

# Bylaw

## BROTHEL LOCATION

<b>TITLE:</b>	Ashburton District Council Brothel Location Bylaw 2016
<b>GROUP:</b>	Strategy & Compliance
<b>RESPONSIBILITY:</b>	Environmental Monitoring Manager
<b>DATE ADOPTED:</b>	30 June 2021
<b>COMMENCEMENT:</b>	30 June 2021
<b>NEXT REVIEW DUE:</b>	30 June 2026

### 1. Title

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

### 2. Purpose

The purpose of this bylaw is to:

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

### 3. Related documents

- Ashburton District Council Explanatory Bylaw 2016
- Health Act 1956
- Health & Safety at Work Act 2015
- Local Government Act 2002
- Prostitution Reform Act 2003
- Resource Management Act 1991.

### 4. Definitions

In this bylaw, unless the context otherwise requires:

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

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

**Brothel** means any premises kept or habitually used for the purposes of prostitution; but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere. For the purposes of this bylaw, this definition does not include Small Owner Operated Brothels, which are defined below.

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

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

**Council** means Ashburton District Council.

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

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

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

**Prostitution** means the provision of commercial sexual services.

**School/licensed early childhood centre** means a parcel or adjoining parcels of land that contains:

- (a) any school as defined in section 2 of the Education Act 1989; or
- (b) a licensed Early Childhood Centre as defined in section 308 of the Education Act 1989.

**Sensitive site** means a site that is either:

- (a) a School / Licensed Early Childhood Centre or,
- (b) a Place of Worship or,
- (c) a Marae.

**Sex worker** means a person who provides commercial sexual services.

**Small Owner-Operated Brothel (SOOB)** defined in section 4(1) of the Prostitution Reform Act 2003.

## 5. Application

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

## **6. Location of brothels**

- 6.1 Brothels are permitted to locate and provide commercial sexual services from premises located within the Brothel Permitted Area subject to compliance with the whole of the bylaw and the Ashburton District Plan.
- 6.2 No brothel shall be located within 100 metres (in a straight line) of any sensitive site as defined by this bylaw.
- 6.3 Where a sensitive site establishes within 100 metres of an existing and lawfully established brothel, the brothel will be exempt from this restriction, provided that this exemption shall not apply where the operation of the brothel is discontinued for a continuous period of more than 6 months.
- 6.4 For the purposes of clauses 6.2 and 6.3, the separation distance is measured from the legal boundary of the land occupied by the brothel and the land occupied by the Sensitive Site (nearest point to nearest point).
- 6.5 For clarity, clauses 6.1, 6.2, 6.3 and 6.4 do not apply to Small Owner-Operated Brothels.

## **7. Signage of commercial sexual services**

- 7.1 Signage for commercial sexual services is covered under the 'Ashburton District Council Advertising Signs, Placards, and Footpath Advertising Controls Bylaw'.

## **8. Breach of bylaw**

- 8.1 Where a person acts in breach of this bylaw, the Council may apply to the District Court for an injunction as set out in section 162 of the Local Government Act 2002; and
- 8.2 Any person who acts in breach of this bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.

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

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