may regulate the content, form and size of brothel advertising.
- 9 The Council proposes to substantially continue its current approach to the regulation of brothels, which includes specifying suitable areas within the District for the establishment and safe operation of brothels, and requiring publicly visible brothel signage to meet minimum standards. The Council considers that this approach is consistent with the Act, and an appropriate fit for the District and the community. Some amendments are required in the proposed bylaw to update and clarify the scope of the controls.

CONSIDERATION BY COUNCIL UNDER SECTION 155 OF THE LGA2002

Problem definition

- 10 While there are currently no known brothels in operation in the District, the Council proposes that the existing reasonable limits on the location of brothels and brothel advertising should be continued under the proposed bylaw. The Council considers that areas removed from town centres (eg. residential neighbourhoods) are not suitable locations for brothels, as there is a greater potential for crime, nuisances or other harm to result. The current bylaw requires that brothels are to be located within permitted zones specified in the Queenstown Town Centre and the Wanaka Town Centre. These locations are best suited to a brothel operation as there is CCTV in operation, the areas are in close proximity to a Police Station, and there is frequent pedestrian traffic.

- 11 In July 2016, the Council expanded the size of the areas specified as town centre zones within the Queenstown Lakes District Council District Plan (**District Plan**), by making Plan Change 50 operative. The area marked as a town centre within the current bylaw is smaller than this expanded town centre zone under the District Plan. Public feedback is sought regarding the possible expansion of the town centre zone under the proposed bylaw for consistency with the District Plan. More information regarding the expanded town centre zones under Plan Change 50 can be found at <http://www.qldc.govt.nz/planning/district-plan/district-plan-changes/plan-change-50-queenstown-town-centre-zone-extension/>.
- 12 The Council is not currently aware of any brothel advertising in the District. However, the Council considers that the existing rules should be retained with some updates to clarify the scope. The proposed bylaw will require that publicly visible brothel advertising comply with requirements in the District Plan, which also applies to other commercial signage.

IS THE PROPOSED BYLAW THE MOST APPROPRIATE BYLAW?

- 13 The Council has considered the most appropriate way of addressing the issues described in the problem definition section above, the options available, and determined that the proposed bylaw is the most appropriate means for addressing the issues.
- 14 In considering whether a bylaw is the most appropriate, Council has considered the following options:
- a. Option 1 – Do nothing
 - b. Option 2 – Continue the current bylaw without amendment
 - c. Option 3 – Adopt the proposed Brothel Control Bylaw 2017

Option 1 – Do nothing

- 15 If the Council does nothing, the current bylaw will cease to have effect on 27 April 2018. After that date, there will be no restrictions on the location of brothels and display of brothel signage in the District. If in future a person decides to establish a brothel, they could do so in any area, including in a residential neighbourhood. The Council considers that this may lead to harmful effects in those areas, including nuisances. However, some members of the community may prefer less regulation of brothels.
- 16 Publicly visible brothel advertising will still be subject to the Queenstown Lakes District Council District Plan, which prohibits sexually explicit, lewd or offensive content. However, brothel advertising may still contain sexual innuendo or other content that falls short of being offensive, which would be technically permissible without a bylaw in effect.

Option 2 – Continue the current bylaw without amendment

- 17 If the Council re-adopts the current bylaw without any amendment, brothel location and signage will continue to be regulated in the same way going forward. If a brothel is established, there could be some uncertainty as to the scope and enforceability of parts of the current bylaw. For example:
- a. there are inconsistencies in definitions in the current bylaw compared to the same definitions in the Prostitution Reform Act 2003.

- b. the current bylaw may be difficult to apply to “brothels”, which do not have legal personality.
- c. the requirement to comply with the Signage Bylaw 2006 is out of date.
- d. the maps which specify the permitted areas for brothels are faded, and the streets within the permitted areas are not labelled.

Option 3 - Adopt the proposed Brothel Control Bylaw 2017

- 18 The proposed bylaw will largely continue the existing controls for brothels in the District, and publicly visible brothel advertising. Council staff consider that the controls within the proposed bylaw are consistent with the Act and an appropriate fit for the District and the community. The permitted zones specified in the Queenstown Town Centre and the Wanaka Town Centre are best suited to a brothel operation as there is CCTV in operation, the areas are in close proximity to a Police Station, and there is frequent pedestrian traffic. Council staff consider that the expansion of the permitted zones for consistency with the District Plan is not necessary, given that there have been no issues with the zones under the current bylaw. The other amendments in the proposed bylaw are required to update and clarify the scope of the controls, although this will not substantially alter existing brothel regulation.

ARE THERE ANY IMPLICATIONS UNDER THE NEW ZEALAND BILL OF RIGHTS ACT 1990?

- 19 The proposed bylaw may give rise to implications for the right of *freedom of expression* (section 14) under NZBORA. However, the Prostitution Reform Act 2003 expressly provides that the Council can adopt a bylaw even though it is inconsistent with NZBORA.

TIMETABLE FOR CONSULTATION

- 20 The following dates represent the key times in the consultation programme:
- a. Council resolves to undertake public consultation regarding the proposal – **17 August 2017.**
 - b. Advertisement in Otago Daily Times, Southland Times, Mirror and Wanaka Sun – between **19 August and 18 September 2017.**
 - c. Submissions close on **18 September 2017.**
 - d. Submissions heard by a subcommittee of Councillors **9 – 13 October 2017.**
 - e. Council considers outcome of consultation process and whether to make decisions in the Proposal – **26 October 2017.**
 - f. Public notice of final decision – **14 December 2017.**

INSPECTION OF DOCUMENTS AND OBTAINING COPIES

- 21 Copies of this Statement of Proposal and the proposed Bylaw may be inspected, and a copy obtained, at no cost, from:
- a. either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmere Street, Wanaka;

- b. any Council library within the Queenstown Lakes District; or
- c. the Council website – www.qldc.govt.nz

RIGHT TO MAKE A SUBMISSION AND BE HEARD

- 22 Any person or organisation has a right to be heard in regard to this Proposal and the Council encourages everyone with an interest to do so. Submissions should be directed toward matters that are within the scope of the Proposal.
- 23 The Council would prefer that all parties intending to make a submission:
 - a. go to the Queenstown Lakes District Council Website: www.qldc.govt.nz or
 - b. post their submission to: Regulatory Department, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348.
- 24 Submissions must be received by **Monday 18 September 2017**. The Council will then convene a hearing, which it intends to hold between Monday **9th October and Friday 13th October 2017** at which any party who wishes to do so can present their submission in person. The Council will give equal consideration to written and oral submissions.
- 25 The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.
- 26 Every submission made to the Council will be acknowledged in accordance with the LGA, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.
- 27 Section 82 of the LGA 2002 sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

MAKING AN EFFECTIVE SUBMISSION

- 28 Written submissions can take any form (e.g. Email, letter). An effective submission references the clause(s) of the proposed bylaw you wish to submit on, states why the clause is supported or not supported and states what change to the clause is sought.
- 29 Submissions on matters outside the scope of the proposal cannot be considered by the Hearings Panel.

Mike Theelen
CHIEF EXECUTIVE

Attachment A – Proposed Queenstown Lakes District Council Brothel Control Bylaw 2017

Attachment B – Queenstown Lakes District Council Brothel Control Bylaw 2011

Attachment C – Map showing the permitted area under the current bylaw and the expanded town centre zone implemented after Plan Change 50 became operative

[NOTE: the above attachments are attached elsewhere in this item and are not repeated here.]