



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth
District Council**

**STRATEGY AND OPERATIONS
COMMITTEE
MEETING AGENDA**

**Tuesday 5 October 2021
at 1pm**

**COUNCIL CHAMBER
LIARDET STREET, NEW PLYMOUTH,
AND VIA ZOOM**

Chairperson:	Cr Stacey	Hitchcock
Members:	Cr Richard	Handley (Deputy)
	Cr Tony	Bedford
	Cr Sam	Bennett
	Cr Gordon	Brown
	Cr David	Bublitz
	Cr Anneka	Carlson
	Cr Murray	Chong
	Cr Amanda	Clinton-Gohdes
	Cr Harry	Duynhoven
	Cr Colin	Johnston
	Cr Richard	Jordan
	Cr Dinnie	Moeahu
	Cr Marie	Pearce
	Matua Howie	Tamati
	Mayor Neil	Holdom

COMMITTEE PURPOSE

Purpose of Local Government

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option outlined in each report meets the purpose of local government and:

- Promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.
- 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.

END

OPENING KARAKIA

Kia uruuru mai	I draw in (to my being)
Ā hauora	The reviving essence
Ā haukaha	The strengthening essence
Ā haumāia	The essence of courage
Ki runga, ki raro	Above, below
Ki roto, ki waho	Within, without
Rirerire hau paimarire	Let there be peace



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth
District Council**

Health and Safety Message

In the event of an emergency, please follow the instructions of Council staff.

Please exit through the main entrance.

Once you reach the footpath please turn right and walk towards Pukekura Park, congregating outside the Spark building. Please do not block the footpath for other users.

Staff will guide you to an alternative route if necessary.

If there is an earthquake – drop, cover and hold where possible. Please be mindful of the glass overhead.

Please remain where you are until further instruction is given.

APOLOGIES

None advised

ADDRESSING THE MEETING

Requests for public forum and deputations need to be made at least one day prior to the meeting. The Chairperson has authority to approve or decline public comments and deputations in line with the standing order requirements.

PUBLIC FORUM

Public Forums enable members of the public to bring matters to the attention of the committee which are not contained on the meeting agenda. The matters must relate to the meeting's terms of reference. Speakers can speak for up to 5 minutes, with no more than two speakers on behalf of one organisation.

- None advised

DEPUTATIONS

Deputations enable a person, group or organisation to speak to the meeting on matters contained on the agenda. An individual speaker can speak for up to 10 minutes. Where there are multiple speakers for one organisation, a total time limit of 15 minutes, for the entire deputation, applies.

- Mark Turner (World Multisport, Tab 1)
- Pamela and Robert Coe (Cycle Inn, Tab 1)
- Angie Benn (Lepperton Residents' Association, Tab 4)

PREVIOUS COMMITTEE MINUTES

Recommendation

That the minutes of the Strategy and Operations Committee (24 August 2021), and the proceedings of the said meeting, as previously circulated, be taken as read and confirmed as a true and correct record.

END

REPORTS

ITEMS FOR DECISION BY COMMITTEE

- 1 Temporary Road Closure for the Coastal Five Sports Event
- 2 Location of Brothels Bylaw – Adoption of Statement of Proposal for Consultation

ITEMS FOR RECOMMENDATION BY COMMITTEE

- 3 Delay of Extension of Collection Service
- 4 Lepperton Hall Demolition

END

TEMPORARY ROAD CLOSURE FOR THE COASTAL FIVE SPORTS EVENT - THE DEVON MILE

MATTER

1. The matter for consideration is an application for temporary closures in the New Plymouth District to enable World Multisport Events Limited (Ltd) to use the closed road for one of its five running events, the Devon Mile.

RECOMMENDATION FOR CONSIDERATION

That having considered all matters raised in the report, Council approves the closure of Devon Street from Dawson to Gover streets from 11am to 2pm on Sunday 21 November for the Devon Mile event.

COMPLIANCE	
Significance	This matter is assessed as being of some importance.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> 1. Approve the application for temporary road closure. 2. Decline the application for temporary road closure.
Affected persons	The persons who are affected by or interested in this matter are people interested in or participating in the events, residents, or businesses in the road closure areas. People involved in industries benefiting from events and tourism in the district may also be interested in this matter because of potential economic and leisure opportunities the event will create. The public will be interested in this matter because of the likely disruption to travel routes while the events take place.
Recommendation	This report recommends Option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	No
Significant Policy and Plan Inconsistencies	No

EXECUTIVE SUMMARY

2. This report recommends the temporary road closure in New Plymouth to allow World Multisport Ltd to utilise the closed road as an event venue for the Devon Mile running event.
3. This events forms part of five running events taking place over the weekend of 20 to 21 November 2021. As well as the Devon Mile, events include a Half Marathon along the Coastal Walkway, the Pukeiti Climb, the Pukekura Park Run and the Lake Mangamahoe Run.

BACKGROUND

4. The Coastal Five Event is a series of five running events to take place over the weekend of 20 to 21 November. Each event is designed to take in a different area of the New Plymouth District. The running routes are designed so that athletes who complete all events over the weekend will complete a full marathon distance in total. Participants have the option of competing in individual events and do not have to complete all five events to take part.
 5. The World Multisport Events Ltd has designed the run routes to highlight some of the tourist attractions, Maunga, and coastal areas of New Plymouth and hopes to attract runners from outside the region. If the event is successful, the organiser intends to make the Coastal Five an annual event and hopes to grow the event to a significant event on the national running calendar
 6. The events will be open to athletes of all levels of experience with the closed roads creating a safe venue for participants and spectators.
 7. The Council's Parks Team has been working with the organiser in relation to the Coastal Walkway, Pukekura Park and Lake Mangamahoe events and venue hire agreements have been secured.
 8. The main organiser of the events has prior experience organising sporting events in New Zealand and overseas and is working closely with the main organiser of the ITU Triathlon World Cup event held in New Plymouth earlier this year.
 9. Initially all these events were approved by Deputy Chief Executive under delegation. However, on 16 August a late submission opposing the Devon Mile event was received from Cycle Inn, following the event organiser's notification letter advising the wrong submission close date of 20 August. Therefore, it is felt a decision should now be made by Council. See Appendix 3 for a copy of the submission.
-

-
10. The reasons given by Cycle Inn for opposing the Devon Mile event are:
- Their “business hours are affected by the timing of the event. Their opening hours on Sundays are from 9am to 3pm. The event road closure from 11am to 12.30pm is a busy trading period”.
 - The event organiser “didn’t discuss the road closure” with them but “left the undated notification letter inside by the front door” and did not hand it to them.
 - They feel their “customers are put off by access being difficult with the road closure and do not come in”.
 - “Customer cars parked inside the road closure area before 11am will not be able to leave until after 12.30pm”.
 - “Supporters of the event come to the CBD to watch the event, not to go shopping”.
11. Four email letters of support have been received for this events. See Appendix 4 for a copy of these letters.

CLIMATE CHANGE IMPACTS AND CONSIDERATIONS

11. The Coastal Five sports event is a series of running events. Therefore there will be minimal or no impact on the climate and the event encourages sustainable activities within the community. The organisers of the event have also engaged with Council’s Zero Waste Team for help with recycling and waste minimisation.

NEXT STEPS

12. Following approval of these events:
- The applicant will be notified of the outcome.
 - The public will be informed of the event via a Public Notice and the event will be uploaded to the Council website.
 - Emergency services and road user groups, the Taranaki Regional Council, Waka Kotahi, Rural Transporters and National Road Carrier Association (heavy vehicle advocates) will be informed of the outcome of the approval process.
 - An Approved Traffic Management Plan will be provided to the applicant.
-

SIGNIFICANCE AND ENGAGEMENT

12. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance. It does not have a large impact on the general public but does have an increased impact on people residing in, trading from, or requiring access to properties on the closed roads.
13. As required under the Transport (Vehicular Traffic Road Closure) Regulations 1965, the intention to close roads for events was advertised in the *North Taranaki Midweek* on Wednesday 14 July 2021 and uploaded to the Council website the same week. A submission period was advertised to close on 28 July 2021. During this period no submissions were received.
14. A Council Officer has completed routine notification of the requested road closures by providing details to emergency services and other affected road user groups or stakeholders.
15. Emergency service vehicles will have unrestricted access at all times.

OPTIONS

The following assessment relates to both options.

Statutory Responsibilities

16. The requested temporary road closure is proposed and managed under the Transport (Vehicular Traffic Road Closure) Regulations 1965.

Participation by Māori

17. The temporary road closure has been assessed as an operational matter and it has not been necessary for local Maori to be involved in the decision-making process.

Consistency with Policies and Plans

18. The requested road closure and associated conditions are consistent with the Council's Temporary Road Closure and Disruption to Traffic Policy.
-

Option 1:
Approve both applications for temporary road closure.

Financial and Resourcing Implications

19. World Multisport Ltd is required to meet all costs associated with the temporary road closures and running the event. An application fee of \$565 has been charged by the Council to cover the administration of the applications. The applicant is also required to have public liability insurance cover to a minimum of \$1 million.

Risk Analysis

20. The risks associated with the temporary closures of roads will be addressed in the Traffic Management Plan approved by NPDC's Traffic Management Coordinator. The event organiser is responsible for meeting all Health and Safety and reputational risks associated with closing the roads and holding the events.

Promotion or Achievement of Community Outcomes

21. The planned temporary road closures ensure provisions are made to create a safe environment for all people while the events take place on the district's road network.
22. This option supports independently organised events that are designed to contribute to achieving public "well-being" by supporting activities within the community by enabling the roading network to be transformed into a safe event venue for alternative leisure opportunities for the community, promoting the New Plymouth District as a Sustainable Lifestyle Capital.

Community Views and Preferences

23. Although this is a new event to the New Plymouth District, previous sporting events in the district have been well received by the community. The temporary road closures and the full package of events for the Coastal Five have been well advertised by the organiser and to date, no submissions or complaints have been received in relation to these events.
 24. It is anticipated that the community will benefit from these events because of the potential economic and leisure opportunities the event will create.
-

Advantages and Disadvantages

- 25. This option supports the applicant to hold the events in their preferred locations by creating a safe environment for the Devon Mile event. It is consistent with the previous decision by Council to approve other temporary road closure applications in New Plymouth. This option is considered the most effective way to manage the risks associated with runners and vehicles in both the rural and CBD setting.
- 26. Residents in the road closure areas will experience some disruption to their access in and out of their properties during the event, however, the Traffic Management Plan will be in place to minimise this disruption. Other road users will be required to use an alternative route during the road closures.

Option 2:
Decline both applications for temporary road closure.

Financial and Resourcing Implications

- 27. This option will have financial implications for the applicant who would be unable to create a safe environment for running events in their preferred location.
- 28. There are no financial advantages to the local economy if these events don't take place.

Risk Analysis

- 29. There are no Traffic Management or Health and Safety risks associated with this option.
- 30. Withdrawal of Council support for this event may pose a reputational risk, as it does not support the contribution members of the community are making towards the vibrancy of the district. It does not support the promotion of the New Plymouth district as a Sustainable Lifestyle Capital.

Community Views and Preferences

- 31. This option does not support the views and preferences of the applicant or those interested in these events. Nor does it support independently organised sporting activities that promote well-being for the community.
 - 32. This option would not provide most hospitality businesses in New Plymouth the possible tourism and hospitality opportunities.
-

Advantages and Disadvantages

- 33. This option does not support the applicant to hold their event in their preferred location.
- 34. This option supports residents and other road users to have unhindered access to the roads.

Recommended Option

This report recommends **Option 1** for addressing the matter.

APPENDICES

- Appendix 1 Correspondence & Conditions (ECM8546190)
- Appendix 2 Map of Devon Mile (ECM8584234)
- Appendix 3 Submission against Devon Mile event. (ECM8606466)
- Appendix 4 Letters of support Devon Mile event. (ECM8624016)

Report Details

Prepared By:	Ceri Bosley-Brady (Network Access Officer)
Team:	Transportation
Approved By:	John Eagles (Network Management Lead)
Location:	New Plymouth CBD
Date:	2 August 2021
File Reference:	ECM8578441

-----End of Report -----



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NEW PLYMOUTH DISTRICT COUNCIL
 newplymouthnz.com

When replying please quote Application Number: RTC21/00369

24 May 2021

WORLD MULTISPORT EVENTS LIMITED
 10 Aubrey Street
 NEW PLYMOUTH 4310

Attention: Mark Turner

Dear Mark

ROAD CLOSURE UNDER THE TRANSPORT (VEHICULAR TRAFFIC ROAD CLOSURE) REGULATIONS 1965 – THE COASTAL FIVE

We acknowledge your application requesting the temporary closure of roads in New Plymouth for World Multisport Events Limited to hold The Coastal Five. The requested road closure and event are detailed below:

Temporary Road Closure - The Devon Mile

Date and period of closure: from 12pm to 2pm on Sunday 21 November 2021.

Roads to be closed: Devon Street between Dawson and Gover streets.

Event details:

Five running event to be held over the weekend from 20 – 21 November 2021. The Devon Mile is a full road closure. Other events in the series are not full road closures:

- Half Marathon – Saturday 20 November from 6am to 10.30am
- Lake Mangamahoe Saturday 20 November from 1pm to 2.30pm
- Pukekura Park – Saturday 20 November from 4.30pm to 5.30pm
- Pukeiti Climb – Sunday 21 November from 7am to 9am.

In accordance with the Transport (Vehicular Traffic Road Closure) Regulations 1965, the Council must give public notice detailing your temporary road closure application at least 42 days before the date of the event, and then consider any objections or submissions received in that respect. The public notice outlines a timeframe for affected parties and stakeholders to provide feedback on your application. The submission period will be open between 14 July and 28 July 2021.

A public notice detailing the temporary road closure application for the event will be published in the North Taranaki Midweek on 14 July 2021. We will upload details of the public notice and submission period to the Council's website. The account for the advertisement will be forwarded to you.

If objections are received during the submission period, we will contact you to discuss solutions. When submissions are received and issues cannot be resolved, the Transport (Vehicular Traffic Road Closure) Regulations 1965 require the Council to meet and make a decision on your request to close roads. This may change the timeframe for approving your temporary road closure request. If this



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becomes necessary, we will inform you directly about any date change for making a decision on your road closure application. Currently, a decision on your road closure application will be made on 4 August.

Approval of your temporary road closure application is subject to the Temporary Road Closure Conditions listed below. **Please read through these conditions carefully as you must be able to meet all conditions.** These requirements are based on the Council's Temporary Road Closure and Disruption to Traffic Policy and Guidelines. You can read the full policy on our website by following the link below:

<http://www.newplymouthnz.com/Council/Council-Documents/Policies/Temporary-Road-Closure-and-Disruption-to-Traffic-Policy-and-Guidelines>

Attached is the invoice for the Devon Mile event application fee of \$565.00. Fees for the other four events of about \$480.00 have been waived.

If you require any further information or would like to discuss this correspondence and the associated conditions please contact the undersigned on 06-759 6060. We will contact you after 4 August and advise you of the Council's decision.

Yours faithfully

Rui Leitao
 TRANSPORTATION MANAGER

cc: Emergency Services
 Road User Groups
 Contact Centre, New Plymouth District Council
 Traffic Management Solutions



TEMPORARY ROAD CLOSURE CONDITIONS

When you (the applicant) apply for a temporary road closure, criteria **must be met** before the road closure can be considered for approval.

If the road closure is approved, the applicant has certain responsibilities while the road is closed and the associated event takes place. New Plymouth District Council (the Council) will guide you through this process and where indicated below, provide support.

World Multisport Events – The Coastal Five

Between now and when a decision is made on the applicant's request for a temporary road closure

Condition	When	Responsible
Arrange public notice detailing the proposed date and time of road closure (as per your application), event details and the submission period.	A minimum of 42 days before event date	The Council
Advise emergency services, road user groups and interested stakeholders of your application to close roads.	Before submissions close	The Council
Manage any submissions or feedback and communicate details to the applicant and traffic management provider.	Before submissions close	The Council
Pay all costs associated with the application for temporary road closure, including but not limited to, the application fee, public notice costs and traffic management plan. Estimates of these costs can be viewed on the Council's Fees and Charges schedule here . Fees may still apply if the application is not approved.	Before and after the temporary road closure	Applicant
Provide a completed Application for Temporary Road Closure Checklist, which must include: <ul style="list-style-type: none"> o Traffic Management Plan (TMP) o Health and Safety plan/evidence of risk management, meeting NPDC's minimum expectations. o Event details o Public Liability Insurance, to a minimum of \$1 million o Applicant's plan for consulting with affected properties and stakeholders o Evidence of any other Council permits or permissions needed to hold the event 	Before submissions close on 28 July 2021	Applicant

<p>Make personal contact with all property occupiers affected by the proposed closure to inform them of your request to Council for a temporary road closure and provide them with the following information:</p> <ul style="list-style-type: none"> ○ Dates, times and locations of all roads requested for closure (as per public notice). ○ The submission period and how to make a submission (as per public notice). ○ Communicate the purpose of your road closure application by providing a description of the event and all activity it will involve (e.g. food vendors, spectators, how access can be managed if requested during the closure, contact name and number of a car club representative). ○ Ensure <u>all</u> affected properties are contacted. If personal contact cannot be made, ensure a letter is left at the property with a contact name, number and email. ○ When visiting each property, please record the physical address, business name, person spoken with and the date visited as record of this visits and a copy of information to affected parties must be provided to the Council prior to the closure of submissions. 	<p>Contact with affected properties must be completed before 21 July 2021 which is one week before submissions close. A record of properties visited must be provided to the Council immediately after this date.</p>	<p>Applicant</p>
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If the Council gives its consent to the closure and event, the applicant must comply with the following conditions:



Condition	When	Responsible
Arrange for an inspection of the road surface and fixtures. The Council can arrange for the applicant to meet the road inspector on site if this is requested.	Before the event	The Council
Give formal notice of the event to all emergency services.	Before event	Applicant
Enable emergency vehicles to have unrestricted access at all times.	Before and during road closure and event	Applicant
Ensure that the approved TMP is strictly adhered to throughout the event.	During event	Applicant, Traffic Management Contractor
The TMP must make adequate provisions for property owners and occupiers, and their invitees, customers or employees, to have reasonable access to and from properties on the closed road. For through roads, make adequate provisions for reasonable access through the closed section.	Before and during event	Applicant, Traffic Management Contractor
Display signage promoting the upcoming road closures, in high profile areas leading into the temporary road closure area.	No sooner than 21 days before the event	Applicant

Strategy and Operations Committee agenda (5 October 2021) - Decision - Coastal Five Event Road Closures

Provide affected properties with a reminder letter regarding the planned road closures, and include a contact number for the event organiser, should affected residents have queries prior to or on the event day including requests for access through the closed area.	7-21 days prior to the prior to the event	Applicant
Provide sufficient marshals to support your traffic management provider in managing points where the closed road intersects with any open road and elsewhere, as necessary. All marshals must wear approved high visibility clothing and be briefed by the traffic management contractor before the road is closed. Marshalls are not permitted to control traffic.	Before and during the event	Applicant, Traffic Management Contractor
During events where there is motorsport activity on the road, you must place tape over any vehicle access to the closed road, to ensure residents are aware of the event. Signage on the tape should provide warning to the effect that: ' <i>event details</i> in progress – please keep off road – for access please contact (Provide mobile phone number(s)).'	Before and during event	Applicant
Notify all emergency services and the Council in the event that the road closure is no longer needed.	If the event is cancelled	Applicant
If the event is cancelled after the road closure signs have been set out, the full TMP must remain in place for the approved road closure time period, or until the site traffic management supervisor (STMS – the person in charge of the traffic management plan) can liaise with police to ensure that there would be no risk to vehicular or pedestrian traffic if the event was cancelled and the TMP conditions removed.	When necessary	Applicant and Traffic Management Contractor
Compliance with the provisions of any other Act or Regulation applicable to the road closure event/activity. Permission to close the road for the event, is granted under and is confined to the provisions of the Transport (Vehicular Traffic Road Closure) Regulations 1965. This does not release the applicant from compliance with the provisions of any other law applicable to the circumstances of the road closure.	Before, during and after the event.	Applicant
Meet all costs associated with the temporary closure of the road(s) and holding the event, including but not limited to: <ul style="list-style-type: none"> The costs to contract a person/company qualified to prepare the TMP and undertake traffic management for the activity, and to hire signs or other traffic control devices (such as VMS boards). Meet the reasonable cost of any Council staff required in relation to the event, if this is required. 	Before, during and after the event.	Applicant
Manage all activity on the event day and ensure appropriate people are available to respond to any issues on site on the day, in relation to the event.	Before and during the event.	Applicant

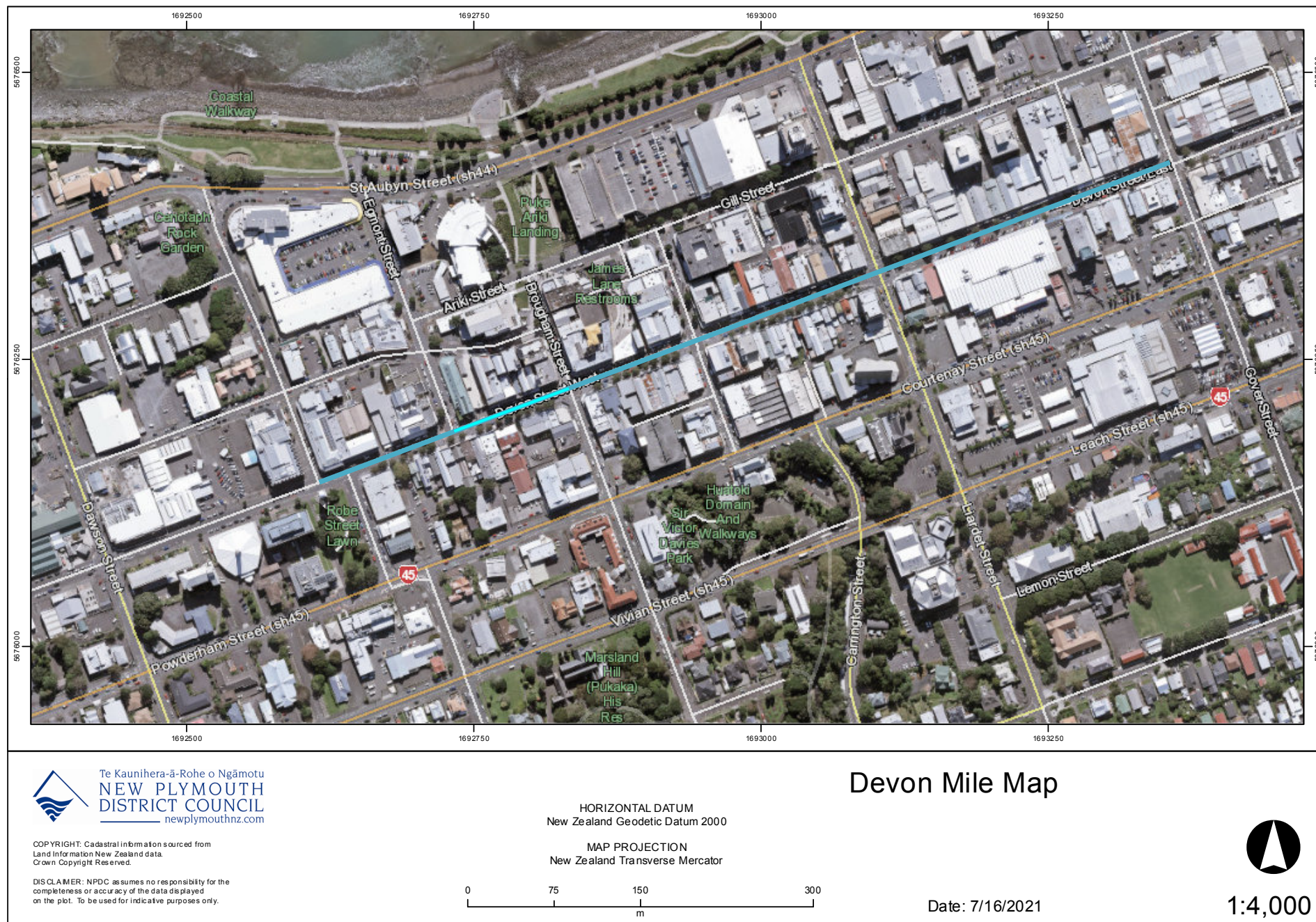
After the event





Condition	When	Responsible
Arrange for an inspection of the road surface and fixtures, and communicate the outcome to the applicant.	After the event	The Council

Strategy and Operations Committee agenda (5 October 2021) - Decision - Coastal Five Event Road Closures

All signs and barricades restricting access to the roads, and all temporary structures (e.g. stages, toilets, start/finish lines) relating to the event, must be removed from the closed road.	After the event but before the road reopens	Applicant, Traffic Management contractor
Clear all litter and debris from the road to the satisfaction of the Council.	After the event	Applicant
Meet all costs incurred in making good any damage to Council property or any third party property, and all costs incurred by the Council or any third party in making good any such damage, whether reported or not.	After the event	Applicant
Provide feedback to the Council on the road closure and event. This may involve a debrief meeting at a mutually agreeable time, with the Council and other stakeholders where required.	After the event	The Council, Applicant



 Te Kaunihera-ā-Rohe o Ngāmotu NEW PLYMOUTH DISTRICT COUNCIL newplymouthnz.com				FORM Submission on a temporary road closure	
1. Submitter's details					
1a. Submitter's full name	CYCLE INN - Robert Coe				
Postal address	133 Devon St East New Plymouth				
Contact details	(06) 7587418	()	()	Fax	
Email address	cycleinn@wa.co.nz				
1b. Contact persons's name (if different from above)	Pamela COE				
Postal address	24 Birchwood Ave New Plymouth				
Contact details	[REDACTED]				
Email address	[REDACTED]				
2. Event details					
2a. Name of event	The Coastal Five				
2b. Event organiser	Mark Turner				
2c. Site address/location (provide full details)	Devon St from Queen St to Gover St				
2d. Brief description of the proposed activity	A one mile running event				
3. Submission					
3a. Do you support or oppose the temporary road closure?	<input type="radio"/> I support the application <input checked="" type="radio"/> I oppose the application				
The particular parts of the application I support or oppose, or wish to comment on, are					
Cycle Inn opposes the closing of Devon St from Queen St to Gover St on Sunday November 21st from 11am to 12.30pm					
Continue on a separate sheet if necessary					
Please turn over					
COUNCIL USE					
Date received	Property ID	Classification	File Ref	RT-15-14	

3. Submission (continued)

3b. The reasons for making my submission are

See attached.

Continue on a separate sheet if necessary

3c. I wish New Plymouth District Council to make the following decision

Decline the application for road closure
between 11am and 12.30pm on Sunday
21 November 2021.

Continue on a separate sheet if necessary

3d. Do you wish to be heard in support of your submission?



Yes



No

3e. If others make a similar submission, would you consider presenting a joint case with them at a hearing?



Yes



No

4. Submitter's declaration

Privacy statement

The personal information supplied by you in this form will be used only for purposes directly related to this matter and will be held in accordance with the provisions of the Privacy Act 1993 and the Local Government Official Information and Meetings Act 1987.

Your personal information will be kept confidential to the Council so far as permitted by law.

You have the right to access and request changes to your personal information at any time.

I confirm that I have read and understood the privacy statement above and declare that the information provided in this submission is true and correct.

Signature *P. Lee* Date *16 / 8 / 21*

Name (print clearly) *Pamela M Coe* Title *Director*

The closing of Devon St for the purpose of holding an event on any day during business hours seriously affects not only Cycle Inn but other businesses in the vicinity.

It was disappointing that the Event organiser of the Coastal Five event did not discuss the road closure with us: instead the letter advising of the proposed closure was left on a display shelf inside Cycle Inn front door. The letter is not dated so have no idea when it was delivered.

Cycle Inn is open for business on Sunday from 9am - 3pm. The timing of the road closure i.e from 11 am - 12.30 pm is the most inconvenient time, in the middle of the day. Sunday is a very busy trading day both for retail and bike hire for which we are the only rental outlet in town.

Had the organiser bothered to approach us we would have been receptive to discussing a time earlier start time (or later) when business would not be so much affected.

Past experience with road closures has shown that contrary to event organisers belief, the holding of an event does not create increased retail business.

The opposite is the result. Potential customers are put off by access being difficult with the road closure and do not come in. The road closure is advertised but many people will not relate to it or see it at the time.

Another issue is that although the road is closed from 11am, customers who have parked in Devon Street before 11am will not be able to leave until after 12.30pm when the road is open again.

Supporters of the event come to the CBD to watch the event not to go shopping.

There are other venues this event could be held without the inconvenience or expense of road closure and traffic management fees. E.g. Taranaki Cycle Park road circuit, Race Course





The Coastal Five

Dear Business Owner,

On Saturday November 20th and Sunday November 21st there will be a new community running event taking place, The Coastal Five <https://coastalfive.co.nz>

This is a brand new event that we believe will benefit the Taranaki region. Our goal is to promote the region and it's beauty to people all over New Zealand and make it a place to visit. The follow on positive economic impacts will be fantastic for local business.

The last event of the Coastal Five will be a mile race in Devon Street. This will start and finish at the Clock Tower adjacent to Queen Street with the start time at 11.30am on Sunday November 21st. The turn around point will be at the intersection of Gover Street.

Devon Street between Queen Street and Gover Street will be closed from 11am to 12.30pm on Sunday November 21st.

We anticipate that Devon Street will have hundreds of spectators watching the mile race. We want to help businesses in the effected area maximise the opportunity that the mile race will bring by encouraging spectators and participants to support local business.

Submissions on the closure should reach NPDC by 4pm on Tuesday August 20th.

Submission must be made on the road closure form, which is available online at <https://newplymouthnz.com/submissions> or by contacting NPDC on 06-759-6060 or enquiries@npdc.govt.nz

If you would like to speak with me personally about this please don't hesitate to contact me on the below details.

Kind Regards

Mark Turner

Race Director

027 212 6667

Coastal Five

Website coastalfive.co.nz

Facebook [/coastalfive/](https://www.facebook.com/coastalfive/)

Email info@coastalfive.co.nz

From: Doc van Praagh <doc@crowdedhouse.co.nz>
Sent: Friday, 20 August 2021 9:48 AM
To: mark@worldmultisport.com
Subject: Re: Letter of Support - Coastal Five running event

Hi
Crowded House Bar & Eatery support the Coastal Five road race and road closure on Nov 21.
The event will bring in extra people and Vibrancy to the CBD.

Cheers Doc
Regards
David van Praagh (Doc)
93-99 Devon Street East, New Plymouth
Ph: 06 7594 921

From: manager@elixircafe.co.nz <manager@elixircafe.co.nz>

Sent: Tuesday, 17 August 2021 5:17 pm

To: info@coastalfive.co.nz

Subject: Letter of approval for event

17 August 2021

To Whom it may concern,

This email is to show Elixir cafe, 117 Devon St, shows support for the running of the COASTAL5 event along Devon St in November.

We don't believe business will be affected anyway differently then, when Americarna or the Christmas Parade is on.

Glad to provide more information if need be.

Regards



New Plymouth, 17 of August 2021

To whom it may concern,

Emmalou Macaron & coffee house is in support of the race organized by Coastal Five on Sunday 21st of November 2021. We believe that the event happening on Devon Street is a good way to promote New Plymouth City center and potentially bring business to our CBD.

Please to do not hesitate to contact me if needed

Matthieu Cotteret
Co-owner



Mark Turner

I am writing to give my full support behind the Coastal 5 and the short road closures that will result from it. The road closures are at a time of the day that will not disrupt the CBD and the amount of interest that the Coastal 5 will bring to the Taranaki region far out numbers the amount of disruption it will cause

Thank you,

Nick Bull
 Owner
 Shoe Clinic
 87 Devon Street East
 New Plymouth

LOCATION OF BROTHELS BYLAW – ADOPTION OF STATEMENT OF PROPOSAL FOR CONSULTATION

MATTER

1. The matter for consideration by the Council is the review of the New Plymouth District Council Bylaw 2008: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) (the current Bylaw), and the approval for consultation of the draft Location of Brothels Bylaw (the draft Bylaw).

RECOMMENDATION FOR CONSIDERATION

That having considered all matters raised in the report, the Council:

- a) **Determines that a bylaw continues to be the most appropriate way of addressing the perceived problems that arise in relation to the location of brothels in accordance with section 155(1) of the Local Government Act 2002.**
- b) **Determines that the form of the draft Bylaw as proposed is the most appropriate form of bylaw in light of the requirements of the Local Government Act 2002.**
- c) **Determines that the draft Bylaw as proposed does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- d) **Adopts the 'Location of Brothels Bylaw Statement of Proposal' in Appendix 2 for public consultation using a special consultative procedure as set out in section 83 of the Local Government Act 2002.**

COMPLIANCE	
Significance	This matter is assessed as being of some importance.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> 1. Adopt the Location of Brothels Bylaw Statement of Proposal for consultation. 2. Adopt an amended Location of Brothels Bylaw Statement of Proposal for consultation. 3. Retain the status quo and undertake consultation on the current Bylaw 2010: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) with no amendments.

COMPLIANCE	
Affected persons	The persons who are affected by or interested in this matter are brothel owners, operators, sex workers and the general public.
Recommendation	This report recommends option one 'Adopt the Location of Brothels Bylaw Statement of Proposal for consultation' for addressing the matter.
Long-Term Plan / Annual Plan Implications	No.
Significant Policy and Plan Inconsistencies	No.

EXECUTIVE SUMMARY

2. We recommend that Council adopts the Location of Brothels Bylaw Statement of Proposal in order to carry out public consultation via the special consultative procedure. Taking this approach will ensure that the current Bylaw is reviewed prior to 9 April 2022 at which time without completing the review it would be revoked under section 160A of the Local Government Act 2002.
3. The draft Bylaw proposes retaining the current regulations on the location of brothels which restricts their location to a zone in the central city and in both industrial zoned and rural zoned areas with setbacks from sensitive sites. The current ground floor control area in the central city is also retained.
4. In addition to minor changes to the draft Bylaw, it is proposed to remove the signage provisions in recognition to the duplication of regulation on this matter with the Public Places Bylaw and other legislative regulations. There are no risks associated with recommending this option.
5. Consultation is proposed from 9 October to 10 November 2021. The results of the public consultation will be reported to the Council at a later date. Hearings will be scheduled for any submitters wanting to speak to the Council in relation to their submission.

BACKGROUND

Bylaw to be revoked by legislation if not reviewed

6. NPDC Bylaw 2008: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) (the current Bylaw) must be reviewed before 9 April 2022 otherwise it will be revoked under section 160A of the Local Government Act 2002 (LGA).

Determinations

7. To aid the Council in determining whether to review and amend or revoke the current Bylaw, a Regulatory Impact Assessment (RIA) has been undertaken and is attached as Appendix 1. The assessment sets out the authority to make a bylaw, the perceived problems or nuisance the bylaw addresses, and the options available to the Council to deal with these problems.
8. The RIA was informed by an options analysis report¹ which assessed three key options for the ongoing regulation of brothel location and signage within the New Plymouth District:
 - Regulation via an amended bylaw;
 - Specific regulation via the district plan; or
 - Reliance on existing local and national regulation, and revocation of the bylaw.
9. The options analysis concluded that a reviewed and amended bylaw was the most appropriate form of regulation of this issue for NPDC, but also noted that reliance on existing local and national regulation and revocation of the bylaw was also a viable option. This is reflected in the RIA in Appendix 1.

Proposed draft Location of Brothels Bylaw

10. The draft Location of Brothels Bylaw (the draft Bylaw), within the Statement of Proposal (SOP) is attached in Appendix 2 and is recommended to be adopted for public consultation. Appendix 3 shows track changes between the current Bylaw and the draft Bylaw.

Retaining the current brothel location regulations

11. The draft Bylaw retains the current provisions on the location of brothels which restricts their location to a zone in the central city and in both industrial zoned and rural zoned areas with setbacks from dwelling houses and sensitive sites. The current ground floor control area in the central city is also retained.
12. The current provisions are retained to ensure a consistency of regulation and to reflect that they appear to be working effectively given the very low number of complaints received regarding brothels in the district.

¹ Options analysis for the ongoing regulation of brothel location and signage within the New Plymouth District. Prepare by GMD Consultants for New Plymouth District Council April 2021.

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13. The status of two other significant Council documents have also influenced the proposal to retain the current central city area regulations in the draft Bylaw. The Proposed District Plan (PDP) and the New Plymouth Central City Strategy are yet to be finalised and adopted by the Council and both of these documents could have implications that need to be considered when reviewing the central city area in the draft Bylaw. As a result the draft Bylaw proposes the status quo on the central city area which can be revisited when the bylaw is next reviewed.

Main changes proposed in the draft Bylaw

14. The main changes proposed in the draft bylaw include:
- Removing the provisions relating to signage.
 - Incorporating PDP and National Planning Standards (NPS) definitions.
 - Creating a standalone bylaw.

Removal of signage provisions

15. Signage provisions for brothels and commercial sex premises have been removed from the draft Bylaw to avoid unnecessary regulatory duplication in recognition of multiple regulations on this matter. As noted in the RIA the Council's current approach to offensive signage regulation is through NPDC Bylaw 2008: Part 5 Public Places. There is also signage regulation present in the PDP with the ability to consider section 15 of the PRA. Section 15 of the PRA requires that 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 in which the land is situated.
16. The signage requirements of the Public Places Bylaw are supported by provisions for penalties for offences under the Local Government Act 2002. Any person displaying signage that is contrary to the requirements of the Public Places Bylaw would be considered in breach of the bylaw and be liable on summary conviction to a fine under section 242(4) of the Act.
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17. In addition, objectionable material, including signage, is governed by the Films, Videos, and Publications Classification Act 1993 (FVPCA) enforced by the Censorship Compliance Unit at the Department of Internal Affairs (DIA). Generally offensive or sexually explicit wording or images on signs may also be reported to the Advertising Standards Authority if they violate the Advertising Standards Code of Practice. Complaints on signs can be referred to these agencies for investigation.

Consistency with PDP and NPS

18. The draft Bylaw has been updated to be consistent with the PDP and NPS where required, including changing the definitions for Industrial Area and Rural Area to incorporate zones included in the PDP and NPS. The updates ensure that the draft Bylaw is consistent with the current District Plan and the PDP and NPS.

Standalone bylaw

19. It is proposed the draft Bylaw will replace the current Bylaw and become a standalone bylaw, separating it from the NPDC Consolidated Bylaw. This approach has been undertaken by NPDC in bylaw reviews since 2017. Standalone bylaws are now common with other councils and are considered to provide advantages including:
- Improved interpretation and understanding of bylaws with all relevant information located together within a single document; and
 - Allowing the Council to establish a more staggered and clear approach to reviewing its bylaws.
20. The process of separating the current Bylaw from the NPDC Consolidated Bylaw included a review of the NPDC Consolidated Bylaw: Introductory parts which provide common definitions and clauses across the Consolidated Bylaw, and the draft Bylaw includes those definitions and clauses from the Introductory Part as required.

How small owner-operated brothels (SOOB) are regulated

21. The current Bylaw does not apply locational restrictions to SOOBs, which under the PRA are defined as "*a brothel at which not more than four sex workers work, and where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel*". This is consistent with relevant case law² which suggests that bylaws which place overly onerous restrictions on the ability for SOOBs to operate are outside the scope of the Council's mandate under the PRA.
22. The draft Bylaw retains the current approach to SOOBs.

² See for example *JB International v Auckland City Council* [2006] NZRMA 401

Feedback from key stakeholders

- 23. To inform the review of the current Bylaw, officers sought to contact and seek feedback from key stakeholders. Attempts were made to engage with current brothel certificate owners via the Ministry of Justice. At the time of writing, no feedback has been received from brothel certificate owners.
- 24. Feedback was also sought from Aotearoa New Zealand Sex Workers' Collective. Their feedback stated that *"we are concerned about Clause 5 which places heavy restrictions on the location of brothels, in particular small owner-operator brothels (SOOBs) which operate very discreetly. We believe that any concerns about the sex work and sex workers can be adequately managed by the District Plan and the Prostitution Reform Act 2003, together with clause 6 which places restrictions on signage. The restrictions are particularly onerous as they limit all brothels to within 100 metres from schools and community facilities, and 150 metres from a dwelling house. Such heavy restrictions may force sex workers to work in breach of the bylaw and therefore vulnerable to threats, as well as being nervous about reaching out for support."*
- 25. The location of SOOBs are not regulated by the current Bylaw. The draft Bylaw addresses the concerns raised above by clarifying that SOOBs are exempt from the regulations in the draft bylaw.

New Zealand Bill of Rights Act 1990

- 26. Section 155(2) (b) of the LGA requires the Council to determine whether the proposed bylaws give rise to implications under the New Zealand Bill of Rights Act 1990.
- 27. No implications under the New Zealand Bill of Rights Act 1990 have been identified for the draft Bylaw.

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

- 28. There are no impacts on climate change adaptation and mitigation regarding this matter.

NEXT STEPS

- 29. If the SOP is adopted for consultation, the public consultation of one month as required by the special consultative procedure is anticipated to occur from 9 October to 10 November 2021. Hearings will then be scheduled for any submitters wanting to speak to the Council in relation to their submission.
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SIGNIFICANCE AND ENGAGEMENT

30. In accordance with NPDC's Significance and Engagement Policy, this matter has been assessed as being of some importance because the matter has generated minimal public interest over the last several years and the changes proposed to the bylaw are not perceived to impact on the interests of the district or community. It has no impact on the Council's statutory purpose, levels of service and does not have any financial costs for the council or the community.

OPTIONS

Option 1

Adopt the Location of Brothels Bylaw Statement of Proposal for consultation.

Financial and Resourcing Implications

31. There are no significant financial or resourcing implications relating to the review and implementation of the Bylaw.

Risk Analysis

32. The risks associated with this option are minimal as this option involves the Council putting a proposal out for community feedback to understand community views and preferences on the matter prior to making any decisions to adopt a bylaw.

Promotion or Achievement of Community Outcomes

33. Bylaws primarily help promote and achieve the Community Outcome.

Statutory Responsibilities

34. This option requires the Council undertake a special consultative procedure to review the current Bylaw as per the LGA.

Consistency with Policies and Plans

35. This option is consistent with the Council's current approach to regulating brothels. There are no inconsistencies with current policies or plans.

Participation by Māori

36. This proposal will be available for Māori to comment on and engage with as part of the consultation process.
-

Community Views and Preferences

37. Community views and preferences on this option will be sought through the community consultation via a special consultative procedure.

Advantages and Disadvantages

38. The advantage of this option is that the current Bylaw will not lapse and be revoked under section 160A of the LGA. Additionally, community views and preferences will be considered regarding the draft Bylaw.
39. There are no disadvantages to this option.

Option 2**Adopt an amended Brothels Bylaw Statement of Proposal for consultation.***Financial and Resourcing Implications*

40. Any amendments to the draft Bylaw would have to be assessed for financial and resourcing implications.

Risk Analysis

41. Any amendments would require further assessment to determine associated risks.

Promotion or Achievement of Community Outcomes

42. Any amendments would require further assessment to determine their promotion of the community outcomes.

Statutory Responsibilities

43. This option requires the Council undertake a special consultative procedure to review the Bylaw as per the LGA.

Consistency with Policies and Plans

44. Any amendments would have to be assessed for consistency with the Council's policies and plans.

Participation by Māori

45. Any amendments would have to be assessed to determine their significance to Māori. This proposal will be available for Māori to comment on and engage with as part of the consultation process.
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Community Views and Preferences

46. Community views and preferences on this option will be sought through the community consultation via a special consultative procedure.

Advantages and Disadvantages

47. Any amendments would have to be assessed for advantages and disadvantages.

Option 3

Retain the status quo and undertake consultation on the current Bylaw 2010: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) with no amendments.

Financial and Resourcing Implications

48. There are no significant financial or resourcing implications regarding this option.

Risk Analysis

49. This option would retain the duplication in regulation of signage between the bylaw, the Public Places Bylaw and other regulatory provisions which could create uncertainty in how signage is managed going forward.

Promotion or Achievement of Community Outcomes

50. Bylaws primarily help promote and achieve the Community Outcome.

Statutory Responsibilities

51. This would require consultation consistent with the requirements of section 82 of the LGA (Principles of Consultation).

Consistency with Policies and Plans

52. This option is consistent with the Council's current approach to regulating brothels. There are no inconsistencies with current policies or plans.

Participation by Māori

53. This proposal will be available for Māori to comment on and engage with as part of the consultation process.
-

Community Views and Preferences

54. Community views and preferences on this option will be sought through community consultation.

Advantages and Disadvantages

55. The main advantage of this option is that it would retain consistency in approach to regulation and provide certainty to key stakeholders and the public.
56. This option would require a new statement of proposal to be brought back to Council for adoption to initiate consultation. Another disadvantage would be that the duplication in signage regulation would be retained and that the option is inconsistent with the findings of the RIA and the options analysis undertaken to inform the bylaw review.

Recommended Option

This report recommends **Option 1**: Adopt the Location of Brothels Bylaw Statement of Proposal for consultation for addressing the matter.

APPENDICES

Appendix 1 Regulatory Impact Assessment (ECM 8619390)

Appendix 2 Statement of Proposal (ECM 8620803)

Appendix 3 Draft Bylaw showing track changes (ECM 8620090)

Report Details

Prepared By:	Richard Mowforth (Senior Policy Adviser)
Team:	Corporate Planning and Policy
Reviewed By:	Mitchell Dyer (Corporate Planning and Policy Lead)
Approved By:	Joy Buckingham (Group Manager Corporate Services)
Ward/Community:	District wide
Date:	10 September 2021
File Reference:	ECM 8619391

-----End of Report -----

Regulatory Impact Assessment

Brothels and Commercial Sex Premises Bylaw

The purpose of a Regulatory Impact Assessment is to provide an overview of the matters that the Council must consider before determining whether a bylaw is the most appropriate way to address problems related to the regulation of brothels and commercial sex premises in New Plymouth District.

This Regulatory Impact Assessment addresses the following matters:

1. Legislative authority to deal with the perceived problem.
2. Determinations.
3. Current status of the bylaw.
4. Rationale for review of the bylaw.
5. Problem identification and assessment for the bylaw.
6. Options for the bylaw.

This assessment has been informed by an options analysis completed by contractors in 2021 which assessed three key options for the ongoing regulation of brothel location and signage within the New Plymouth District:

- Regulation via an amended bylaw,
- Specific regulation via the district plan
- Reliance on existing local and national regulation, and revocation of the bylaw.

1. Legislative authority to deal with the perceived problem

The Prostitution Reform Act 2003 (PRA) enables territorial authorities to adopt a bylaw to control signage advertising commercial sexual services (under section 12), and the location of brothels (under section 14). The power to make bylaws and the processes to be followed regarding making and enforcing bylaws is also provided for in Part 8 of the Local Government Act 2002 (LGA). Specifically, under section 145 of the LGA, Council can address issues for its district through the use of a bylaw, for the following three purposes:

- a) Protecting the public from nuisance.
- b) Protecting, promoting and maintaining public health and safety.

- c) Minimising the potential for offensive behaviour in public places.

The PRA also empowers territorial authorities to utilise provisions in their District Plan to impose conditions on businesses of prostitution or may simply treat them as they would any other commercial business.

Under section 155 of the LGA, no bylaw may be made which is inconsistent with, or gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA), however the PRA does allow that requirements made under section 12 regarding signs may be inconsistent with the NZBORA.

Regarding controlling signage advertising commercial sexual services, the PRA specifies that a territorial authority may only make a bylaw under Section 12 if they are satisfied that the bylaw is necessary to prevent the public display of signage that:

- a) is likely to cause a nuisance or serious offence to ordinary members of the public using the area; or
- b) is incompatible with the existing character or use of that area.

It is important to note that section 12 of the PRA only relates to signage for commercial sexual services, which is defined in the PRA as meaning 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).

The above definition does not cover other 'commercial sexual premises' as defined in NPDC's Bylaw: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) (the current Bylaw) and it does not seem to be the intention of the PRA to regulate or restrict all forms of commercial activity of a sexual nature. The inclusion of restrictions on signage for commercial sexual premises other than brothels could be perceived as being unreasonable or a restraint of trade, and beyond the authority delegated to the council for this purpose.

Objectionable material, including signage, is governed by the Films, Videos, and Publications Classification Act 1993 (FVPCA). The Censorship Compliance Unit at the Department of Internal Affairs (DIA) is the main censorship enforcement agency. The FVPCA defines a publication (including signage) as objectionable (banned) if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good. Generally offensive or sexually explicit wording or images on signs may also be reported to the Advertising Standards Authority if they violate the Advertising Standards Code of Practice.

Section 15 of the PRA enables councils to manage a brothel's location and signage under their District Plan processes. If a brothel is required to apply for a resource consent based on District Plan rules, in addition to an assessment against District Plan provisions, Council may grant, refuse, or impose conditions on a resource consent, having 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 in which the land is situated.

Additionally, NPDC Bylaw 2008: Part 5 Public Places already has a clause regulating signs in public places, which commercial sexual premises and brothels would need to adhere to:

23.1 No person may in any public place:

- a) Expose to view or distribute for offer or sale any sign, banner, placard, handbill, print or other matter of any offensive or indecent character.*

2. Determinations

Under section 155 of the LGA, Council is required to determine whether a bylaw is the most appropriate way of addressing the perceived problem, determine whether a proposed bylaw is the most appropriate form of bylaw, and determine that a proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990. This assessment undertakes to answer the first part of this determinations and defines the problem and whether a bylaw is the most appropriate way of dealing with this problem. The other determinations are made by Council throughout the review process.

3. Current status of the bylaw

In 2010, Council reviewed the current Bylaw. Its purpose was to regulate the location of brothels and to control signage advertising brothels and other commercial sex premises within the district.

The current Bylaw was developed, consulted upon and made in accordance with the provisions of the PRA and the LGA. Under section 158 of the LGA, a bylaw must be reviewed no later than five years after a bylaw is made, and then no later than 10 years after it is reviewed.

A bylaw that is not reviewed as required is revoked two years after the due date for review. As such, the current Bylaw review must be completed by 9 April 2022 to stop it from being revoked.

4. Rationale for review of the current Bylaw

The current Bylaw must be reviewed before 9 April 2022 otherwise it will be revoked. Additionally, there is opportunity for simplification through separation from the consolidated NPDC Bylaw.

5. Problem identification and assessment

There are currently three known brothels in the New Plymouth District. Anecdotal evidence suggests that there are very few complaints or incidents regarding signage advertising commercial sexual services, as the businesses are not common and are reasonably discrete by nature. Three complaints made to the Council in 2019 regarding the content of the same instance of advertising (a video in a shop front visible from the road) were not upheld by the Council. These complaints were managed by Council staff through signage provisions present in the Part 5 Public Places Bylaw as noted above. This is an indication that the current restrictions within the Council's other Bylaws and District Plan on content, location and type of signs are effective, and the signage provisions present in the current Bylaw essentially reflect a duplication of regulatory function.

In 2018 the Council received a petition based complaint opposing brothels, strip clubs or sex shops being located on the main street of New Plymouth. The reasons given were largely related to stripping and other sex work being an objectionable activity, as well as the potential for associated negative behaviours such as smoking, and harassment, and the negative impact on the city's image and therefore on its tourism market. The complaint was not upheld.

A 'perceived problem' is by its nature subjective (different people consider different things to be objectionable or offensive) and therefore this matter has the potential to be controversial, with members of the community potentially holding passionate and opposing views. This may cause the topic to be of at least some importance when assessed against NPDC's Significance and Engagement Policy, and as per clause 5 of the policy, the greater the significance of an issue, proposal, decision, or other matter, the more likely it is that seeking community input into the Council's decision-making processes will be appropriate. As the community was last formally consulted on the Council's position on this matter in 2010, it is therefore considered appropriate to retest the regulations in this area to ensure the level of regulation is still appropriate and desired by the community.

6. Options for the bylaw

The following options exist to address the problem:

1. Review and amend the current Bylaw (preferred).
2. Review and revoke the current Bylaw and have no specific regulation.

3. Roll over the current Bylaw 2010: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) with no amendments (status quo).

Option one: Review and amend the current Bylaw

This option involves reviewing the current Bylaw in light of learnings since it was last reviewed. It is recommended that the review should also remove the current Bylaw from the Consolidated NPDC Bylaw and create a standalone bylaw, consistent with the Council's current approach to bylaw reviews. Community engagement via a special consultative procedure as per section 83 of the LGA is part of this review.

This option provides the opportunity to amend the current approach in response to the community's current aspirations as well as the changing political and social environment. This option will also enable the bylaw to be amended to compliment and to address any duplication or inconsistencies with other council regulatory documents. This is the preferred option.

The advantages and disadvantages of this option are as follows:

Advantages	Disadvantages
Provides the Council with a tool to regulate the perceived problems associated with the location of brothels with the district.	Requires resources to undertake the review of the current Bylaw.
Allows the Council to take into consideration any new information on the matter since the last review of the current Bylaw.	There are costs and issues associated with monitoring and enforcing a bylaw.
Enables the Council to address any matters with the current Bylaw.	There is a risk of over regulation, as there is a limit to how far a bylaw can go to regulate the location and signage of commercial sexual premises before it becomes an overly restrictive restraint on trade and non-compliant with the PRA.
Regulation via a bylaw is consistent with the Council's current approach.	
A bylaw reviewed taking into account public feedback from a consultation process can address some of the perceived community concerns regarding the location and signage of commercial sexual premises and create an updated and fit for purpose regulatory instrument.	

Advantages	Disadvantages
A bylaw clearly articulates the Council's position which gives regulatory certainty to potential commercial sexual operators.	
A bylaw must be consistent with the PRA therefore it will allow the industry to legitimately operate.	

Option two: Review and revoke the current Bylaw and have no specific regulation

This option is the 'do nothing' option, and involves the Council undertaking a special consultative procedure to revoke the current Bylaw as per section 156 of the LGA, with the intention to rely on other regulatory instruments to manage certain aspects of brothels in the district as follows:

- Signage**
 Offensive and indecent signage is currently regulated in NPDC's 2008: Part 5 Public Places Bylaw, with some signage regulation also present in the Proposed District Plan (PDP) along the provisions of section 15 of the PRA. Objectionable material, including signage, is governed by the Films, Videos, and Publications Classification Act 1993 (FVPCA) enforced by the Censorship Compliance Unit at the DIA. Generally offensive or sexually explicit wording or images on signs may also be reported to the Advertising Standards Authority if they violate the Advertising Standards Code of Practice.
- Location – city centre**
 Within the PDP, commercial sexual businesses would fall under the definition of business service activities which are permitted in the City Centre Zone with no conditions except compliance with the Effects Standards relevant to the zone. These Effects Standards only pertain to the building parameters, and therefore do not limit the establishment of a brothel more than that of any other business service activity.
- Location - residential**
 In all residential zones in the PDP a business service activity is a discretionary activity and as such, Council can consider any relevant effects and decline the activity. Under the PDP home businesses are permitted in all residential zones, with a maximum of 22 total vehicle movements allowed per day, a maximum of eight vehicle movements per hour, and conditions on the generation of objectionable or offensive effects beyond the site boundaries as well as all Effects Standards of the relevant zone. There are no restrictions on the number of residents or employees or hours of operation. If the home business does not comply with these conditions, it becomes a restricted discretionary activity and is subject to matters such as compatibility with the character and amenity of the area, effects on nearby residential properties such as hours and days of operation, noise, traffic, parking, and safety. The activity will also be assessed against the General Residential Zone Effects Standards, which outline building

requirements, e.g. setbacks and fence heights. Any resource consents will also be required to be assessed against section 15 of the PRA.

- **Location – other zones**

Within other PDP zones, brothels would be considered either 'business service activities' or 'home businesses'.

Home businesses are considered permitted activities within Rural Zones, subject to similar standards as outlined above for the residential zones.

Business service activities are permitted activities within the Local Centre Zones (e.g. Westtown Centre, Fitzroy Village, Moturoa Centre) and also within Town Centre Zones (e.g. Inglewood Centre, Waitara Centre), subject to meeting relevant effects standards for the zone. These effects standards generally relate to building parameters, and therefore do not limit the establishment of a brothel more than that of any other business service activity.

Business service activities within the Rural, Mixed Use and General Industrial Zones require resource consent as either a restricted discretionary or non-complying activity. In considering an application for consent, it is likely that matters such as compatibility with the function, character and amenity of the area as well as effects on nearby residential properties such as hours and days of operation, noise, traffic, parking, and safety would be taken into account. As above, any resource consents will also be required to be assessed against section 15 of the PRA.

- **Locations under the Operative District Plan**

The Operative District Plan differs from the PDP in that it is considered an effects based plan. Under this plan, activities themselves aren't controlled, rather the effects of those activities. As such, there is no limitation on where a particular activity may establish, provided it meets the relevant effects standards for each zone (e.g. traffic generation, noise, building controls etc.)

The advantages and disadvantages of this option are as follows:

Advantages	Disadvantages
Increasingly becoming a more common approach taken by other councils.	Removal of a regulatory instrument controlling brothels locating in perceived 'sensitive areas' including the removal of the existing 'ground floor control area' within the CBD, instead being treated like any other commercial activity, which may result in an increase in antisocial behaviour which the

Advantages	Disadvantages
	existing regulatory tools currently manage.
Revocation of current Bylaw would require a special consultative procedure, enabling the Council to gather information regarding community preference in relation to this option before making a final decision.	This indicates a change in approach. The Council could be perceived as being overly permissive and not responsive to community preferences.
There are many existing regulatory mechanisms available to the Council to fill the regulatory gap left by not having a bylaw, including the PRA, District Plan and Public Places Bylaw.	The Council's regulatory approach is no longer clearly contained in one document, which may require the Council to develop guidance to fill the gap.
The Council will save resources on regulation, enforcement, and administration of a bylaw.	Risk that consultation signals that the community would like to keep a bylaw leaving little time to review prior to the revocation date.
Does not single out commercial sexual businesses and treats them like any other commercial activity.	

Option three: Roll over the current Bylaw 2010: Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) with no amendments

This option reflects the status quo and would involve the Council retaining the current Bylaw in its current form with no amendments.

For the review to be consistent with the bylaw review procedure outlined in section 160(2)(b) of the LGA, this would require consultation consistent with the requirements of section 82 of the LGA (Principles of Consultation) and with NPDC's Significance and Engagement Policy, and may require a full special consultative procedure if the Council finds there to be a significant interest to, or impact on, the public.

The advantages and disadvantages of this option are as follows:

Advantages	Disadvantages
Retains consistency in approach to regulation.	The Council continues to have duplication of regulation in relation to signage.
The public and key stakeholders have certainty in what the regulations are.	Feedback from public consultation may indicate the need for a change in approach, requiring unnecessary further consultation.
A bylaw clearly articulates the Council's position which gives regulatory certainty	The bylaw will remain part of the consolidated bylaw.

Advantages	Disadvantages
to potential commercial sexual operators.	
	Approach not consistent with findings of the options analysis and this regulatory impact assessment.

Note on other options considered

Two other options were initially considered but then dismissed. These are summarised as follows:

- District Plan. This option would see the Council undertaking either a variation to the PDP, or a plan change to add specific provisions to control the location of brothels and provide regulation for brothel and commercial sex premises signage. This would replace the current regulatory arrangements of a bylaw, and bring administration, regulation and enforcement under the Resource Management Act 1991 (RMA). In the original options analysis paper, this option was not considered to be practical given the current status of the PDP, which is currently progressing through the hearings process. It was also considered that this option could include significant resource requirements, costs and delays associated with the RMA process. Further, it was not considered necessary in relation to the provisions of section 15 of the PRA in relation to land use consent requirements under a district plan.
- Allow the current Bylaw to be revoked without review. This option would see the Council determining that a bylaw is not the most appropriate way of dealing with the perceived problem thereby essentially deciding not to review the current Bylaw, which then under s160A of the LGA the current Bylaw would become subject to revocation on 9 April 2022 which is the date two years after the last date on which the bylaw should have been reviewed. This option would be a significant shift to the current regulatory approach of the Council. Therefore, this was not considered to be practical given that this option would not enable the Council to understand community views and preferences via a consultation process on the matter before resolving to change the current approach to regulation.

New Plymouth District Council

Proposed Location of Brothels Bylaw 2021

Statement of Proposal October 2021



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth
District Council**

Introduction

The Council is reviewing the New Plymouth District Council Bylaw Part 4 Brothels (Location and Signage) and Commercial Sex Premises (Signage) (the Current Bylaw) in accordance with the Local Government Act 2002 (LGA).

The Council is able to make a bylaw to control the location of brothels and signage advertising commercial sexual services under the Prostitution Reform Act 2003 (PRA). The Council cannot prohibit brothels in the district. It can however, make rules to protect the community from some of the effects that may arise from the provision of commercial sex services.

The Council originally adopted a bylaw on brothels and commercial sex premises in response to the enactment of the PRA in 2003. This bylaw was reviewed resulting in the Current Bylaw being adopted in 2010. The PRA decriminalised prostitution and brothel keeping. The PRA has a strong emphasis on protecting the rights of those who work in the sex industry while not endorsing or morally sanctioning sex work or its use. It is also inappropriate for a bylaw to make any moral judgements.

The intention of the PRA is to create a framework that:

- Safeguards the human rights of sex workers and protects them from exploitation.
- Promotes the welfare and occupational health and safety of sex workers.
- Is conducive to public health.
- Prohibits the use in prostitution of persons under 18 years of age.
- Implements certain other related reforms.

These powers have been supplemented by bylaw making provisions under the PRA. The PRA only enables councils to make bylaws that regulate the location of brothels and signage associated with commercial sex services. The PRA simply emphasises that the Council is able to control these aspects of the industry, it does not require that these aspects be legislated.

The Council has taken the review as an opportunity to revisit the previous approach adopted in 2010 by proposing changes to better address the perceived problems that arise in relation to brothels and commercial sex premises. The review also proposes a standalone Location of Brothels Bylaw 2021 (the Proposed Bylaw).

The Proposed Bylaw regulates the location of brothels in the District. It retains the current regulations on the location of brothels which restricts their location to a zone in the central city and in both industrial zoned and rural zoned areas with setbacks from dwelling houses and sensitive sites. The current ground floor control area in the central city is also retained. The Proposed Bylaw also removes the current signage provisions in recognition to the duplication of regulation on this matter with the Public Places Bylaw and other legislative regulations.

The Proposed Bylaw largely carries over the regulations for the location of brothels in New Plymouth District (the District) from the Current Bylaw, but does not include the provisions relating to signage. This is explained within this document in greater detail.

The Proposed Bylaw would replace the Current Bylaw. A copy of the Proposed Bylaw is included in this statement of proposal.

Determinations

To aid the Council in determining whether to review and amend the bylaw or revoke the bylaw, a Regulatory Impact Assessment (RIA) was undertaken. The assessment sets out the authority to make a bylaw, the perceived problems or nuisance the bylaw addresses, and the options available to the Council to deal with these problems.

The RIA was informed by a separate options analysis¹ which assessed three key options for the ongoing regulation of brothel location and signage within the District:

- Regulation via an amended bylaw.
- Specific regulation via the District Plan.
- Reliance on existing local and national regulation, and revocation of the bylaw.

The options analysis concluded that a reviewed and amended bylaw was the most appropriate form of regulation of this issue for the Council, but also noted that reliance on existing local and national regulation and revocation of the bylaw was also a viable option.

In developing the Proposed Bylaw the Council has also considered whether there are any implications under the New Zealand Bill of Rights Act 1990. Council is of the view that a bylaw is the most appropriate means of addressing the perceived problem and considers that the Proposed Bylaw is not inconsistent with the Bill of Rights Act.

Reasons for reviewing the Current Bylaw

The Current Bylaw must be reviewed before 9 April 2022 otherwise it would be revoked under section 160A of the Local Government Act 2002 (LGA).

In recent times, the Council has received relatively few complaints regarding the operation of brothels and commercial sex premises, however the nature of the business and the evocative feelings it can cause by those who are both for and against such operations has led the Council to developing the Proposed Bylaw.

Whilst the Council has not received wide ranging complaints regarding the operation of brothels and sex premises since the last review of the Current Bylaw, it could be that the regulation has been effective in its intent. With this in mind, the Proposed Bylaw focuses on managing the potential impacts of brothels on dwelling houses and sensitive sites focussing the location of brothels to appropriate locations in the District.

The Proposed Bylaw also removes the signage provisions for brothels and commercial sex premises in the Current Bylaw to avoid unnecessary regulatory duplication in recognition of multiple regulations on this matter.

Where can I get more information?

For more information about this consultation visit the Council's website newplymouthnz.com/HaveYourSay or phone us on 06-759 6060.

A copy of this document is available for viewing at the Civic Centre, Liardet Street, New Plymouth; or library and service centres at Bell Block, Inglewood and Waitara.

¹ Options analysis for the ongoing regulation of brothel location and signage within New Plymouth District. Prepared by GMD Consultants for New Plymouth District Council. April 2021

Options

When determining the best approach, reviewing and amending the Current Bylaw was considered the most appropriate.

There are three options which were considered during the review of the Current Bylaw:

1. Review and amend the Current Bylaw.
2. Revoke the Current Bylaw and rely on alternative mechanisms and existing legislation to ensure compliance.
3. Retain the status quo and make no changes to the Current Bylaw.

A summary of the analysis is shown below.

1

Review and amend the Current Bylaw (the recommended option)

Advantages

- Provides the Council with a tool to regulate the perceived problems associated with the location of brothels with the district.
- Allows the Council to take into consideration any new information on the matter since the last review of the Current Bylaw.
- Enables the Council to address any matters with the Current Bylaw.
- Regulation via a bylaw is consistent with the Council's current approach.
- A bylaw reviewed taking into account public feedback from a consultation process can address some of the perceived community concerns regarding the location and signage of commercial sexual premises and create an updated and fit for purpose regulatory instrument.
- A reviewed bylaw gives the Council the opportunity to remove duplicate and unused regulation of signage and streamline the bylaw to only reflect the regulation of the location of brothels.
- A bylaw clearly articulates the Council's position which gives regulatory certainty to potential commercial sexual operators.
- A bylaw must be consistent with the PRA therefore it will allow the industry to legitimately operate.

Disadvantages

- Requires resources to undertake the review of the Current Bylaw.
- There are costs and issues associated with monitoring and enforcing a bylaw.
- There is a risk of over regulation, as there is a limit to how far a bylaw can go to regulate the location and signage of commercial sexual premises before it becomes an overly restrictive restraint on trade and non-compliant with the PRA.

Option 1 is the recommended option. Under this option it is proposed to amend the Current Bylaw into a standalone bylaw (the Proposed Bylaw) to provide the Council with an effective tool to regulate the location of brothels within the district.

2

Revoke the Current Bylaw and rely on alternative mechanisms and existing legislation to ensure compliance**Advantages**

- Increasingly becoming a more common approach taken by other councils.
- Revocation of Current Bylaw would require a special consultative procedure, enabling the Council to gather information regarding community preference in relation to this option before making a final decision.
- There are many existing regulatory mechanisms available to the Council to fill the regulatory gap left by not having a bylaw, including the PRA, District Plan and Public Places Bylaw.
- The Council will save resources on regulation, enforcement, and administration of a bylaw.
- Does not single out commercial sexual businesses and treats them like any other commercial activity.

Disadvantages

- Removal of a regulatory instrument controlling brothels locating in perceived 'sensitive areas' including the removal of the existing 'ground floor control area' within the central city, instead being treated like any other commercial activity, which may result in an increase in antisocial behaviour which the existing regulatory tools currently manage.
- This indicates a change in approach, so the Council could be perceived as being overly permissive and not responsive to community preferences.
- The Council's regulatory approach is no longer clearly contained in one document, which may require the Council to develop guidance to fill the gap.
- Risk that consultation signals that the community would like to keep a bylaw leaving little time to review prior to the revocation date.

3

Retain the status quo and make no changes to the Current Bylaw**Advantages**

- Retains consistency in approach to regulation.
- The public and key stakeholders have certainty in what the regulations are.
- A bylaw clearly articulates the Council's position which gives regulatory certainty to potential commercial sexual operators.

Disadvantages

- The Council continues to have duplication of regulation in relation to signage.
- Feedback from public consultation may indicate the need for a change in approach, requiring unnecessary further consultation.
- The bylaw will remain part of the consolidated bylaw.
- Approach not consistent with findings of the options analysis and this regulatory impact assessment.

Key proposals in the Proposed Bylaw

Retaining the current brothel location regulations

The Proposed Bylaw retains the current provisions on the location of brothels which restricts their location to a zone in the central city and in both industrial zoned and rural zoned areas with setbacks from dwelling houses and sensitive sites. The current ground floor control area in the central city is also retained. The current provisions are retained to ensure a consistency of regulation and to reflect that they appear to be working effectively given the very low number of complaints received regarding brothels in the district. The status of two other significant Council documents have also influenced the proposal to retain the current central city area regulations in the Proposed Bylaw. The Proposed District Plan (PDP) and the New Plymouth Central City Strategy are yet to be finalised and adopted by Council and both of these documents could have implications that need to be considered when reviewing the central city area in the Proposed Bylaw. As a result the Proposed Bylaw proposes the status quo on the central city area which can be revisited when the bylaw is next reviewed.

Removal of signage provisions

Signage provisions for brothels and commercial sex premises have been removed from the Proposed Bylaw to avoid unnecessary regulatory duplication in recognition of multiple regulations on this matter. The Council's current approach to offensive signage regulation is through the NPDC Bylaw Part 5 Public Places Bylaw. There is also signage regulation present in the PDP with the ability to consider section 15 of the PRA. This section requires that when considering an application for a land use consent under the Resource Management Act 1991 relating to a business of prostitution, a territorial authority must have regard to whether the business of prostitution is:

- a) 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) incompatible with the existing character or use of the area in which the land is situated.

In addition, objectionable material, including signage, is governed by the Films, Videos, and Publications Classification Act 1993 enforced by the Censorship Compliance Unit at the Department of Internal Affairs. Generally offensive or sexually explicit wording or images on signs may also be reported to the Advertising Standards Authority if they violate the Advertising Standards Code of Practice.

Consistency with PDP and National Planning Standards (NPS)

The Proposed Bylaw has been updated to be consistent with the PDP and NPS where required, including changing the definitions for Industrial Area and Rural Area to incorporate zones included in the PDP and NPS. The updates ensure that the Proposed Bylaw is consistent with the current District Plan and the PDP and NPS.

Standalone bylaw

The Proposed Bylaw would replace the Current Bylaw and become a standalone bylaw, separating it from the NPDC Consolidated Bylaw. This approach has been undertaken by the Council in bylaw reviews since 2017. Standalone bylaws are now common with other councils and are considered to provide advantages including:

- Improved interpretation and understanding of bylaws with all relevant information located together within a single document; and
- Allowing the Council to establish a more staggered and clear approach to reviewing its bylaws.

The process of separating the Current Bylaw from the NPDC Consolidated Bylaw included a review of the NPDC Consolidated Bylaw introductory parts which provide common definitions and clauses across the consolidated bylaw, and the Proposed Bylaw includes those definitions and clauses from the introductory part as required.



Have your say!

The Proposed Location of Brothels Bylaw 2021 is now open for public consultation. This is your chance to let the Council hear your views and preferences about the proposals, so please take the time to get involved and have your say.

There are several ways you can have your say. A submission form is provided with this document or you can fill in your submission online.

To get your submission to us, either:

Do it online: newplymouthnz.com/HaveYourSay

Email it to: submissions@npdc.govt.nz

Post it to: NPDC Brothels Bylaw Submissions, Reply Paid DX, DX Box NX10026, New Plymouth 4342

Deliver it to: Civic Centre, Liardet Street, New Plymouth or to a library and service centre in Bell Block, Inglewood or Waitara

Be sure to get your submission to the Council by 5pm on Wednesday 10 November 2021

Late submissions will not be accepted

New Plymouth District Council

Proposed Location of Brothels Bylaw 2021



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth
District Council**

DOCUMENT HISTORY

Meeting	Date	Decision	Next Review

Proposed Location of Brothels Bylaw 2021

New Plymouth District Council

The purpose of this bylaw is to regulate the location of brothels.

1. Title and Commencement

- 1.1 This bylaw is the New Plymouth District Council Location of Brothels Bylaw 2021.
- 1.2 This bylaw comes into force on [date].
- 1.3 This bylaw is due to be reviewed in accordance with section 158 of the Local Government Act 2002 by [date].

2. Authority

- 2.1 This bylaw is made under:
 - a) Section 14 of the Prostitution Reform Act 2003; and
 - b) Sections 145 and 146 of the Local Government Act 2002.
- 2.2 This bylaw should be read in conjunction with the District Plan, but the District Plan does not form part of this bylaw.

3. Purpose

- 3.1 The purpose of this bylaw is to regulate the location of brothels.

4. Application of this bylaw

- 4.1 This bylaw applies to all brothels in the Council's district.
- 4.2 Despite clause 4.1, this bylaw does not apply to small owner-operated brothels.
- 4.3 For the avoidance of doubt, all other Council bylaws may apply to brothels, including small owner-operated brothels, as appropriate.

5. Interpretation

Definitions

- 5.1 In this bylaw, unless the context otherwise requires:

Act means the Prostitution Reform Act 2003.

Brothel has the meaning given to it by section 4 of the Act.

Building has the meaning given to it by sections 8 and 9 of the Building Act 2004.

Bylaw means the New Plymouth Location of Brothels Bylaw 2021.

Central City means the area of the central business district of New Plymouth identified on the map in Schedule 1 of this bylaw.

Council means the New Plymouth District Council.

District means the district of the Council.

District Plan means the currently operative New Plymouth District Plan prepared and constituted under the provisions of the Resource Management Act 1991.

Dwelling house is a structure primarily used in whole or in part for human habitation.

Industrial Area means an area defined in the District Plan as an Industrial Environment Area or a General Industrial Zone.

Premises means all or part of:

- 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 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 (reserve) for a particular purpose; or
- d) Individual units in buildings which are separately leased.

Prostitution has the meaning given to it by section 4 of the Act.

Rural Area means an area defined in the District Plan as a Rural Environment Area, Rural Production Zone or Rural Lifestyle Zone.

Sensitive site means:

- a) Early childhood centres, kohanga reo, primary, intermediate, and secondary schools or kura; and
- b) Places available to the public for the purpose of community activities, and includes but is not limited to a public playground, recreation hall, community centre, community hall, public swimming pool, formed walkway, park, theatre, marae and sportsground.

Small owner-operated brothel has the meaning given to it by section 4 of the Act.

- 5.2 Any undefined words, phrases or expressions in this bylaw have the same meaning as in the Prostitution Reform Act 2003 or the Local Government Act 2002, unless the context plainly requires a different meaning.
- 5.3 The Interpretation Act 1999 and Part 2 of the Legislation Act 2019 (once it comes into force) apply to the interpretation of this bylaw.
- 5.4 Every schedule to this bylaw forms part of this bylaw.
- 5.5 Every appendix to this bylaw does not form part of this bylaw, and may be inserted, amended, or removed at any time without any formal process. Appendices are provided for information purposes only, and may include statutory definitions referenced in clause 5.1.

6. Location of New Brothels

- 6.1 No person may operate, or permit the operation of, a brothel anywhere in the Council's district, except as provided for in clauses 6.2, 6.3, and 6.4.

Central City

- 6.2 A brothel may be located within the Central City, but must not be located at ground level within the area identified as the "Ground Floor Control area" on the map in Schedule 2 of this bylaw.

Industrial Areas

- 6.3 A brothel may be located within an Industrial Area, but not within 100m of a sensitive site or dwelling house.

Rural Areas

- 6.4 A brothel may be located within a Rural Area, but not within 100m of a sensitive site or dwelling house.

7. Existing Premises Unaffected

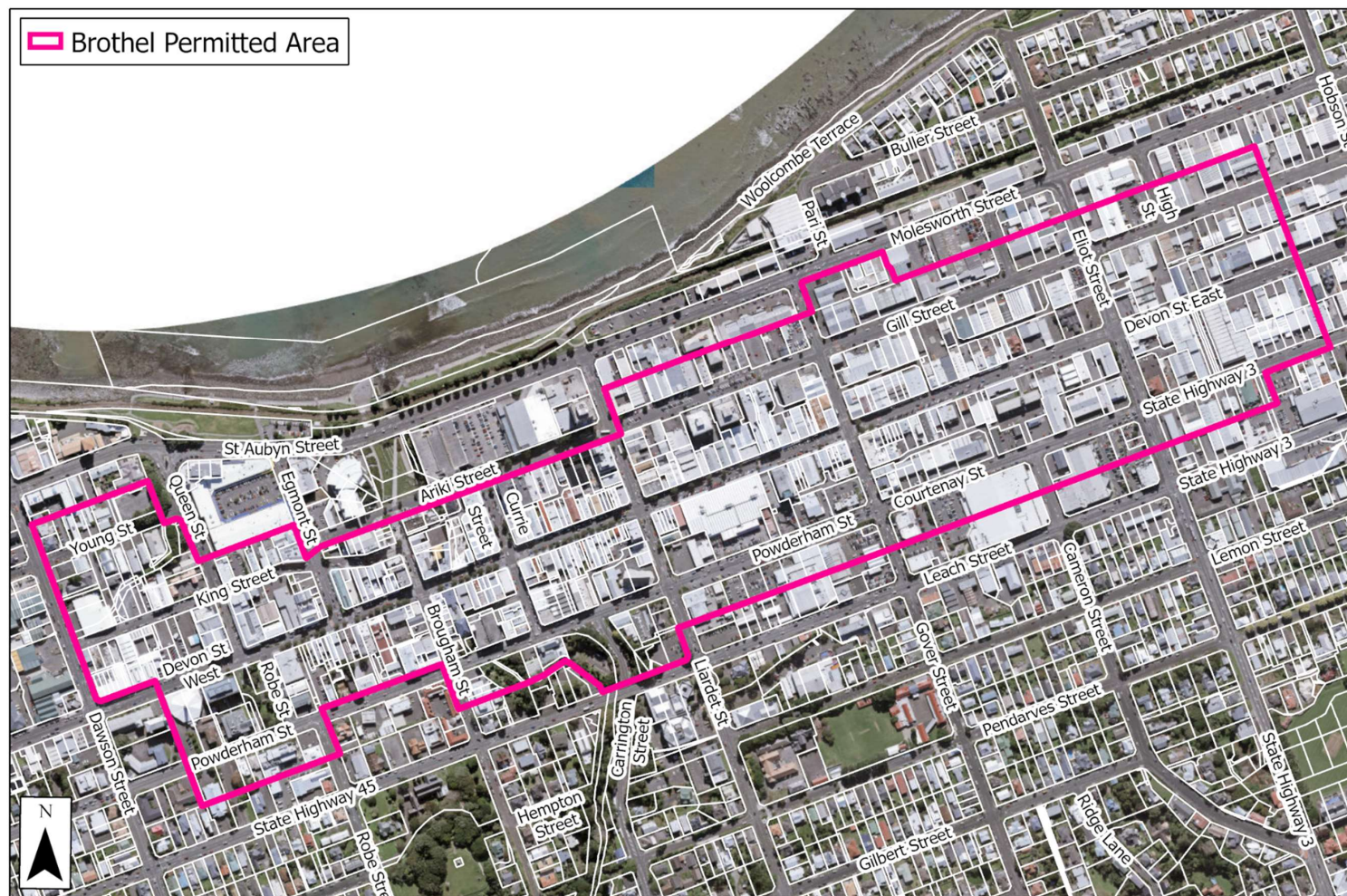
- 7.1 Any brothel that meets all of the following requirements is exempt from compliance with clause 6 of this bylaw:
- a) Must be operating as a going concern on the day this bylaw comes into force;
 - b) The brothel must be subject to a resource consent that was required under any relevant District Plan or a certificate of compliance, or otherwise have existing use rights under section 10 of the Resource Management Act 1991; and
 - c) The brothel must be operated by a person who holds a current certificate issued under section 35 of the Act.

8. Offences and penalties

- 8.1 A failure to comply with any prohibition, obligation, or other requirement in this bylaw constitutes a breach of this bylaw.
- 8.2 Any person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002, and may be liable for a fine not exceeding \$20,000.

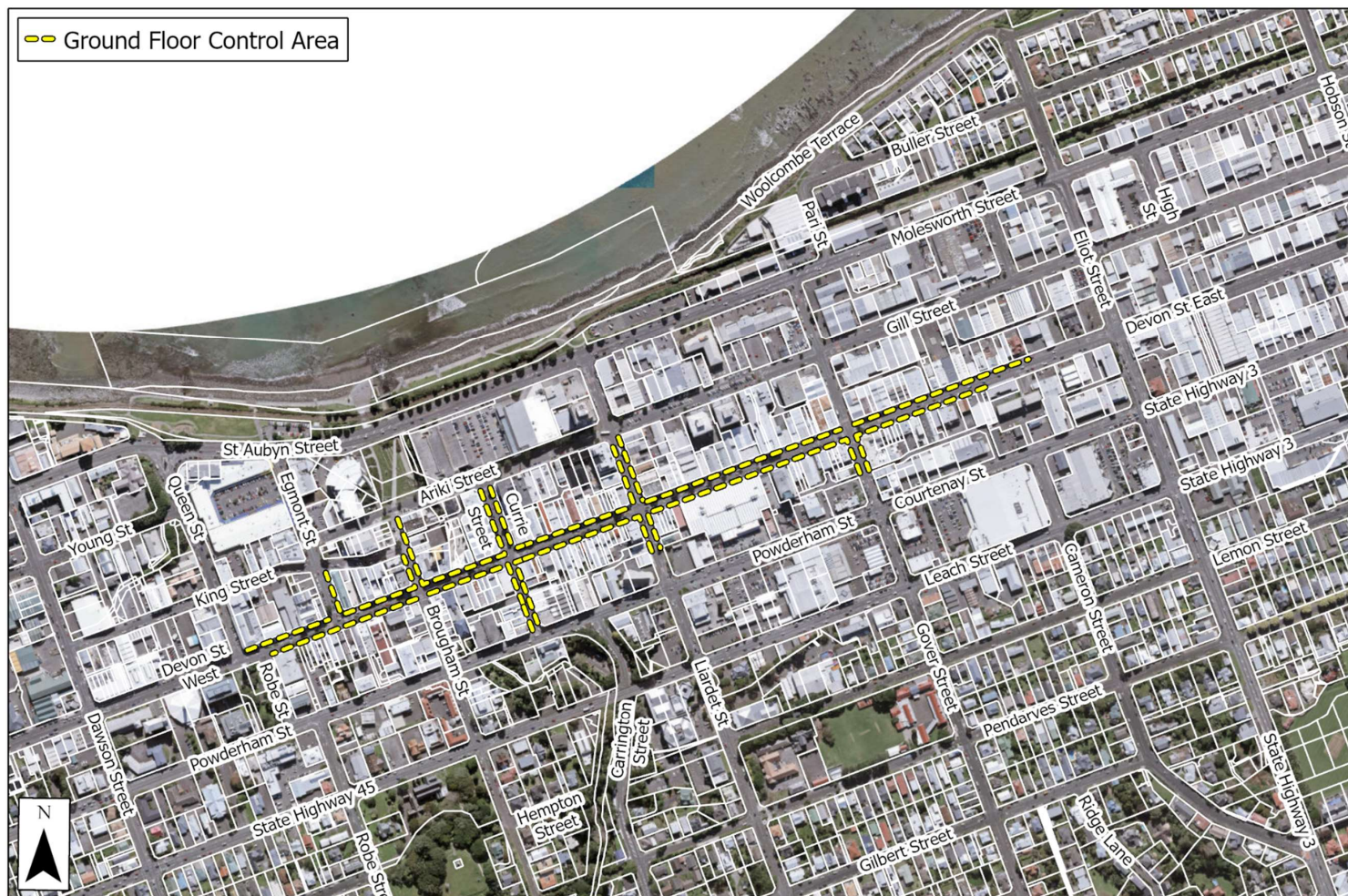
Schedule 1 - Map showing Central City area

Central City



Schedule 2 – Map showing Ground Floor Control area

Ground Floor Control Area



DRAFT

New Plymouth District Council Location of Brothels ~~(location and signage)~~ and Commercial Sex Premises ~~(signage)~~ Bylaw 2021

*The purpose of this part of the bylaw is to regulate the location of brothels, ~~and to control signage,~~
~~advertising brothels and other commercial sex premises.~~*

1. Title and Commencement

1.1 This bylaw is called the New Plymouth District Council Location of Brothels Bylaw 2021.

1.2 This bylaw comes into force on [date].

1.3 This bylaw is due to be reviewed in accordance with section 158 of the Local Government Act 2002 by [date].

2. Authority

2.1 This partbylaw is made under:

a) Sections 42 and section 14 of the Prostitution Reform Act 2003; and

b) Section 684 of the Local Government Act 1974; and

c) b) sections 145 and 146 of the Local Government Act 2002.

2.2 This bylaw should be read in conjunction with the District Plan, but the District Plan does not form part of this bylaw.

3. Purpose

3.1 The purpose of this partbylaw is to regulate the location of brothels and to control signage, advertising brothels and other commercial sex premises.

4. ~~Application of this part~~

4.1 Unless otherwise stated, this partThis bylaw applies to all brothels and commercial sex premises in the Council's district.

4.2 Despite clause 4.1, this bylaw does not apply to small owner-operated brothels.

4.14.3 For the avoidance of doubt, all other relevant partsCouncil bylaws may apply to brothels and other commercial sex premises, including small owner-operated brothels, as appropriate.

5. Interpretation

5.1 This part shall be in addition to the provisions of Part 1 Introductory of the New Plymouth District Bylaw 2008 and if this part is inconsistent with Part 1 Introductory then the provisions of this part shall prevail.

Definitions

5.25.1 In this partbylaw, unless the context otherwise requires:

Act means the Prostitution Reform Act 2003.

Brothel ~~has the meaning given to it by section 4 of the Act. means any premises kept or habitually used for the purposes of prostitution, but does not include:~~

- ~~a) Premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere;~~
- ~~b) A premise at which not more than four sex workers are operating at any one time, and where each sex worker retains control over his or her individual earnings from prostitution carried out at the premise.~~

Business Environment Area means a Business Environment Area as defined in the New Plymouth District Plan

Building has the meaning given to it by sections 8 and 9 of the Building Act 2004.

Bylaw means the New Plymouth Location of Brothels Bylaw 2021.

Central City means the area of the central business district of New Plymouth identified on the map in Schedule 1 of this Bylaw.

Council means the New Plymouth District Council.

District means the district of the Council.

District Plan means the currently operative New Plymouth District Plan prepared and constituted under the provisions of the Resource Management Act 1991.

Commercial sex premises means premises (excluding brothels) at which goods or services related to sexual behaviour are sold, hired or displayed; and

- ~~a) Includes strip clubs, strip bars, rap parlours, peep shows, massage parlours, lap dancing clubs, escort agencies, adult bookshops, adult video shops, sex shops and other activities of the same or similar character; but~~
- ~~b) Does not include hospitals, healthcare services, chemists, community welfare facilities, and premises at which therapeutic massage services are offered.~~

Dwelling house is a structure primarily used in whole or in part for human habitation.

Industrial Area means an area defined in the District Plan as an Industrial Environment Area or a General Industrial Zone.

Premises means all or part of:

- 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 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 (reserve) for a particular purpose; or
- d) individual units in buildings which are separately leased.

Prostitution has the meaning given to it by section 4 of the Act.

Rural Area means an area defined in the District Plan as a Rural Environment Area, Rural Production Zone or Rural Lifestyle Zone.

Community facility means a place~~Sensitive site means:~~

a) early childhood centres, kohanga reo, primary, intermediate, and secondary schools or kura; and

a)b) places available to the public for the purpose of community activities, and includes but is not limited to a public playground, recreation hall, community centre, community hall, public swimming pool, formed walkway, park, theatre, marae and sportsground.

~~Open Space Environment Area means an Open Space Environment Area as defined in the New Plymouth District Plan.~~

~~Residential Environment Area means a Residential Environment Area as defined in the New Plymouth District Plan.~~

~~Rural Environment Area means a Rural Environment Area as defined in the New Plymouth District Plan.~~

~~Sandwich board advertisement means any freestanding sign or structure with a notice affixed to it.~~

~~Sign means a visual message or notice conveyed to the public and visible from a public place, that advertises or otherwise informs the public of a business, goods or services. It includes but is not limited to any mural, message, or notice painted on, or affixed to, or otherwise incorporated with, a building, structure, or site; any banner, flag, poster, billboard, windsock, blimp or projection of light to create an advertising image; a bunting that has symbols or messages on it; and any display or exhibit involving a human or mannequin model.~~

Small owner-operated brothel has the meaning given to it by section 4 of the Act.

5.2 Any undefined words, phrases or expressions in this bylaw have the same meaning as in the Prostitution Reform Act 2003 or the Local Government Act 2002, unless the context plainly requires a different meaning.

5.3 The Interpretation Act 1999 and Part 2 of the Legislation Act 2019 (once it comes into force) apply to the interpretation of this bylaw.

5.4 Every schedule to this bylaw forms part of this bylaw.

5.5 Every appendix to this bylaw does not form part of this bylaw, and may be inserted, amended, or removed at any time without any formal process. Appendices are provided for information purposes only, and may include statutory definitions referenced in clause 5.1.

6. Location of New Brothels

Location controls

6.1 Except as provided in clauses 5.2, 5.3 and 5.4, No person may operate, or permit to be operated the operation of, a brothel anywhere in the District Council's district, except as provided for in clauses 6.2, 6.3, and 6.4.

Central City

- 6.2** ~~Subject to clause 7.1, A brothel may be located within the scheduled area identified on Map 1 annexed to this part of the bylaw. Within this area a brothel shall~~Central City, but must not be located at ground level in those areas within the area identified as “ground floor control areas” as shown on the “Ground Floor Control area” on Map 2 annexed to this part of the bylaw. Except as provided on the map in clauses 7.3 and 7.4, no person may operate or permit to be operated a brothel anywhere in the district of this bylaw.

Industrial Areas

- 6.3** ~~Subject to clause 7.1, A brothel may be located within an Industrial Environment Area, but not within 100m of a Residential Environment Area, pre-school, primary school, intermediate school, secondary school or community facility sensitive site or dwelling house.~~

Rural Areas

- 6.4** ~~Subject to clause 7.1, A brothel may be located within a Rural Environment Area, but not within 150m of an existing dwelling house, or within 100m of a Residential Environment Area, pre-school, primary school, intermediate school, secondary school or community facility sensitive site or dwelling house.~~

7. Signs**Sign control brothels**

- 7.1** ~~No person may display, or permit to be displayed, a sign that advertises a brothel, and which:~~
- ~~a) Is not attached to the building where the brothel is located; or~~
 - ~~b) Uses words or images or models (human or mannequin) that is likely to cause a nuisance or serious offence to ordinary members of the public~~
 - ~~c) Exceeds 3m² in surface area; or~~
 - ~~d) Is incompatible with the existing character or use of that area; or~~
 - ~~e) Is visible from a public place in a Residential Environment Area or Open Space Environment Area.~~
- 7.2** ~~No person shall display or permit to be displayed a sandwich board advertisement for the purpose of advertising a brothel.~~

Sign controls commercial sex premises

- 7.3** ~~No person may display, or permit to be displayed, a sign that advertises commercial sex premise, and which:~~
- ~~a) Is not attached to the commercial sex premise; or~~
 - ~~b) Uses words or images or models (human or mannequin) that is likely to cause a nuisance or serious offence to ordinary members of the public; or~~
 - ~~c) Exceeds 3m² in surface area; or~~
 - ~~d) Is incompatible with the existing character or use of that area; or~~
 - ~~e) Is visible from a public place in a Residential Environment Area or Open Space Environment Area.~~
- 7.4** ~~Without otherwise limiting the application of clause 6.3, that clause applies to a sign that advertises a bar or other premises at which goods or services related to sexual behaviour are sold, hired or~~

~~displayed on a one-off or occasional basis, but only if the sign relates to the availability of those goods and services.~~

8. Exceptions

Exception

~~8.1 The Council may, by resolution, approve any sign advertising a commercial sex premises, where that sign —~~

- ~~a) is not attached to the commercial sex premises; but~~
- ~~b) is not likely to, when considered in totality, cause a nuisance or serious offence to members of the public and in all other respects meets the requirements of clause 6.~~

9.7. Existing Premises Unaffected

Existing premises

~~7.1 Any brothel that meets all of the following requirements is exempt from compliance with clause 6 of this bylaw:~~

- ~~a) must be is operating as a going concern on the day this partbylaw comes into force and which;~~
- ~~b) Holds anythe brothel must be subject to a resource consent that may have beenwas required under any operative or proposedrelevant District Plan, or a certificate of compliance, or has otherwise have existing use rights under section 10 of the Resource Management Act 1991; and~~
- ~~c) If not a small owner operated brothel as defined in the Prostitution Reform Act 2003, is operated the brothel must be operated by a person who holds a current certificate issued under section 35 of thatthe Act.~~

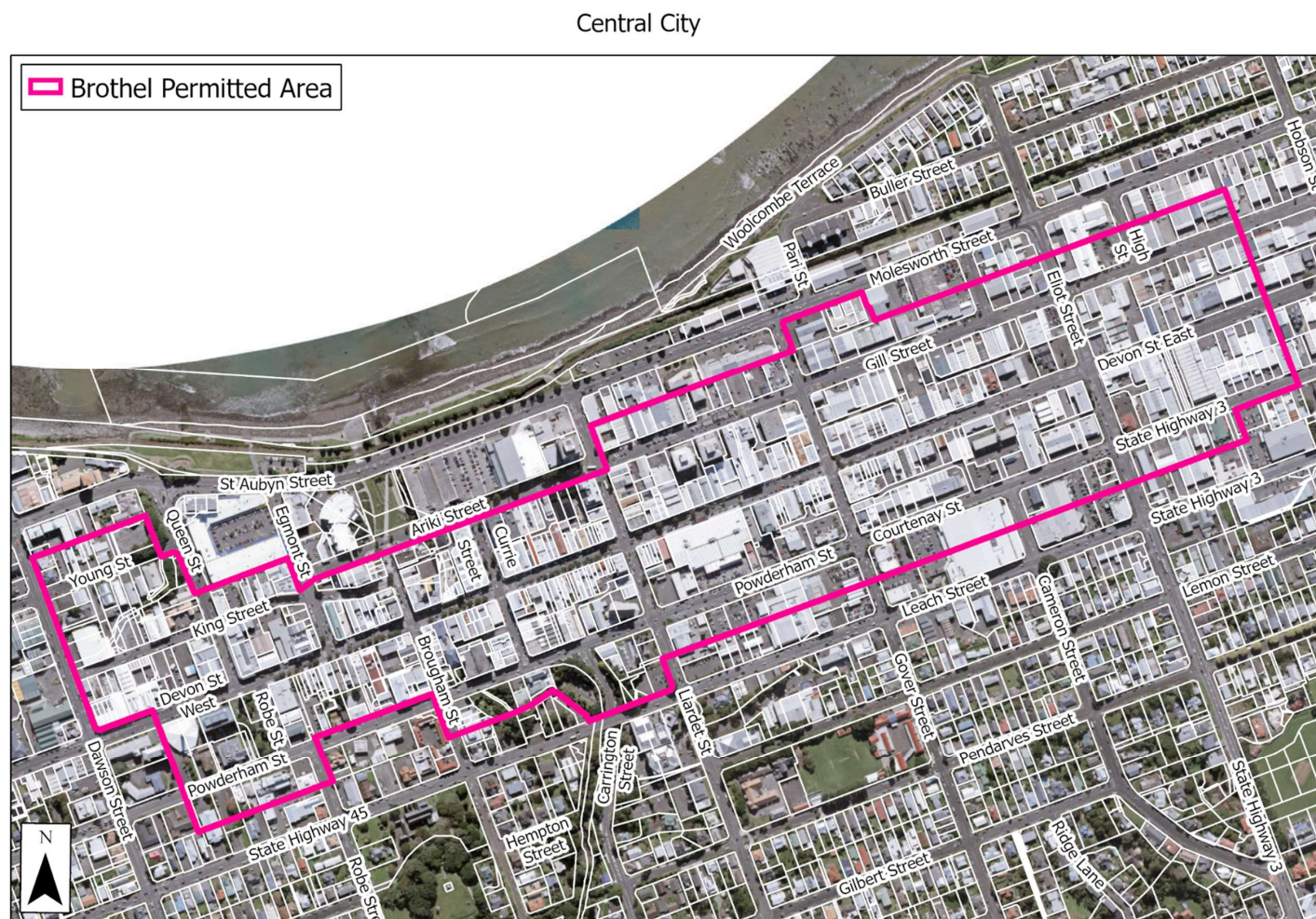
~~is exempt from compliance with clauses 5.2, 5.3 and 5.4.~~

~~9.2 For the avoidance of doubt, from the date this part comes into force all brothels are subject to clauses 6.1 and 6.2 and all commercial sex premises are subject to clauses 6.3 and 6.4.~~

8. Offences and penalties

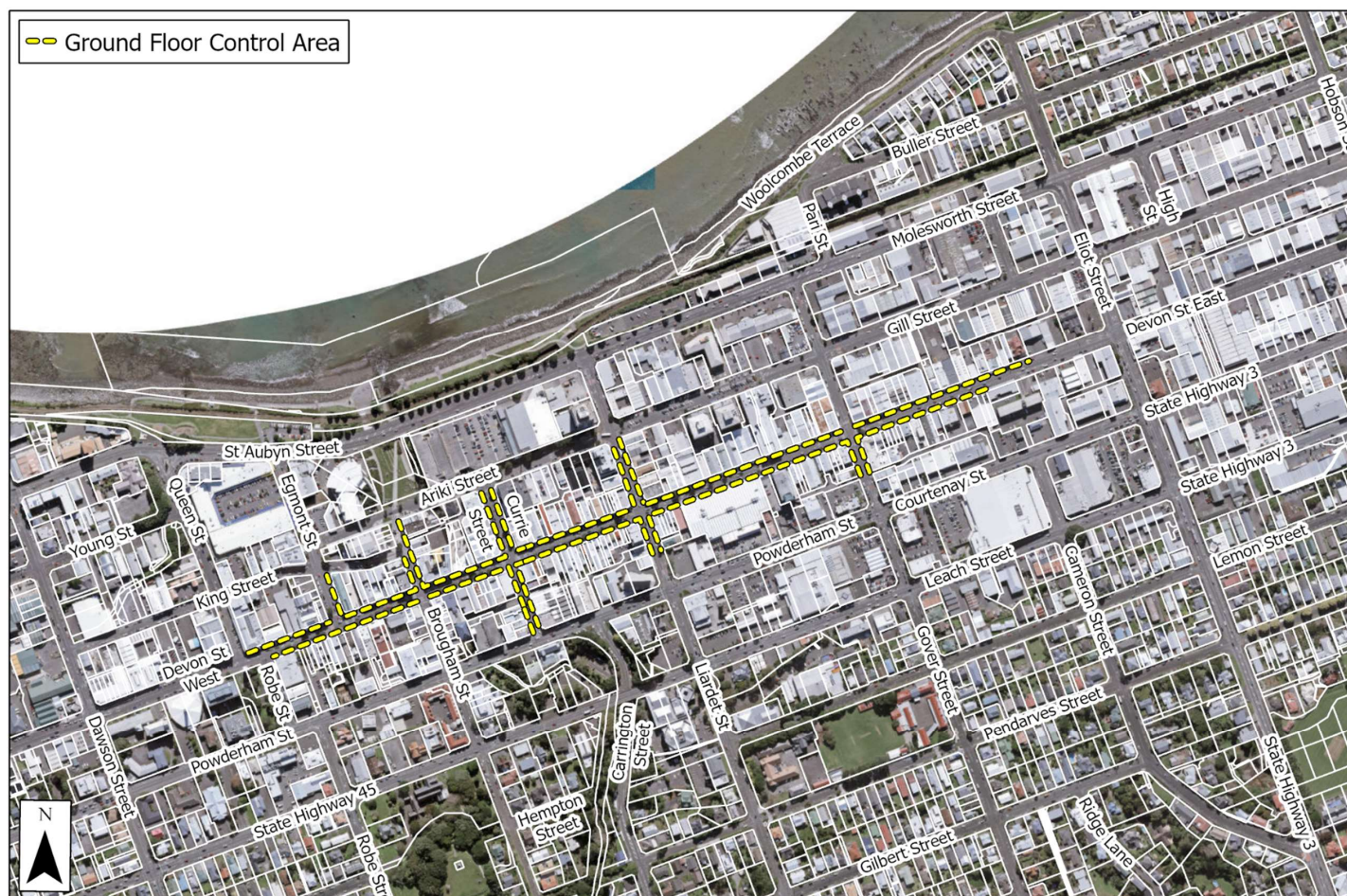
~~8.1 A failure to comply with any prohibition, obligation, or other requirement in this bylaw constitutes a breach of this bylaw.~~

~~8.2 Any person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002, and may be liable for a fine not exceeding \$20,000.~~

Map 1: Scheduled Area Schedule 1 - Map showing Central City area

Schedule 2 – Map 2: showing Ground Floor Control Areas

Ground Floor Control Area



DELAY OF THE EXTENSION OF THE COLLECTION SERVICE TO NON-RESIDENTIAL PROPERTIES AND THE NEW PLYMOUTH CENTRAL BUSINESS DISTRICT

MATTER

1. The matter for consideration by the Council is the delay to extending the opt-in Council kerbside collection service to non-residential properties and New Plymouth Central Business District.

RECOMMENDATION FOR CONSIDERATION

That having considered all matters raised in the report, Council approves the delay of the extension of the Council provided kerbside collection service to non-residential properties and New Plymouth Central Business District (CBD) until the waste services contract is retendered in 2024.

COMPLIANCE	
Significance	This matter is assessed as being significant.
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> 1. Delay of the extension of the Council kerbside collection service to non-residential properties and New Plymouth CBD until the waste services contract is retendered in 2024. 2. Extend of the Council kerbside collection service to the non-residential properties earlier and subsidise additional cost through the recycling and rubbish targeted rate.
Affected persons	The persons who are affected by or interested in this matter are small to medium sized businesses, marae, clubs, churches and community groups within the collection area interested in opting into the Council collection service and businesses in the CBD, and residents currently receiving the service.
Recommendation	This report recommends Option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	Yes
Significant Policy and Plan Inconsistencies	No

EXECUTIVE SUMMARY

2. An extension of the Council provided kerbside collection service to non-residential properties and the New Plymouth CBD is provided for in year 1 of the Long Term Plan. A detailed business case for implementing the extension of the kerbside collection service has highlighted a number of factors that would affect the rollout of this new service.
3. Council recommends the approval of delaying the extension of the Council provided kerbside collection service to non-residential properties and the New Plymouth CBD until the regional waste services contract is retendered in 2024 in order to provide a cost-effective waste collection service for the commercial sector.
4. Taking this approach means the service will still be provided but will be delayed by three years. This will allow for the issues associated with delivery costs, vehicle procurement challenges and current contractual constraints to be addressed through the new contract. This delay will also allow the CBD Strategy to be completed, enabling the new contract to cater for development in the CBD, future proofing the new service as the CBD Strategy is implemented.
5. By waiting until the contract is retendered, Council can set clear expectations with the contractor and ensure adequate systems are in place prior to rolling out the service. Delaying the rollout will also allow for Council to minimise some of the assumptions on uptake of the service.
6. If the delay to extending the kerbside collection service is endorsed, Council will include the non-residential properties and New Plymouth CBD requirements into the tender process so the service will be available to businesses, marae, clubs, churches and not-for-profit organisations in October 2024.
7. The Council will continue to engage with the commercial sector to provide free waste minimisation education, resources and advice. The Council will also work with waste service providers to offer opportunities for businesses to divert waste, including at the commercial waste sorting facility due to open in the middle of next year.

BACKGROUND

8. The Council kerbside collection service is currently offered to residential properties within the defined collection area.
 9. The [NPDC Waste Management and Minimisation Plan 2017](#) (WMMP) identifies an action to extend the Council kerbside collection service to non-residential properties and New Plymouth CCBd when the contract for this service is next renewed (2023-25).
-

10. In response to requests from local businesses and the Chamber of Commerce, including the Business and Retailers Association (BARA), the extension of the service to include the non-residential properties and the CBD was brought forward to Year 1 of the Long Term Plan 2021-2031. This was based on the assumption that the service could be provided within the existing contract with the current level of resources.
11. The Council collection service for non-residential properties would be an opt-in service identical to the residential kerbside collection service (e.g. collection frequency, bin sizes, service requirements) based on a user charge. The collection area would also be extended to include the New Plymouth CBD.
12. The Council kerbside collection service would be best suited for small to medium sized businesses, churches, clubs, not for profit organisations and small marae.
13. Extending the kerbside collection service to include non-residential properties and the CBD would progress the District towards achieving the Zero Waste 2040 target, given commercial waste makes up more than 60 per cent of waste sent to landfill, and helps implement actions set in the WMMP. An estimated 1-2 per cent of waste would be diverted from landfill by offering the Council collection service to local businesses and other non-residential properties.
14. In 2021, a detailed business case for implementing the extension of the kerbside collection service was completed and costs for the expanded service provided by the contractor. This highlighted a number of factors that would affect the rollout of this new service.

Issues affecting the extension of the kerbside collection service

15. The current collection vehicle fleet cannot accommodate the additional number of properties for this extension and still provide an efficient collection service to the residential properties already receiving the kerbside collection. The additional number of collections from non-residential properties exceeds the planned 1 per cent residential growth allowed for in the contract and would place extra pressure on the collection vehicles (e.g. additional mechanical repairs, time requirements for emptying loads, longer collection days).
16. To address this extra pressure, four additional collection vehicles would be needed (one for each waste stream). Due to the impact of Covid-19 and high demand for collection vehicles throughout New Zealand, procuring and importing these additional collection vehicles will take a minimum of 18 months. Therefore, the earliest the kerbside collection service could be offered to the non-residential properties would be in 18 months' time.

- 17. With three years left on the current contract (due to finish in September 2024), there is inadequate time for the current contractor to depreciate the cost of the collection vehicles within the contract term. The Council would need to cover the full cost of the collection vehicles as a requirement of providing the service in the last 12-18 months of the contract.
- 18. If the kerbside collection service were to be provided to the non-residential properties and the CBD prior to retendering the contract, the additional collection service costs for the commercial sector would need to be subsidised by properties receiving a residential kerbside collection to make it economically viable. Table 1 shows the cost breakdown if the service were to be implemented before (2023/24) versus after the contract has been retendered (2024/25). The targeted rate for 2021/2022 is \$197.80.

Table 1 Cost comparison for options for extending the kerbside collections to non-residential properties and central New Plymouth area.

Option	1	2
	Delay the extension to kerbside collection service until the contract is retendered in 2024*	Offer kerbside collections to non-residential properties and central New Plymouth area with the costs spread across the entire service
Percent uptake by non-residential sector	10%	10%
Number of services	+996	+967
Total annual cost of kerbside service (including GST)	\$ 5,591,000	\$ 7,762,000
Estimated total costs per service per year (including GST)	\$214	\$283

* Costs shown as 2024/2025 including inflation and growth compared to option 2 which is based on 2023/2024.

NEXT STEPS

- 19. Council Officers will engage with the Chamber of Commerce and organisations that have expressed interest in the service to provide further information on the options and recommendation.

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20. An online register for businesses and organisations interested in receiving the service will be created which can be used to provide information and updates about the kerbside collections rollout for the non-residential properties and CBD, and inform planning during retendering and implementation in 2024.
 21. Planning for the extension to the collection service will continue so this can be incorporated into the retendering of the Council's collection services over the next 12-18 months.
 22. In the interim, Council Officers will also offer opportunities for businesses to minimise waste by providing free educational programmes and resources, such as the Resource Wise Business programme, as well as work with waste service providers to ensure a range of recycling services continue to be offered for small to medium businesses and other organisations.

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

22. Both options in this report allow for the procurement of electric collection vehicles to carry out the kerbside collections, although option 1 would be more cost-effective.
23. Providing a kerbside collection service is working towards a circular economy as stated in the Climate Change Commission Report: Ināia tonu nei: A Low Emissions Future for Aotearoa, particularly with the provision of a food scraps and recycling collections.

SIGNIFICANCE AND ENGAGEMENT

24. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being significant. Due to the demand for the service, the delay has implications for businesses, community organisations and iwi (services for marae). While both options outlined in this report impact on the timing of the service as stated in the Council's Long Term Plan (LTP) 2021-2031, it is a delay rather than a change to the level of service.
 25. Option 1 provides a cost effective solution that would not impact on the cost of recycling and rubbish service for residents, but would impact on the ability to deliver on Council's strategic outcomes within timeframes outlined in the LTP and WMMP.
 26. However, option 2 requires the purchasing of new assets and the service to be subsidised through the residential recycling and rubbish targeted rate to keep the service cost effective. Option 2 would affect residents receiving the collection service as the targeted refuse rate would increase by approximately 32 per cent (\$69 per year).
-

27. Previous engagement with small to medium businesses has been undertaken through surveys and a commercial waste options analysis carried out in 2019. A total of 56 businesses, from a range of industries, were surveyed to gain an understanding of the waste composition for small to medium sized businesses. The commercial waste analysis evaluated different options to minimise waste sent to landfill and estimated a 1-2 per cent reduction in commercial waste by offering the same kerbside collection service currently provided to residential properties. The results of the analysis, as well as regular requests received from non-residential properties, indicated a demand for the service. While these communities will be disappointed with the delay, a key driver to this demand is the provision of a service that is cost effective.
28. Based on this previous engagement with the commercial sector, the views and preferences are reasonably well known. To proceed with option 1 further consultation is not considered to be required for the Council to make a decision, however further engagement with specific groups such as the Chamber of Commerce should be undertaken.
29. If option 2 is the preferred approach, the Council will need to be satisfied that the targeted rate increase justifies the potential benefits of extending the kerbside collection, as required under the Local Government Act 2002. Given the recent consultation as part of the LTP which proposed a 12 per cent increase in rates, a further increase in the targeted rate is unlikely to be supported by residents. If this option were to be considered, further consultation with residents via the next Annual Plan would be required.

OPTIONS

Option 1

Delay of the extension of the Council provided collection service to non-residential properties and New Plymouth CBD until the waste services contract is retendered in 2024.

Financial and Resourcing Implications

30. Specifications and resources required to extend the kerbside collection service to non-residential properties and New Plymouth CBD can be included as a requirement in the requests for tender process, allowing collection vehicles to be depreciated over the term of the new contract (normally 7-10 years). This will ensure a cost effective service can be offered to both residential and non-residential properties and also allow sufficient capacity for growth over the contract term.

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31. The collection service will be offered to non-residential properties and the New Plymouth CBD on an opt-in user charge basis. The costs of the service would be comparable to the recycling and rubbish targeted rate for the residential kerbside collection with an administrative fee applied, ensuring that the full cost of the service would be covered by the user fees and would not be subsidised by the residential targeted rate.
 32. An administrative staff member (0.2 FTE) will be required to provide customer service for the collection service leading up to and throughout the collection service. This is budgeted for from Year 1 of the LTP but would not be required until 2023.
 33. Purchase of the vehicle fleet would be the responsibility of the contractor, who would recover the capital costs as part of the collection rate rather than involve the Council purchasing new assets which have not been budgeted for.

Risk Analysis

34. Given the demand from local businesses, delaying the rollout of the Council kerbside collection service to the commercial sector poses a reputational risk of Council being unable to deliver a project stated in the LTP within the specified timeframe. This can be mitigated through early engagement with the commercial sector to outline the options.
35. The delay of the service could impact on the district's journey toward Zero Waste by three years. However, given the small impact on total waste to landfill (1-2 per cent of waste diverted), alongside the ability to offer other opportunities for businesses to minimise waste through free educational programmes and resources, such as the Resource Wise Business programme, the impact of this delay would be minimal. Cost effective alternatives to sending waste to landfill will also become available through the Commercial Waste Sorting Facility and The Junction.

Promotion or Achievement of Community Outcomes

36. With the support and alternatives planned in the interim, this option would continue to provide businesses, marae, churches and clubs with a waste minimisation opportunities that optimises resources recovery, facilitating *Sustainability* within their workplace or premises.
37. This option to delay the extension would ensure the Council to continue to *Deliver* a quality and cost effective residential kerbside collection service.

Statutory Responsibilities

38. The delay in the provision of an extended kerbside collection service to non-residential properties and New Plymouth CBD is the most cost effective option and is therefore consistent with the Local Government Act.
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39. This option will continue to drive waste minimisation which is consistent with the Waste Minimisation Act and Health Act by providing accessible recycling and waste disposal options for the community.

Consistency with Policies and Plans

40. This option is inconsistent with the LTP 2021-2031, which has budgeted for the extension to occur in 2021/2022. However, it is considered the most cost effective option, and has no material impact on the budget as the assumed LTP cost of this service was fully off-set by user fees. Therefore, there is no intention to amend the LTP.
41. While there is a delay to the extension with this option, it continues to be consistent with the WMMP.

Participation by Māori

42. Hapū have requested the kerbside collection service for marae. The kerbside collection service will be available for marae when it is offered in 2024. Council officers will engage with hapū once the service costs and dates have been confirmed to assess their interest in the kerbside collection service for their marae and if the collection service meets their needs.

Community Views and Preferences

43. In relation to this matter, "the community" is those considered to be eligible for applying for the kerbside collection service in the commercial sector including businesses, marae, churches, clubs and community groups.
44. Previous engagement with small to medium businesses undertaken in 2019 indicated that there is a demand for the service. There are also regular requests from clubs, churches, marae and community organisations to use the residential collection service. While these communities will be disappointed with the delay, a key driver to this demand is the provision of a service that is cost effective.
45. Direct engagement with the Chamber of Commerce and organisations that have already registered an interest in the service will be undertaken alongside the consideration of this report.

Advantages and Disadvantages

46. Delaying the rollout of the kerbside collection service to the commercial sector until the contract can be retendered is the most cost effective option, making the cost comparable to the residential kerbside collection service as assumed in the LTP. The residential refuse rate would not need to be increased to subsidise the kerbside collections for non-residential properties and the CBD.
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- 47. The delay also allows more time for Council to assess interest in the uptake of the collection service for non-residential properties. This information would minimise risk around assumptions relating to the uptake of the service, through the registration of interest process, and allow the contractor to plan a service that can meet the demand.
 - 48. The CBD Strategy currently being developed will provide some direction on the development of residential housing in the CBD. By delaying the extension, any service changes related to the development of the CBD can be incorporated into the new contract, allowing the service to be future proofed as the CBD strategy is implemented.
 - 49. Conversely, delaying the kerbside collection service will reduce the potential for commercial waste to be diverted from landfill. It is estimated that the Council kerbside collection service has the potential to divert 1-2 per cent of waste from small to medium sized businesses. While recycling and glass can be taken to transfer stations or The Junction free of charge, the inconvenience and logistical requirements of needing to transport the recyclables poses a barrier for some businesses, marae, churches, clubs and groups. This can be minimised through the provision of education and support to businesses through the Resource Wise Business programme, raising awareness of what services are currently offered by waste service providers, and the development of the commercial waste sorting facility.

Option 2

Extend the Council kerbside collection service to non-residential properties in 2023 and subsidise additional cost of this service through the recycling and rubbish targeted rate.

Financial and Resourcing Implications

- 50. The Council would be required to purchase, maintain and insure four collection vehicles with this option. The estimated capital cost of \$1.9m is not budgeted in the LTP 2021-2031. While the contractor would lease the collection vehicles from Council for the remaining 18 months of the contract, the Council would continue to own the collection vehicles as assets. These would then need to be included in the next contract and may not last the entire new contract term, increasing maintenance costs and potentially affecting the ability to provide the service in the next contract.
 - 51. The LTP 2021-2031 budget assumed the cost of the service for non-residential properties would be similar to the residential targeted rate. Under this option, to keep the new service affordable for the commercial sector, costs of providing the kerbside collection service would need to be subsidised by the residential targeted rate. The recycling and rubbish rate for residential properties receiving the kerbside collection service would increase by an estimated \$69 (including GST) per year to offset the costs of purchasing four collection vehicles. The costs of option 2 is summarised in Table 1.
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52. An administrative staff member (0.2 FTE) will be required to provide customer service for the collection service leading up to and throughout the collection service. This is budgeted for in the LTP 2021-2031.

Risk Analysis

53. The increased cost of the new service may result in low uptake of the collection service by businesses and other organisations.
54. There is a risk that residents will not support an increased targeted rate to subsidise the Council kerbside collection service for non-residential properties and the CBD.

Promotion or Achievement of Community Outcomes

55. This option will provide businesses, marae, churches and clubs with a waste collection service that optimises resources recovery, facilitating *Sustainability* within their workplace or premises earlier than Option 1.
56. This option would allow Council to offer the extended service while continuing to *Deliver* quality services to residents, if additional trucks can be purchased and delivered.

Statutory Responsibilities

57. While the provision of an extended kerbside collection service to include non-residential properties and the CBD is consistent with the Local Government Act, providing the service earlier is not the most cost effective option.
58. This option is consistent with the Waste Minimisation Act and Health Act by providing accessible recycling and waste disposal options for the commercial sector.

Consistency with Policies and Plans

59. This option is inconsistent with the timing outlined in the LTP but is earlier than Option 1.
60. This option is consistent with the WMMP, although would be available to non-residential properties and the one year prior than Option 1.

Participation by Māori

61. Hapū have requested the kerbside collection service for marae. The kerbside collection service would be available for marae one year earlier than option 1.
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Community Views and Preferences

- 62. While the commercial sector would support an earlier rollout of the Council kerbside collection services, due to the increased cost of providing the service, businesses may not support this option.
- 63. Given the recent feedback from residents on rates rises in the LTP, further increases in rates to subsidise a commercial service are not likely to be supported by residential ratepayers who receive the kerbside service however further consultation would be required to confirm this.

Advantages and Disadvantages

- 64. The advantage for option 2 is that the Council kerbside collection service will be available one year earlier than option 1. Offering the service earlier will achieve higher waste diversion rates and promote waste behaviour change within the commercial sector, including separating waste streams.
- 65. Council owning four collection vehicles would create additional complexities to tendering the new regional waste service contract, as well as associated asset management, maintenance and depreciation costs.
- 66. This is not the most cost effective option.

Recommended Option

This report recommends **Option 1**: Delay of the extension of the collection area to the commercial sector until the waste services contract is retendered in 2024 for addressing the matter.

Report Details

Prepared By:	Amy Brasch (Operations Lead, Resource Recovery)
Team:	Resource Recovery Team
Approved By:	Kimberley Hope (Manager Resource Recovery)
Ward/Community:	District-wide
Date:	15 September 2021
File Reference:	ECM8621364

-----End of Report -----

LEPPERTON HALL DEMOLITION

MATTER

1. The matter for consideration by the Council is the demolition of the Lepperton Hall building at 533 Richmond Road.

RECOMMENDATION FOR CONSIDERATION

That having considered all matters raised in the report, Council:

- a) **Approves the demolition of the Lepperton Hall building and make good of the site at 533 Richmond Road and;**
- b) **Approves funding of the demolition and make good provided the cost does not exceed \$80,000 plus GST.**

COMPLIANCE	
Significance	This matter is assessed as being of some importance
Options	<p>This report identifies and assesses the following reasonably practicable options for addressing the matter:</p> <ol style="list-style-type: none"> 1. Approve the demolition of the Lepperton Hall building funded from current operational budgets to a maximum of \$80,000 plus GST. 2. Maintain the status quo and consider the demolition of the Lepperton Hall in the 2022/23 Annual Plan or the next Long-Term Plan.
Affected persons	The persons who are affected by or interested in this matter are the Lepperton community including the Lepperton Residents' Association.
Recommendation	This report recommends Option 1 for addressing the matter.
Long-Term Plan / Annual Plan Implications	Yes – the cost of demolition is unbudgeted
Significant Policy and Plan Inconsistencies	No

EXECUTIVE SUMMARY

2. Following an unsuccessful tender to sell the building known as the Lepperton Hall for removal, this report recommends the building now be demolished. As there are no funds allocated in the current budget for this work it is recommended that the work be funded from current operation budget underspend.
3. The Lepperton Residents Association support the demolition of the Hall.

BACKGROUND

4. The Council made a decision in December 2020 to retain the property at 533 Richmond Road and "explore the sale or removal of the Community hall building" (Lepperton Hall).
5. The community has driven this response to clear the hall from the site for the land to be developed as community space.
6. A sale of the hall for removal was publicly tendered in May and June 2021.
7. Although some interest was shown in the early stages, no tenders were received at the close of the tender. Feedback suggested no tenders were received because of the presence of asbestos and it is not economical to relocate the building due to its size.
8. Taking the recommended approach to demolish the hall will ensure that the site is cleared and allow the Council to work with the community on planning the future use and development of the land.
9. The next steps following approval to demolish the hall will be to tender the demolition of the Hall and clear the site.



Photo 1: Lepperton Hall.

10. Lepperton Hall (the Hall) is located in the Lepperton settlement on 2023m² of freehold land on Richmond Road opposite Lepperton School. The Hall was transferred to Council ownership (then the Taranaki County Council) in 1974.
11. The building covers an area of approximately 490m² and is located at the front of the site. There is vacant land to the rear of the site that is currently grazed.
12. Although there are no original building records of the Hall, it was constructed sometime after 1906. There have been many improvements and additions to the building over time.
13. The Hall is no longer in use after the Lepperton Hall Society relocated to the new Lepperton School Hall in early 2021.
14. The Lepperton Residents' Association has confirmed it is not financially viable for the Lepperton community to maintain the Hall and that the new School Hall is functioning well for community needs.
15. The Hall is no longer fit for purpose and retaining the building on site will make the development of the land, or usability of the land by the community more challenging.
16. A toilet located at the front of the hall has been open to the public from May 2021 following a community request. Anecdotal evidence suggests usage has been comparatively low.
17. Refer to Appendix 1 for background regarding the Lepperton School Hall and Council decisions.

CLIMATE CHANGE IMPACT AND CONSIDERATIONS

17. With the recent construct of the Lepperton School Hall, which the community are able to access and use, the original Lepperton Hall is no longer required. Earlier reporting highlighted this and it was agreed to either sell for removal or demolish the building.
18. Removal of the hall will reduce the carbon footprint through removing electricity and maintenance and clear the site for the development of an open community space.
19. Through the tender process tenders will be advised of Council's sustainability goals. Timber in the hall can be salvaged and recycled through the demolition tender, the value of the recycled material will be accounted for in the tender price.

NEXT STEPS

20. The remaining option to clear the site is to demolish the building.
21. The demolition and make good of the site has been estimated at \$40,000 to \$80,000 plus GST.
22. It is recommended that the demolition is tendered before the condition of the building deteriorates and becomes an eyesore.
23. The Lepperton Residents' Association has indicated they are supportive for the site being cleared and would like to commence planting the site while they work with Council Officers to confirm a short and long term strategy for the land.
24. Funding for development of the land into a community space is budgeted in 2026/27.
25. If tenders for the Hall demolition and make good of the site exceed \$80,000 plus GST, an offset must be identified to fund the project from current budgets. Otherwise the project will be considered in the 2022/23 Annual Plan or the next Long-Term Plan.

SIGNIFICANCE AND ENGAGEMENT

26. In accordance with the Council's Significance and Engagement Policy, this matter has been assessed as being of some importance as it relates to the management of a Council-owned building in Lepperton.
27. The Hall is surplus to Council and community needs.
28. Council has previously dealt with the history of the land which came into Council ownership in 1974. It should be noted that the Council is no longer considering disposal of the land and will be retaining ownership.
29. In December 2020 Council committed to retaining the Hall land while indicating the building was surplus by instructing officers to "explore the sale or removal of the Community hall building".
30. There is currently no funding in the Long-Term Plan for the demolition of the hall.
31. It is recommended the demolition of the Hall is funded from operational budget underspends.

OPTIONS

32. Two options have been assessed below. These are:

- Option 1 Approve the demolition of the Lepperton Hall building funded from current operational budgets to a maximum of \$80,000 plus GST.
- Option 2 Maintain the status quo and consider the demolition of the Lepperton Hall in the 2022/23 Annual Plan or the next Long-Term Plan.

Option 1

Approve the demolition of the Lepperton Hall building funded from current operational budgets to a maximum of \$80,000 plus GST.

Financial and Resourcing Implications

- 33. Council is not currently aware of any projects that can be postponed this financial year to allow existing budgets to be transferred for the demolition of the Hall.
- 34. The cost of the demolition may create an overspend of an operational budget.
- 35. Development of the land into a community space, including provision of public toilets, is budget in the 2026/27 financial year (\$399,525).
- 36. The demolition project can be completed using existing staff resources to manage the tender and demolition process.

Risk Analysis

- 37. The provision for a community hall is provided by the new School Hall. Community access has been agreed for up to 24 years between the Hall Society and School.
- 38. There is some risk that other members of the community may not agree to the demolition of the Hall. There were submissions made in the 2016 decision regarding the importance of the Hall. However, recent discussions have indicated that the main concerns from the community relate to the retention of the land for future open space. No adverse feedback was received during the recent tender of the Hall for removal.
- 39. Retention of the Hall will require ongoing maintenance costs that are unbudgeted.

Promotion or Achievement of Community Outcomes

- 40. The community outcomes of People and Place are most relevant as the outcomes are related to provision of open space.

Statutory Responsibilities

- 41. The Council has a statutory obligation to provide for the well-being of its community under the Local Government Act. Parks and reserves contribute to community well-being.

Consistency with Policies and Plans

- 42. This option provides for flexibility to consider the extent of land area required by the community for open space outcomes and an ability to remove costs linked to a property asset that is no longer required by the community.
- 43. These outcomes are consistent with the Open Space Sport and Recreation Strategy of ensuring community access to open space while addressing potential over-supply issues. The removal of the Hall will allow (once developed) the open space to front the road which is considered desirable in terms of objectives identified in the Open Space Sport and Recreation Strategy.
- 44. Development of the site is budgeted in the 2026/27 financial year. Full development of the land is only possible if the Hall is removed from the site.

Participation by Māori

- 45. Tangata Whenua, Puketapu Hapū and Pukerangiora Hapū were consulted as part of the original 2016 decision. At that stage there were no specific concerns regarding the sale/removal of the building. There are no known associations with the building.
- 46. Before any future planning for the site is undertaken, discussions will be undertaken with Te Kotahitanga o Te Ātiawa and the relevant hapū to determine how iwi and hapū would like to be involved in planning for the open space.

Community Views and Preferences

- 47. The Lepperton Residents' Association, the Lepperton Hall Society and Lepperton School have indicated that they support the removal of the hall from the site.
 - 48. As indicated in the risk analysis section there were original submissions made in the 2016 decision regarding the importance of the Hall. However, the Lepperton Residents' Association maintains that the main concerns from the community relate to the retention of the land for future open space.
-

49. The future planning process for the open space will ensure that community views or future preferences will be considered.

Advantages and Disadvantages

50. The advantages and disadvantages of this option are outlined below:

Advantages	Disadvantages
<ul style="list-style-type: none"> • The Council will not need to maintain the hall. • The Lepperton Residents' Association supports the removal of the hall building. • The removal of the hall will allow for future planning for the Open Space to occur and to feed into future planning processes. • Funds for development of site are committed in Long-Term Plan. 	<ul style="list-style-type: none"> • The cost to demolish the hall is unbudgeted. • There will be a cost to demolish the hall and clear the site. • There were original submissions to the council decision in 2016 that did not support the hall removal. • Funding (budgeted in 2026/27) is required for future planning and for development of the open space

Option 2

Maintain the status quo and consider the demolition of the Lepperton Hall in the 2022/23 Annual Plan or the next Long-Term Plan

Financial and Resourcing Implications

51. There will be ongoing operational maintenance costs associated with the building until it can be demolished.
52. Annual costs (estimated \$3,000) associated with the building include insurance plus reactive maintenance as and when required, although the Hall will remain unused as the community now uses the Lepperton School Hall.
53. Costs associated with maintaining the public toilet (estimated \$1,500 p.a.) will continue.
54. Funds have already been committed for the development of the land into community space.

Risk Analysis

55. The main risk of retaining the Hall relates to the ongoing cost to the community of continuing to maintain the Hall. There is not sufficient demand to justify two halls operating in the community.
56. There may be future reputational and operational risk for Council regarding the long-term management of the hall if the hall becomes rundown or vandalised.

57. There is reputational risk if the hall is not removed by 2026/27 given the funding committed for the development of the site.

Promotion or Achievement of Community Outcomes

58. This option relates to People and Place. This option continues to provide a potential community facility level of service to the community but does this to the potential detriment of support for a newly established community hall at the school.

Statutory Responsibilities

59. The Council has a statutory obligation to provide for the well-being of its community.

Consistency with Policies and Plans

60. This option retains an asset that is no longer required by the community.

Participation by Māori

61. Refer to Option 1.

Community Views and Preferences

62. Refer to Option 1.
63. This option would maintain an asset that the community indicate they no longer require and that creates a block between the open space area to the rear and the road frontage, thus cutting off the space for future connectivity as a village open space area. The scenario does not respond effectively to the changing needs of the community.

Advantages and Disadvantages

64. The advantages and disadvantages of this option are outlined below:

Advantages	Disadvantages
<ul style="list-style-type: none"> There were original submissions to the council decision in 2016 that did not support the hall removal. 	<ul style="list-style-type: none"> Council will need to maintain the hall, this cost is not budgeted and the hall is not likely to be used. The Lepperton Residents' Association supports the removal of the hall building to allow for future planning.

Recommended Option

This report recommends **Option 1:** Approve the demolition of the Lepperton Hall building funded from current operational budgets to a maximum of \$80,000 plus GST for addressing the matter.

APPENDICES

Appendix 1 Background to Lepperton School Hall and Council Decisions
(ECM 8626398)

Report Details

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Ward/Community:	Waitara
Date:	27 August 2021
File Reference:	ECM8608514

-----*End of Report*-----

Appendix 1 Background to Lepperton School Hall and Council decisions

Lepperton School Hall Proposal

1. Lepperton School was granted significant funding from the Ministry of Education for a major redevelopment of its facilities prior to 2015, including funding allocation for a new hall. It was identified by the school at the time that the funding provision from the Ministry was not sufficient to meet the full requirements of the school.
2. Lepperton School approached the Council in 2015 with a proposal to obtain additional funding to contribute to a new Lepperton School Hall. This involved selling the existing Lepperton Hall and land and using the proceeds of this sale to improve the proposed Lepperton School Hall so it would also function as a community hall with a piece of land at the front functioning as community open space.
3. Report to Council - Proposal for disposal of Lepperton Community Hall and Reserve Land, dated 17 September 2015 ECM 6601280. Resolution dated 2 November 2015 ECM 6812724.
4. Following the process required for sale of reserve land under the Reserves Act (1974) community consultation was undertaken.
5. Submissions received from consultation were considered by the Council in April 2016 and the Council made a decision to dispose of both the hall and the land parcel it sits on (2023m²) and to put the proceeds (up to \$270,000) of the sale into the development of the school hall that would provide for community use.
6. Report to Council - Lepperton Hall - Assessment of public notice, dated 17 February 2016 ECM 6819092. Resolution dated 12 April 2016 ECM 7098747.

Council decisions after contribution to the School hall is no longer required

7. The new school hall opened in 2019. After lengthy discussions between the Lepperton School and the Community Hall Society around the future maintenance of the hall the Ministry of Education agreed to fully fund the school hall. As such, the proceeds from the sale of the Lepperton Hall were no longer required to fund 1/3 of the new school hall.
8. Report to Council - Lepperton Hall update, dated 7 July 2020 ECM 8319546. Supplementary Report - Lepperton Hall update, dated 13 October 2020 ECM 8392586.
9. The Council in December 2020 made the decision to revoke the April 2016 decision to dispose of both the hall and the land parcel and instructed "Council explore the sale or removal of the Community hall building". Resolution dated 15 December 2020 ECM 8443579.

ECM8626398

CLOSING KARAKIA

Unuhia, unuhia,	Draw on, draw on
Unuhia i te uru tapu-nui	Draw on the supreme sacredness
Kia wātea, kia māmā te ngākau, te tinana	To clear, to free the heart, the body
Te Wairua i te ara takatū	and the spirit of mankind
Koia rā Rongo whakairihia ake ki runga	Rongo suspended high above us (in heaven)
Kia wātea, kia wātea	To be cleared of obstruction
Ae rā kua wātea	It is cleared
Hau Paimarire	

This karakia is recited to close a hui or event. It takes us from a place of focus and releases us to be clear of all the issues or tensions that may have arisen during the hui. We are now free to get on with other things.