

3. PROSTITUTION REFORM BILL - SUPPLEMENTARY ORDER PAPER

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The purpose of this report is to update Regulatory and Consents Committee members regarding the Prostitution Reform Bill and to recommend that the Council write to Hon Phil Goff again concerning his Supplementary Order Paper (SOP).

BACKGROUND

Committee members will recall the Committee met to consider the SOP and to authorise a letter being sent to Hon Phil Goff with comments about the SOP.

The Bill came back into the House on Wednesday, 19 March 2003 and Hon Phil Goff tabled his SOP at that time. A copy of the SOP is attached.

COMMENTS

The SOP incorporates a number of the changes suggested by the Council in its letter, although retaining the concept of a small owner-operated brothel being four or more persons.

The SOP no longer provides for a registration system administered by the Council and now provides for an annual operator certificate obtained from the District Court.

There are two changes in the tabled SOP which in my view could be the subject of further comment by the Council.

Firstly, the SOP provides a power for a territorial authority to make bylaws prohibiting the establishment of brothels in specified areas within its district upon being satisfied as to certain grounds.

The SOP provides that such bylaws will have a life of two years and will then automatically expire and the expectation is that territorial authorities will amend their district plans within that two-year period if they wish to do so.

The potential difficulty with this approach is the concern raised by the Council in its first submissions on the Bill as to the ability of the Resource Management Act to address the types of concerns that the public may well raise regarding the establishment of brothels in the city, and also the two-year timeframe may not be sufficient time to have a variation completed and in force. Should a variation not be completed within that two-year timeframe, then any brothels that are established between the expiry of the bylaw and the commencement of the variation will have existing use rights and not have to comply with the terms of the variation.

The second issue is a technical one related to this bylaw-making power insofar as the SOP intends to give a territorial authority a six-month period in which to make such bylaws before the Bill comes into force. However, it is necessary for the bylaw-making powers themselves to come into force on the day after the Bill receives the Royal Assent so that a local authority can immediately begin considering the bylaw-making process. As currently drafted, there is a real risk that there would be legal challenge to any bylaws made in that six-month period.

Staff

Recommendation: That the Council write to Hon Phil Goff addressing the concerns raised in this report and recommending that:

- (a) The bylaw-making power not expire after a period of two years but be a permanent bylaw-making power; and
- (b) The Bill come into force immediately in respect of the power to make bylaws, and the remainder of the Bill will come into force six months after receiving the Royal Assent.

**Chairperson's
Recommendation:**

1. That the above recommendations be adopted.
2. That a letter be written to Local Government New Zealand expressing the Council's concerns with the Supplementary Order Paper and asking that it distribute the Council's comments to all other member Councils.
3. That a letter be written to all Members of Parliament outlining the Council's concerns with the Supplementary Order Paper as it is currently drafted.