Appendix 1

Draft Bylaw

BROTHEL LOCATION

TITLE:	Ashburton District Council Brothel Location Bylaw 2016
GROUP:	Compliance & Development
RESPONSIBILITY:	Environmental Monitoring Manager
DATE ADOPTED:	TBC
COMMENCEMENT:	TBC
NEXT REVIEW DUE:	30 June 2036

1. Title

The title of this bylaw is the Ashburton District Council Brothel Location Bylaw 2016.

2. Purpose

The purpose of this bylaw is to:

- regulate the location of brothels;
- minimise potential and/or perceived community harm or offence; and
- support the intent of the Prostitution Reform Act 2003.

3. Related documents

This Bylaw is a document that relates to the regulation of the location of brothels. Other related documents are listed here and may be referred to in the Bylaw or its explanatory notes.

Acts and Regulations

- Education and Training Act 2020
- Health Act 1956
- Health and Safety at Work Act 2015
- Local Government Act 2002
- Prostitution Reform Act 2003
- Resource Management Act 1991.

Ashburton District Council bylaws, plans, policies and strategies

- Advertising Signage in Public Places Bylaw 2017
- Explanatory Bylaw 2016
- District Plan

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4. Definitions

In this bylaw, unless the context otherwise requires:

Adjoining means allotments sharing one or more common boundaries or separated only by a road width or similar equivalent.

Ashburton District Plan means the Operative District Plan of the Ashburton District Council and any subsequent Proposed District Plan.

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. For the purposes of this bylaw, this definition does not include Small Owner Operated Brothels, which are defined below.

Brothel permitted area means any area within a Business Zone of the Operative District Plan of the Ashburton District Council and any subsequent Proposed District Plan, and which also falls 100 metres away from any sensitive site as outlined in this bylaw and discussed in clause 6 below.

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

Council means Ashburton District Council.

Lawfully established brothel means a brothel operated by a person or persons holding a valid operator's certificate as outlined in sections 34 – 41 of the Prostitution Reform Act 2003.

Marae means a Māori reservation for communal purposes as discussed in section 341 of the Te Ture Whenua Maori Act 1993.

Offence includes any act or omission in relation to any bylaw or any part thereof for which any person can be punished either on indictment or by summary process.

Person includes any individual, company, or other commercial body.

Place of worship means land and buildings of premises that are used as a place of religious worship and are subject to Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.

Premises means any of the following:

a. A property or allotment which is held under a separate record of title (or for which a separate record of title may be issued) and in respect to which a building consent has been (or may be) issued; or
b. A building or part of a building that has been defined as an individual unit by a cross lease, unit title or company lease and for which a record of title is available; or

c. Land held in public ownership (e.g. reserve) for a particular purpose.

Prostitution means the provision of commercial sexual services.

School/licensed early childhood centre means a parcel or Adjoining parcels of land that contains:
(a) a registered school as defined in section 10 of the Education and Training Act 2020; or
(b) a licensed early childhood education and care centre as defined in section 10 of the Education and Training Act 2020.

Sensitive site means a site that is either:
(a) a School / Licensed Early Childhood Centre or,
(b) a Place of Worship or,
(c) a Marae.

Sex worker means a person who provides commercial sexual services.

Small Owner-Operated Brothel (SOOB) has the same meaning as in section 4(1) of the Prostitution Reform Act 2003.

5. Application

This bylaw applies to all brothels located in Ashburton District, and any brothel that may be established in the future.

6. Location of brothels

6.1 Brothels are permitted to locate and provide Commercial Sexual Services from Premises located within the Brothel Permitted Area subject to compliance with the whole of this bylaw and the Ashburton District Plan.

6.2 No Brothel shall be located within 100 metres (in a straight line) of any Sensitive Site.

6.3 Where a Sensitive Site establishes within 100 metres of an existing and Lawfully Established Brothel, the Brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the Brothel is discontinued for a continuous period of more than 6 months.

6.4 For the purposes of clauses 6.2 and 6.3, the separation distance is measured from the legal boundary of the land occupied by the Brothel and the land occupied by the Sensitive Site (nearest point to nearest point).

6.5 For clarity, clauses 6.1, 6.2, 6.3 and 6.4 do not apply to Small Owner-Operated Brothels.

7. Signage of commercial sexual services

7.1 Signage for Commercial Sexual Services is covered under the 'Ashburton District Council Advertising Signage in Public Places Bylaw 2017'.

8. Breach of bylaw

8.1 Where a Person acts in breach of this Bylaw, the Council may apply to the District Court for an injunction as set out in section 162 of the Local Government Act 2002; and

8.2 Any Person who acts in breach of this Bylaw commits an Offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding $20,000), and may also be liable to penalties under other legislation.

Advisory Note 1: Brothels are subject to the provisions of this Bylaw and the Ashburton District Plan and both regulations must be complied with at all times. In addition the following legislation may also impact on the operation of brothels: Health Act 1956, Health & Safety at Work Act 2015, Local Government Act 2002, Prostitution Reform Act 2003, and the Resource Management Act 1991.

Advisory Note 2: Operators of a Brothel (excluding a SOOB) must hold a valid Operator Certificate as set out in Part 3 of the Prostitution Reform Act 2003. For information on requirements and how to obtain a brothel operator certificate see the Ministry of Justice website.