

Background to the Process of Reform

The Bill was passed at its third reading on 25 June 2003 and became law on 26 June 2003.

The Prostitution Law Reform Bill was a Private Members Bill. It was first introduced to the house in 1999 and was referred to the Justice and Electoral Select Committee.

This Bill had its first reading in the Justice and Electoral Committee on 29 November 2002. The Committee requested the Ministry for the Environment prepare a paper outlining the implications of the Bill on the management of prostitution by local authorities under the Resource Management Act.

The resultant paper signaled:

“District Plan rules under the RMA are well suited to address the tangible adverse effects of prostitution such as the number, location and size of advertising and signage, parking, noise, traffic movements and lighting. Such rules clearly address an environment effect and can be administered with certainty.. However the social impact concerns raised by prostitution will be more difficult to manage directly under the RMA. These include offensive signage perceived loss of safety through street touting, increase in crime, association with drugs and physical evidence of sex activities in public places.”

The paper also identified that local government has additional ways to manage these potential adverse effects, the most effective being through by-laws under the Local Government Act.

Local Government New Zealand made a submission, in 2001, to the Justice and Electoral Select Committee regarding the Prostitution Reform Bill outlining a number of issues potentially arising with regards to local government management of this activity under the RMA. The concerns related to:

- how the Bill will be practically implemented;
- which agencies will be involved in monitoring and compliance;
- who will further instigate discussion with the public and develop the public policy dimension of this proposal
- How to sustain a high quality social, cultural environment and a safe environment, particularly for the vulnerable in our communities.

In the explanatory notes to the second version of the Bill, there was an expectation that existing legislation such as the RMA and the Health and Safety in Employment Act, would deal with *“the application of controls and regulations that govern the operation of other businesses.”*

Local Government New Zealand recently collaborated with the New Zealand Planning Institute and the Resource Management Law Association to host a debate on the matter of whether the RMA is the best mechanism to manage the social effects arising from decisions about the location of brothels. Similarities were drawn between this activity and issues that have arisen in relation to penal institutions, half way homes etc. The intention of the debate was to stimulate thinking and encourage others to work towards the development of an effective management response.

While the Bill was under consideration by the Justice and Electoral Select Committee, five Supplementary Order Papers (SOP) were introduced in relation to this Bill. Three of these succeeded and were incorporated into the Bill as introduced to the Committee of the House for its third reading on the 25th June. As such, the Prostitution Reform Bill underwent a number of significant changes during the parliamentary process.

The most significant SOP, prepared by the office of the Hon Phil Goff, was introduced on the 29th April. That SOP proposed amendments that do not provide a role for territorial authorities in registering or licensing brothels. The task of licensing operators would be for the courts.

However, it did provide for specific bylaws to be made by councils to control the location of brothels, in addition to any nuisance and offensive behaviour. The Bill also includes a clarification provision, indicating an ability to manage both the location and effects of prostitution related activities under the RMA. The Bill did not provide any transitional provisions to allow councils time to prepare these management frameworks, assuming that the six months before licences will be granted to operators, is sufficient time to introduce bylaws to regulate the location of brothels.

These proposals were controversial as they raised issues associated with the interpretation and adequacy of implementation of the Resource Management Act, and also about the scope of the bylaw-making powers of councils.

They were also controversial in that there was no consensus as to the need for such provisions in this legislation, given the powers and responsibilities already available to councils within the principal Acts to which the provisions relate, i.e. the Local Government Act 2002 and the Resource Management Act 1991.

As the Bill does provide for both LGA (by-laws) and RMA (resource consent) mechanisms to be used, a diversity of potential management responses is likely to emerge from the local government sector. This is particularly likely given an absence of guidance for the design of management framework to address potential issues.