17. BROTHELS LOCATION AND SIGNAGE ADVERTISING COMMERCIAL SEXUAL SERVICES BYLAW

General Manager responsible:	General Manager Strategy and Planning, DDI 941- 8281
Officer responsible:	Programme Manager Strong Communities
Author:	Mel Renganathan

PURPOSE OF REPORT

1. This paper presents a proposed option for the development of a bylaw under the Prostitution Reform Act 2003 (PRA) to regulate the location of brothels and control signage advertising commercial sexual services that is in, or is visible from, a public place. Council direction is sought through this report before a proposed bylaw, a statement of proposal, and a summary of information are drafted.

EXECUTIVE SUMMARY

2. The Christchurch City Brothels (Location and Signage) Bylaw 2004 (the 2004 Bylaw) expired on 6 July 2011. Since that time signage advertising commercial sexual services has only been subject to the same rules for signage as other activities regulated by the City Plan and Proposed Banks Peninsula District Plan (the District Plan) in the same way as other businesses, as have the location of brothels since July 2005.

3. The Council determined at its 22 September 2011 meeting that there was sufficient evidence of a perceived problem relating to the location of brothels and to signage advertising commercial sexual services to warrant the development of a bylaw and requested that staff develop options for a bylaw to address these issues. This report reflects the position adopted by Council in September 2011 on the need to regulate the location of brothels and signage advertising sexual services in the city.

4. As part of the bylaw development process the Council has previously considered whether there were other options to address these problems[1] including the use of enforcement powers in the Resource Management Act 1991 and the Advertising Standards Authority. More recently staff have looked at whether specific provisions could be included in the District Plan (Christchurch City and Banks Peninsula sections).

5. Staff have received advice from Simpson Grierson, a summary of which is attached as **Attachment 1**, on the Council's ability to include specific provisions in its district plan on the location of brothels and to control signage advertising commercial sexual services. Simpson Grierson concluded that evidence of actual or potential (rather than perceived) adverse effects on the environment or risk to the environment is necessary for the Council to consider changes to the district plan. The extent to which the actual or potential effects on people and communities including social conditions, can be considered is also limited and would need to be more than offensiveness caused due to people's attitudes.

6. Staff consider that a bylaw is the preferred means of regulating the location of brothels and signage advertising commercial sexual services on the basis that the issues that can be considered are broader than those effects that can be addressed in a district plan and the PRA provides the Council with specific powers to regulate these activities through a bylaw. In addition the process of preparing a bylaw is comparatively shorter, at less cost than a plan change, and could provide greater certainty for businesses and the community on the appropriate locations for brothels.

[1] Under section 155 of the LGA, the Council must first determine whether a bylaw is the most appropriate way of addressing the perceived problem.

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7. The proposed bylaw would regulate the location of brothels by requiring that all brothels, other than small owner-operated brothels (SOOBs), be located in areas contained within specific business zones identified in the District Plan and the Draft Central City Plan, and be prohibited from all remaining zones. It would allow brothels in the proposed Central City Core, Central City Fringe and some of the Mixed Use Zones in the Draft Central City Plan (see **Attachment 3**), certain areas in the Commercial Business Zone in the City Plan (see **Attachment 4**), and the Lyttelton Town Centre Zone of the Proposed Banks Peninsula District Plan (see **Attachment 5**). No regulation is proposed for the location of SOOBs. Staff also recommend that known existing brothels should be exempt from the bylaw location requirements.

8. The proposed bylaw would regulate signs advertising commercial sexual services in the zones where operator-run brothels are permitted to locate through controls on the number, placement and content of signs. Signage advertising commercial sexual services would be prohibited in the rest of the city.

9. If Council agrees with these proposals, staff will prepare the recommended bylaw for adoption for public consultation at the Council meeting in May 2012. The Special Consultative Procedure is then expected to run from mid June to mid July with hearings anticipated in mid to late July. Staff expect to take the bylaw for adoption at the Council meeting in August, and for the proposed bylaw to be implemented by September of this year.

FINANCIAL IMPLICATIONS

10. Consultation on any new bylaw must be undertaken by way of the Special Consultative Procedure. The associated costs include printing and distribution of the Statement of Proposal and Summary of Information, the placement of public notices, and staff costs in supporting a hearings panel. These costs are budgeted for in the City and Community Long-term Planning Activity in the LTCCP.

11. The costs of enforcing the bylaw are difficult to determine. Legal advice obtained during the review of the 2004 Bylaw indicated possible difficulties in obtaining evidence for offences, as it would be necessary to prove that commercial sexual services are being provided from the premises in question. This could add to the cost of enforcement. However, as there were no signage-related offences under the 2004 Bylaw in the seven years of its operation, it is unlikely that the need to enforce controls on signage will be common. Moreover, enforcement officers already respond to complaints about the location and operation of brothels as part of their role in enforcing the requirements of the District Plan. These costs are budgeted for in the Enforcement and Inspections Activity of the LTCCP. However, investigations of complaints may require the use of resources outside of Council's core business hours - by virtue of the nature of brothel operations. The need for such resources will be monitored and any increase in costs will be brought to the attention of the Council.

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

12. As noted above, the costs of consultation are provided for within the Community and City Long-Term Planning Activity and the costs of enforcement will be met from the Enforcement and Inspections Activity.

LEGAL CONSIDERATIONS

Resource Management Act 1991 (RMA)

13. The Council has previously considered, as part of the review of the 2004 Bylaw, its powers under the Resource Management Act 1991 in relation to signage advertising commercial sexual services. The RMA provides the Council with the ability to apply for an enforcement order or serve an abatement notice to require a person to cease or prohibit them from commencing, or require the person to do something, that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be offensive or objectionable to such an extent that it has or is likely to have an adverse effect on the environment.

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14. More recently the Council has considered using district plan provisions under the RMA. This is discussed further in paragraphs 56 to 58. Provisions can be included in the District Plan for regulating the location of brothels and signage advertising commercial sexual services, only if there are actual or potential effects on the environment such as visual aspects, traffic, parking and noise. While the environment includes people and communities including their social conditions, adverse social effects as a result of people's attitudes can not be considered as an environmental effect. Furthermore, there would need to be evidence of adverse effects or a risk to the environment to consider changes to district plan.

15. If there were effects arising, there would need to be evidence to distinguish such effects from other commercial activities in order to have specific rules controlling the location of brothels. In the absence of demonstrable effects from brothels, creating specific rules to control them in the district plan cannot be considered as a valid means under the RMA to control the location of brothels.

The Prostitution Reform Act 2003 (PRA) and the Local Government Act 2002 (LGA)

16. The PRA provides for territorial authorities to make bylaws relating to the location of brothels and signage that advertises commercial sexual services. The provisions of the LGA must be applied when making such a bylaw. For the purposes of this report, "brothel" refers to SOOBs[2] **and** operator-run brothels[3].

Location of brothels[4]

17. Section 14 of the PRA states that without limiting section 145 of the LGA a territorial authority can make a bylaw for the purpose of regulating the location of brothels under section 146 of the LGA. No further guidance on this bylaw-making power is provided in the Act but section 15 of the PRA is also relevant. Section 15 requires that:

> *"(1) 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 ..."*

18. In making a bylaw, the Council needs to be satisfied that the matters in section 155 of the LGA have been complied with. Under section 155 of the LGA, the Council must first determine whether a bylaw is the most appropriate way of addressing the perceived problem. If so, then it must determine whether the proposed bylaw is in the most appropriate form and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). Section 155(3) states that no bylaw can be made that is inconsistent with the NZBORA.

Signage advertising commercial sexual services[5]

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[2] Section 4(1) of the Prostitution Reform Act 2003 defines a small owner operated brothel as "a brothel—
(a) at which not more than 4 sex workers work; and
(b) where each of those sex workers retains control over his or her individual earnings from prostitution carried out at the brothel."

[3] Where the operator holds an operator certificate (under section 34 (1) of the PRA) issued by the Registrar of the District Court in Auckland

[4] Section 4(1) of the Prostitution Reform Act 2003 defines a brothel as "any premises kept or habitually used for the purposes of prostitution." Prostitution is defined as "the provision of commercial sexual services; but does not include premises at which accommodation is normally provided on a commercial basis if the prostitution occurs under an arrangement initiated elsewhere."

[5] Section 4(1) of the Prostitution Reform Act 2003 defines commercial sexual services as;
" … means 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)"

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19. Section 12 of the PRA states that a territorial authority can make bylaws that prohibit or regulate signage that is in, or is visible from, a public place, and that advertises commercial sexual services. The prohibition or regulation of such signs can be in any terms, and the terms can include the imposition of restrictions on the content, form or amount of signage on display. However, a bylaw can only be made:

> "…
> *(2) if the territorial authority is 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…."***

20. In making this bylaw, the Council therefore needs to be satisfied the bylaw is necessary for at least one of these reasons, in addition to being satisfied that the matters in section 155 of the LGA have been compiled with. As with a bylaw relating to the location of brothels, Council must determine whether a bylaw is the most appropriate way of addressing the perceived problem, whether the proposed bylaw is in the most appropriate form and whether it gives rise to any implications under the NZBORA. However, section 13(2) of the PRA provides that a bylaw relating to commercial sexual services signage may be made even if it is inconsistent with the NZBORA.

The Council's determinations under the PRA and LGA

Location of brothels

21. In 2009 during earlier stages of reviewing the 2004 Bylaw, the Council did not consider that there was a problem that needed to be addressed with respect to the location of brothels. However, the effects of the February 2011 earthquake including closure of the central city has caused concerns regarding the potential relocation of brothels to other areas that would not be subject to any regulation. Most operator-run brothels were located in the central city and are now badly damaged and/or inaccessible. These businesses may wish to relocate to other parts of the city and they may not need a resource consent, subject to compliance with standards including noise, hours of operation and parking.

22. The Council may only make a bylaw *to regulate* the location of brothels. It may require that brothels be confined to certain areas of the district, where there is good reason for this, but it does not have the power to prohibit the establishment of brothels in every area of the district. Previous consultation has indicated strong community opposition to brothels being located in residential areas. The areas in which brothels would be permitted under the recommended option for a proposed bylaw does not include residential areas. However, an exception should be made for SOOBS, which already operate across the city without any obvious problems and minimal complaints, and for existing brothel premises outside the proposed permitted zones. Options are further discussed in paragraphs 59-94.

23. The recommendation's proposed areas in which brothels will be allowed to locate are; within a selected area of the Commercial Business Zone in the City Plan, the Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan, and the proposed Central City Core, Central City Fringe and two areas in the Mixed Use Zones of the Draft Central City Plan. It is considered that, with these exceptions for SOOBs and existing brothels these controls are reasonable and that a proposed bylaw of this nature would be the most appropriate form.

24. The location provisions of the proposed bylaw are consistent with the NZBORA.

Signage advertising commercial sexual services

25. The Council has previously determined that a bylaw is the most appropriate way to address the perceived problem of signage advertising commercial sexual services, and that such a bylaw is necessary in terms of section 12(2) of the PRA. These determinations were made during the 2004 Bylaw review and following the Council's consultation process in 2009 on the revocation of the 2004 Bylaw. These matters were re-considered by the Council in September 2011 and the Council again determined that a bylaw is the most appropriate way to address the problem.

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26. The Council can only regulate signs that advertise commercial sexual services and that cause nuisance or serious offence, or are incompatible with the existing character or use of an area. If a particular sign does not meet either of these requirements then it is beyond the Council's powers to regulate that sign under the PRA. It would also be beyond the Council's powers to prohibit every sign that advertises commercial sexual services, as not every sign will be one that causes nuisance or serious offence or is incompatible with the use of an area. Parliament could have used the word "district" in section 12 if it intended to allow Councils to prohibit signs across the whole of their districts.

27. The form of the proposed bylaw would not prohibit all signs in the district. This is discussed in greater detail in paragraphs 95 to 99. It has a similar scope to the 2004 Bylaw in that it prohibits signs in most of the district but allows signs, with restrictions on content and form, in the zones where operator-run brothels are allowed. This is on the basis that signage in these areas, with appropriate controls placed on it, as to size, nature, number and image is not incompatible with the use of these areas. Signage advertising commercial sexual services would not be allowed in all other areas in the district.

28. The Council must also determine that the proposed bylaw is in the most appropriate form. It should still make a determination about whether the bylaw gives rise to any NZBORA implications but it can propose to make the bylaw even if it is considered to be inconsistent with that Act.

29. The proposed bylaw and the manner in which it prohibits signage completely in most of the district may give rise to implications under the NZBORA. It has implications for the right to freedom of expression in section 14 of the NZBORA ("everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form"). Even if there was considered to be an inconsistency with section 14, as noted above, any inconsistency with the NZBORA does not prevent the bylaw from being made. Note that a prohibition on signs does not prevent a business advertising commercial sexual services because section 11(1)(b) of the PRA allows for classified advertisements in newspapers.

Scope of proposed bylaw

30. It is clear that a bylaw made under section 14 of the PRA/section 146 of the LGA can reasonably state that brothels (including SOOBs) may not be located in some parts of the district. If the Council makes such a bylaw then any existing brothels operating outside the defined area where brothels are allowed would become unlawful if they were still operating on the day the bylaw comes into force. There is no provision for "existing use rights" in relation to a bylaw, in the same way as there is in the Resource Management Act 1991. This is further discussed in paragraphs 93 to 94.

31. However, the Council should consider making an exception for SOOBs as these currently operate across the city generally without any problems. Making SOOBs subject to the same requirements as other brothels could drive them underground, be contrary to the intention of the PRA, and open up the Council to further judicial review proceedings. Moreover, determining the location of such premises would be almost impossible as they do not require operating licences, nor can entry be obtained without Court warrant on very restricted grounds by the Police.

32. The Council may also wish to make an exception for existing brothels, that do not comply with any new bylaw controls on location, as there may also be a risk of judicial review proceedings from those businesses, unless the Council can provide clear reasons for not providing an exception. In making the 2004 Bylaw, the Council was advised that although it would not have to pay compensation to any business, the Council should nonetheless have good reasons for justifying its proposed boundaries and not extending them or making an exception for any brothels outside the area, given the relatively severe impact on any business concerned. However, consideration should be given to whether the Council should provide a limited period of time for these existing brothels to relocate, after which the bylaw would apply and they would need to cease to operate.

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Have you considered the legal implications of the issue under consideration?

33. As above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

34. The proposed bylaw is broadly aligned to the City and Community Long-term Planning Activity through the provision of advice on key issues that affect the social, cultural, environmental and economic wellbeing of the city. It is also consistent with the Enforcement and Inspections Activity, which aims to protect people from hazards and nuisances and ensure compliance with the City Plan and other regulations.

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

35. As above.

ALIGNMENT WITH STRATEGIES

36. There are no strategies that relate specifically to this issue.

Do the recommendations align with the Council's strategies?

37. See above.

CONSULTATION FULFILMENT

38. The proposed bylaw is subject to formal consultation with the community by way of the Special Consultative Procedure (as required by section 83 of the LGA). Staff have drawn on previous consultation and advice from key stakeholders, and engagement comments on the Draft Central City Plan, in preparing the recommended option for the proposed bylaw and this report.

39. Public consultation was undertaken on the proposed revocation of the 2004 Bylaw in late 2009. The Council received 345 submissions, the majority of which considered there should be a bylaw prohibiting or regulating signage advertising commercial sexual services. It was also suggested that the lack of any problem with signs could be attributed to the existence of the 2004 Bylaw. While not the subject of the consultation, many submitters also commented that the location of brothels should be regulated.

40. The New Zealand Police advised that they are unaware of any problems associated with the location of brothels, or indeed any nuisances from such sources. Community and Public Health representatives, who operate as Brothel Inspectors under the PRA, advised that they do not consider there are issues with either the location of brothels or signage.

41. Some brothel operators advised they are unlikely to install further signage as they wish to keep signage discrete. They are also able to advertise in the classified advertisement sections of newspapers. The local branch of the Prostitutes Collective advised that they were not aware of any problems with signage, but considered there may be a need to provide controls over offensive signage. These controls could be through a bylaw or other means, such as the Resource Management Act 1991 for example. The local branch of the Prostitutes Collective has also advised that, following the February 22 earthquake, many sex workers are now working in SOOBs and that, in their view, many sex workers are unlikely to return to working in operator-run brothels. The Prostitutes Collective is unaware of any operator-run brothels seeking to relocate out of the central city. One brothel owner who is still operating has advised staff that most businesses would prefer to reopen in the central city when it is open.

42. Formal comment received from the public on the Draft Central City Plan undertaken in August-September 2011 elicited a number of comments about the location of brothels. While not specifically asked to comment on this issue, many people took the opportunity to express their concern about brothels lowering the tone of the central city – some expressed a preference for no brothels; others suggested they be concentrated in a small area.

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STAFF RECOMMENDATION

Staff recommend that the Council resolve that:

1. Staff develop a proposed Bylaw, Statement of Proposal and Summary of Information, that:

(a) Requires all brothels, other than small owner-operated brothels, to be located within specific areas based on particular zones identified in the City Plan and Proposed Banks Peninsula District Plan and Draft Central City Plan, namely the;

(i) Specific areas within the Commercial Business Zones of the City Plan (attachment 4);

(ii) The Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan (attachment 5);

(iii) Central City Core, Central City Fringe and two areas within the Mixed Use Zones to the south west and south east of the central city area in the Draft Central City Plan (attachment 3);

(b) Prohibits signage advertising commercial sexual services in all zones except those listed in (a) above;

(c) Regulates signage advertising commercial sexual services within the zones listed in (a) above by requiring that only one sign be displayed and that signs:

- be attached to the premises at which the commercial sexual services are provided;
- clearly display the number of the premises to which the sign relates;
- not be offensive;
- not display any pictorial image;
- not exceed 0.3 square metres in surface area; and
- not be illuminated by any flashing light.

(d) Provides an exemption from the location provision for known existing brothels, that are not small owner-operated brothels, by listing them in a schedule.

2. It notes that the proposed signage provisions may give rise to implications under section 14 of the New Zealand Bill of Rights Act 1990, but that the Bylaw can still be made, pursuant to section 13 of the Prostitution Reform Act 2003;

BACKGROUND (THE ISSUES)

43. The Christchurch City Brothels (Location and Signage) Bylaw 2004 (the 2004 Bylaw) was adopted by the Council on 7 July 2004. The Bylaw originally restricted the location of brothels, and signage advertising commercial sexual services, to specified areas within the central city, and placed controls on signage. However, the location provisions were quashed by the High Court in 2005 because they failed to make provision for SOOBs which, by their nature, operate across the city. Only the signage provisions remained. The Bylaw expired on 6 July 2012.

Review of the 2004 Bylaw

44. The LGA requires that the 2004 Bylaw be reviewed five years after it came into force. A review was commenced in 2008 and has been the subject of several reports to the Council. The Bylaw was considered most recently at the 22 September 2011 Council meeting. The Council agreed that there was sufficient evidence of a perceived problem relating to the location of brothels and signage advertising commercial sexual services to warrant the development of a bylaw and requested staff develop options for a bylaw to address these issues. In December 2011, staff presented options for a bylaw at a Council workshop, where creating specific provisions within the City and District Plan was identified as an option to be investigated.

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Problem definition

Location of brothels

45. Since 2005, when the location provisions of the 2004 Bylaw were quashed, the Council has controlled the location of brothels within Christchurch City via the City Plan. The City Plan treats brothels like any other commercial service. The following rules generally apply:

- In living zones there is limited scope for a brothel to be established as a permitted activity (that is, without resource consent) unless it is a small-scale home-based business with limited hours of operation.[6]

- In business zones the rules are more permissive, but the brothel would need to meet standard requirements relating to bulk and location, car parking and traffic generation.

46. Brothels have never been subject to bylaw regulation in Banks Peninsula. Under the Proposed Banks Peninsula District Plan, brothels are treated as a permitted activity within the Town Centre Zones and are a discretionary activity in the Industrial Zones, subject to standard conditions relating to building size, height, parking and access provisions.

47. When considering a resource consent application for a business of prostitution, the Council is required, under section 15 of the PRA, to consider whether the business is likely to cause a nuisance or serious offence to ordinary members of the public using the area, or is incompatible with the existing character or use of the area.

48. A small number of complaints are received by the Council each year and generally relate to SOOBs. For example, there were ten complaints in 2009/10 and eleven complaints in 2010/11. So far there have been four complaints in 2011/2012. Complaints tend to arise when a neighbour notices comings and goings from an address and expresses concern about the existence of a brothel. Complaints are investigated and are resolved either by confirming that the requirements of the District Plan are being met or by writing to the operator pointing out how the requirements of the District Plan are being breached. In the latter situation, operators will generally comply or move on. Continued non-compliance has meant the issue of infringement and abatement notices in the past. Sometimes the property owner becomes aware of the activity and the operator is moved on, regardless of whether or not the business complies with the District Plan.

49. A brothel operating on Papanui Road was brought to the attention of staff late last year. Staff have met with the brothel operator and confirmed that it is an operator-run brothel, not a SOOB (as it is not owner-operated) and that the brothel complies with the City Plan rules for a home business with regards to the floor area used for the business, number of people working at the business who reside off-site, parking requirements and traffic generation. Under City Plan rules, the business is considered to have the same environmental effects (or less) as a residential activity and is therefore a permitted activity.

The effect of the earthquakes on the location of brothels

50. The location of brothels may become more of an issue, however, in the aftermath of the February 2011 earthquake. As shown in the following map, most known brothels were located within the central city in 2010. Many were badly damaged in the February earthquake, and only one of these brothels, and two new brothels (other than SOOBs), are known to be operating.[7] It is possible that some of the affected businesses will wish to temporarily or permanently relocate out of the central city. The Council has received one application for a brothel previously located on Lichfield Street to relocate under provisions of the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011. The location of SOOBs is unknown and it is likely that most continue to operate across the city.

[6] At least one worker must live on-site, only one person may be employed who lives elsewhere, the floor area is restricted to 40m^2 and the business must be closed by 11pm. There are also limits on visitor numbers and at least four parking spaces must be provided on-site.

[7] This includes an existing business at 464 Worcester Street, and new businesses at 484 Tuam Street and 134 Papanui Street.

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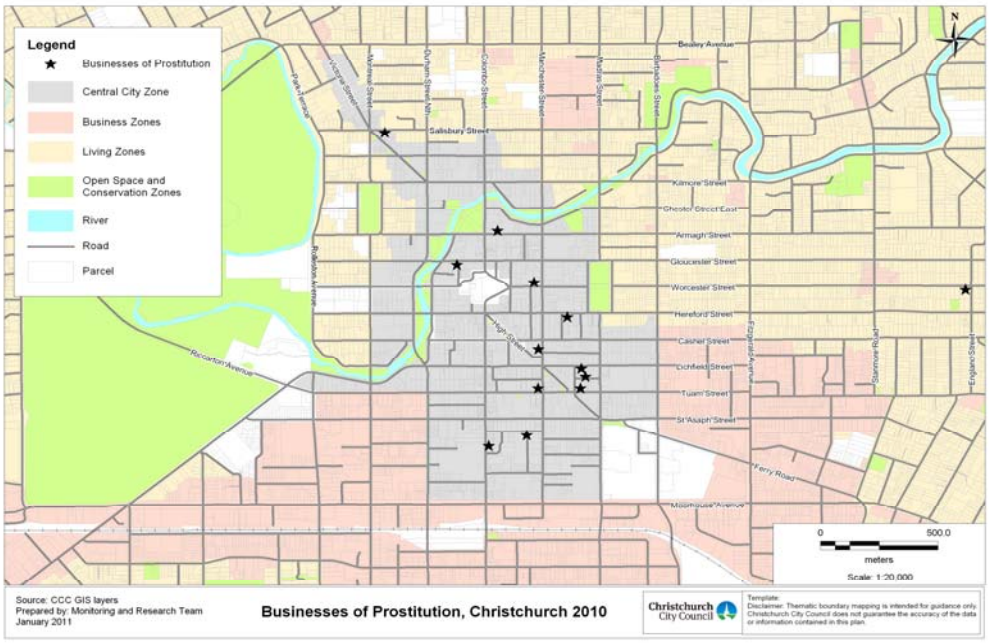
Figure One: Map of known Brothels 2010



Signage advertising commercial sexual services

51. The 2004 Bylaw, now expired, restricted signage advertising commercial sexual services to the specified areas within the central city and included the following controls:

- Only one sign was allowed (or two if the business had multiple street frontages).
- The sign had to be attached to the premises.
- Only the name of the business, the name of the person conducting the business and the street number could be included on the sign.
- No pictorial images or flashing lights were allowed.
- The sign could be no greater than 0.3m^2 in surface area.

52. There is limited evidence of problems with signage advertising commercial sexual services since the 2004 Bylaw came into effect. The Inspections and Enforcement Unit have dealt with only one complaint about offensive signage since 2004, which was promptly addressed. Discussions with the local branch of the Prostitutes Collective and some brothel owners indicated a preference among this business community for keeping signage discreet. However, it is possible that the current lack of any significant problems with signs advertising commercial sexual services is also due to the existence, until recently, of bylaw controls.

53. When the Council consulted on the revocation of the 2004 Bylaw, the Council received many submissions expressing concern that a lack of bylaw controls on signage advertising commercial sexual services would result in signage that is offensive to ordinary members of the public. Many submitters were concerned about children and young people being exposed to such signage and did not consider that other tools (such as the Resource Management Act or the Advertising Standards Authority) would be effective in addressing these concerns. This indicates that while there have been few problems with signage to date, there may nonetheless be a *perceived* problem to be addressed. That was the view of the Council when it considered the hearing panel report in December 2009.

54. Many of the known operator-run brothels were located within the central city and most were badly damaged during the earthquake of 22 February 2011. It is possible that some of these businesses may wish to relocate, with signage, to other areas of the city. At the time of this report, there has only been one application to relocate under the Canterbury Earthquake (Resource Management Act Permitted Activities) Order 2011. There have also been two new businesses that have opened.

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THE OBJECTIVE

55. The desired objective is to ensure that both the location of brothels and signage advertising commercial sexual services:

(a) are compatible with the character and use of areas within the district; and
(b) do not cause a nuisance or serious offence to ordinary members of the public.

THE OPTIONS

Location of brothels and signage advertising commercial sexual services

Non-bylaw options

56. Under section 155 of the LGA, the Council is required to identify non-bylaw options to address the issue. The Council previously considered and dismissed other options such as continuing to rely on the District Plan to regulate the location of brothels in the same way as other businesses. Since then, further consideration has been given to creating specific district plan provisions to control the location of brothels and signage advertising commercial sexual services.

57. Simpson Grierson has advised that the Council can legally include provisions in the District Plan for regulating the location of brothels and signage advertising commercial sexual services, **but** only if there are actual or potential effects on the environment such as visual aspects, traffic, parking and noise. While the environment includes people and communities including their social conditions, adverse social effects as a result of people's attitudes could not be considered. Furthermore, there would need to be evidence of adverse effects or a risk to the environment to consider changes to district plan. A summary of Simpson Grierson's advice is included in **Attachment 1**.

58. While Council staff are aware of concerns raised by the community, there has not been evidence to demonstrate that there are actual or potential adverse effects on the environment that can be regulated through the district plan. If there were effects arising, there would need to be evidence to distinguish such effects from other commercial activities in order to have specific rules controlling the location of brothels. In the absence of demonstrable effects from brothels, creating specific rules in the district plan cannot be considered as a valid means to control the location of brothels.

Bylaw options for the location of brothels

59. Developing a bylaw (as provided for under section 14 of the PRA) to regulate the location of brothels would provide more specific controls on where brothels may and may not be established, bearing in mind the character and use of areas and the likelihood of causing a nuisance or serious offence. The Council had not seen the need for such a bylaw in earlier stages of the review. However, the significant damage of existing businesses from the central city, and the likelihood that at least some of these businesses will seek to relocate, suggests that there may now be value in directing these establishments (other than SOOBs) to certain areas of the city rather than allowing them to disperse.

60. Three broad high level options were considered to regulate the location of brothels. These are described and discussed in the paragraphs below.

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1. Restricting brothels to certain parts of the city

61. This option would mean that brothels would be restricted to certain parts of the city. They would be allowed to operate in certain areas and not allowed in others, and there would be several ways to restrict brothels to certain areas. The zones within the District Plan could be applied to demarcate the location of brothels. For example, brothels may be prohibited in all residential zones and permitted in all or some business zones. Under this option, specific areas could also be created specifically for the purpose of demarcating where brothels are prohibited and where they are permitted. These areas would not necessarily entirely correspond with existing zones in the district plan.

62. This option would allow the Council greater control over where brothels locate by clearly stating the areas where brothels would be restricted to. Using existing district plan zones has advantages in that; there is an existing rationale for them (in the district plan), they are well established and understood by the public and their broad characteristics are described in the district plan. Creating specific areas to restrict brothels to would require the Council to identify specific areas where brothels would be allowed. Although there could be greater flexibility in where these areas could be located, the Council will need to ensure that there is a clear rationale behind how and why it chooses these specific areas over others. This option opens up the possibility of many debates about the specific boundaries of the specially created areas.

63. Under the option of restricting brothels to certain parts of the city, using the district plan zones would best meet the Council's objectives, through providing clear direction as to areas where brothels are allowed and where they are not. There is also an existing rationale for the zones, which are well established and understood by the public and the district plan zones' broad characteristics are described in the district plan.

2. Requiring brothels to be located a certain distance from sensitive sites

64. This option, as used by several councils[8], would require the Council to clearly identify "sensitive sites", identify how large a 'brothels exclusion' area would be necessary around them (e.g. 100 metres, 200 metres) and clarify exactly how the distance would be measured (for example, 100m radius from the front door, or the centre of the premise or the centre of the land parcel).

65. The Council would need to ensure that there is a clear rationale behind how and why it chooses these specific sensitive sites over others as well as the size of the "brothels exclusion" distance and how the distance would be measured. Some of the facilities that could be identified as sensitive sites, such as community centres, places of worship and schools also have the potential to change location and therefore create uncertainty about where brothels can and cannot locate. Along with new 'sensitive' sites developing, this would mean a need to constantly keep the bylaw under review. Lastly, those going to sensitive sites may still need to pass by brothels in any event.

3. Requiring brothels to be located above the ground floor

66. This option would mean that brothels would not be permitted to operate from the ground floor and instead must operate from the first floor or higher. The rationale would be to reduce the risk of brothels causing a nuisance or offense to ordinary members of the public. However, it is difficult to support as a valid option for Christchurch City, as there have been no complaints with regards to brothels operating from ground floor premises. This option may also have implications under the NZBORA as this restriction may discriminate against disabled workers and/or their clients, and may increase costs for businesses if they have to renovate or move to ensure all workers and clients are able to access the premise.

67. The three options discussed above are not mutually exclusive and the Council can choose to combine elements of any of them as an option for a bylaw, whilst ensuring that bylaws should aim to provide certainty to the community about what is and is not permitted. Any bylaw to regulate the location of brothels should therefore provide a clear indication of where brothels may and may not be located.

[8] For example the Far North District Council, Rodney District Council, and the Upper Hutt City Council.

17 Cont'd

68. Of the three high level options discussed in the above paragraphs, the first option would best achieve the Council's objectives as the zones within the District Plan provide a general guide to the sorts of areas (zones) in which commercial sexual services may be an appropriate activity. These zones are also subject to existing Plan Rules that control activities that are associated with the activities allowed in each zone. Using district plan zones to demarcate the areas in which the location of brothels are regulated provides a clear rationale linked to the existing planning zones, the rules associated with them and consistency with the activities allowed in theses areas. Under this option there are several zoning options that are discussed below.

69. If the Council agrees that district plan zones should be used to demarcate the areas in which the location of brothels are regulated, the Council will need to determine in which zones brothels are permitted to locate and in which they are prohibited.

70. The zones within the District Plan and the Draft Central City Plan, are based on the type of activity that is permitted within the Plan. Attachments 2, 4, and 5 show the location of the various zones in relation to each other for areas outside the central city. Attachment 3 shows the location of the proposed zones in relation to each other within the central city. While staff are unaware of any brothels on Banks Peninsula, it is considered reasonable to provide some opportunity for brothels as a legitimate business activity on the Peninsula[9].

Zoning options within the central city

71. In the previous options discussed staff have used existing district plan zones. The following options differ from the options discussed above in that the Draft Central City Plan and its proposed zones have not been approved by the Canterbury Earthquake Recovery Minister. The proposed zones and/or the activities proposed to be allowed in those zones may change with feedback from the Minister later this year. If this is the case it may be necessary for the Council to reconsider the areas within the Central City in which to permit the location of brothels based on either revised zones in the Central City Plan or alternatively based on existing zones in the District Plan. However the intention to limit this activity to the predominantly commercial areas of the Central City would be maintained.

72. The zoning proposed for the central city is similar to zones in other parts of the District, in that there are zones identified for businesses, living, cultural and entertainment activities. There are also zones set aside for conservation purposes and the hospital. The zones are discussed in detail in the paragraphs below.

Living, Cultural and Business 1 Zones

73. The proposed Living Zone in the Draft Central City Plan incorporates all the existing City Plan Zones (4A, 4B, and 4C) and are meant to provide for residential areas and activities within the central city area. The Cultural Zone provides for a diverse range of sites with multiple functions, including those of a cultural, educational, heritage or artistic character. The new proposed Business 1 Zone provides for local community centres encompassing small scale retail and offices servicing the surrounding residential areas. There are three Business 1 Zones proposed in the north east of the central city area. **Attachment 6** shows the Living and Cultural Zones in relation to the Business Zones.

74. As discussed in paragraph 82, given previous community feedback, it is considered appropriate to keep brothels out of residential areas. However, staff recommend that an exception be made for SOOBs.

*Central City Core and Central City Fringe Zones (refer to **Attachment 3**)*

[9] There has never been any specific regulation of brothel location (or signage) in the Banks Peninsula towns.

17 Cont'd

75. The Central City Core and Central City Fringe Zones have been set aside for mainly retail and commercial activities, although compatible residential activities could also be located in these zones. Prior to the earthquakes these areas in the central city area comprised of retailing, offices and commercial services. The Draft Central City Plan proposes that these areas remain in primarily the same commercial use, although it is proposed that retail will be consolidated in the core of the central city area and there will be a greater mix of office and retail businesses in the Central City Fringe area surrounding it. These zones are also proposed to have some residential activities.

76. Staff recommend that brothels be allowed to locate in the proposed Central City Core and Central City Fringe Zones of the Draft Central City Plan (see the hatch area in **Attachment 3**). Pre-earthquakes, most operator run brothels were located in this area, which is also proposed to have similar activities and services to those present before the earthquakes. Discussions with an existing brothel owner (operating from his original premise) indicate that most operator-run brothels would prefer a central city location.

77. A variation to the Central City Core Zone proposal that Council may like to consider is that places of cultural or environmental sensitivity (e.g. Cathedral Square, the Avon River, and Latimer Square), and the emphasis given to the Retail Priority Area (including Cashel Street Mall) of the Draft Central City Plan, be excluded as areas for brothels (see **Attachment 7**). In effect, this may mean that it would be more practical for Council to exclude the entire Central City Core Zone as an area for brothels.

*Mixed Use Zone (refer to **Attachment 3**)*

78. The proposed Mixed Use Zone includes the B3, B3B and Central City Edge Zones in the existing City Plan. The Draft Central City Plan proposes to consolidate the transitional characteristics of the existing zones into the proposed zone which will have an extensive mix of residential and business activities. There are two large Mixed Use Zone areas, one in the south west and one in the south east of the central city area. There are several smaller Mixed Use Zones to the north of the central city area.

79. The two southern Mixed Use areas are located adjacent to the Central City Fringe Zone and much closer to the Central City Core Zone, whereas the smaller Mixed Use areas in the north of the central city are all located within residential areas. Staff therefore, recommend that brothels be allowed to locate in the two larger areas of the Mixes Use Zones south of the central city area (see the hatch area in **Attachment 3**) as brothels would not be incompatible with the activities proposed for these areas and the areas adjacent to them. Staff recommend that brothels **not** be allowed in the smaller Mixed Use Zone areas north of the central city.

Zoning options for areas outside the central city

*Living and Cultural Zones (refer to **Attachment** 2)*

80. In the City Plan, Living Zones provide for areas that cover the suburban residential environments of the city. Open space and landscape plantings comprise essential features of these environments. Cultural Zones include a diverse range of sites with multiple functions, including those of a cultural, educational, heritage or artistic character. In the Proposed Banks Peninsula District Plan, Residential Zones include several categories providing for a range of urban and rural residential activities in small settlements such as Wainui and in larger settlements such as Lyttelton.

81. Previous consultation in 2004 has indicated strong community opposition to brothels being located in residential areas. The 2009 consultation on the revocation of signage controls also highlighted opposition from some parts of the community to brothels being located in the suburbs near churches, schools and child care centres. Given previous community feedback, it is considered appropriate to keep brothels out of residential areas. However, as discussed in paragraph 94, staff recommend that an exception be made for SOOBs.

*Retail Business Zone (refer to **Attachment** 2)*

17 Cont'd

82. The Retail Business Zone encompasses City Plan Business Zones B1 and B2 and includes small scale shopping "strips" along road frontages in local centres, shopping malls and supermarkets adjacent to residential areas. This zone has higher restrictions placed on noise levels, on-site parking requirements and hours of operations which are consistent with residential activities.

83. The Retail Business Zone is situated adjacent to residential zones. The activities and services located in this zone are meant to provide for the communities living in the residential zones close by. Staff therefore recommend that brothels are not allowed in this zone.

*Commercial Business Zone (refer to **Attachment 2, Attachment 4** and **Attachment 5**)*

84. The Commercial Business Zone encompasses City Plan Business Zones B3, B3B, BRP and B4 and includes the inner city industrial areas consisting of retail parks (large format retail centres) and the industrial buffer areas consisting of activities such as service and repairs businesses. Residential occupation in this zone is limited to on-site management or for security purposes, and higher levels of traffic generation is permitted. There are several areas of Commercial Business Zones located throughout the city. Several are sites with a single large business such as supermarkets. Many of these are surrounded by residential areas and some are adjacent to large industrial areas.

85. The Town Centre Zone in the Proposed Banks Peninsula District Plan falls under this category providing for a range of light service businesses including retailing, offices and community facilities. This zone includes established commercial centres such as Lyttelton and Akaroa, which are relatively well defined, as well as a number of smaller centres such as Governor's Bay and Diamond Harbour which are located within residential zones.

86. With regards to the City Plan, staff recommend that brothels are **not** allowed in the smaller areas within the Commercial Business Zone. The small size and location of these areas (some of which are adjacent to isolated industrial areas and some within residential areas) make them unsuitable for brothels to locate in. Staff recommend that brothels are allowed to locate within the larger commercial areas closer to the central city, within the Commercial Business Zone in the City Plan (refer to the hatched areas in **Attachment 4).**

87. With regards to suitable zones on Banks Peninsula, staff recommend that brothels are **only** allowed to locate in the Lyttelton Town Centre Zone (see the hatched area in **Attachment 5).** Staff do not consider Akaroa to be suitable as it is a much smaller town centre in comparison with Lyttelton. The Akaroa Town Centre also has a residential zone within it that is meant to provide for Akaroa's historic colonial heritage. Other than Akaroa, the remaining town centres are small and relatively isolated in that they are located within rural settlements to provide services to their immediate communities.

*Industrial Business Zone (refer to **Attachment 2**)*

88. The Industrial Business Zone encompasses City Plan Business Zones B4P, B4T, B5, B6 and B7, and includes heavier industrial businesses and large areas around the peripheral of the city, some in the more rural areas such as along Johns Road. Activities consist of light and heavy industry such as warehousing, processing plants, with high traffic generation including heavy traffic. Sites are characterised by large buildings and storage areas. Some have large landscaped areas around them to allow for stormwater treatment before discharge.

89. In the Proposed Banks Peninsula District Plan, the Industrial Zone falls under this category providing for a range of industrial activities including for marine engineering services. There are two industrial zones in the located in Lyttelton and Church Bay. The Lyttelton Industrial Zone is adjacent to the Town Centre and much larger than the Church Bay Industrial Zone which is located within a residential area.

17 Cont'd

90. Staff do not recommend that brothels are allowed to locate in the Industrial Business Zones These areas tend to be located in the more peripheral areas of the city, potentially raising issues of safety for sex workers and concerns about the security of other businesses that only operate during day-time hours. The site in Lyttelton is not considered suitable for same reasons, whereas the Church Bay site is located within a rural settlement and within a residential area.

Community views

91. Previous consultations on this issue have indicated strong community opposition to brothels being located in residential areas. When the 2004 Bylaw was being developed, the Council received around 1,500 submissions: 61 percent of submitters considered that brothels should only be allowed in the central business district or within the four avenues; another 17 percent considered they could be in other commercial or industrial zones. (At this time, the Council district did not include Banks Peninsula and so consideration was not given to towns such as Lyttelton.) Some submitters suggested that the Council should define a "red light" area within the central city to enable people to avoid it; others considered this would draw attention to the industry and might suggest that the Council was promoting it. The 2009 consultation on the revocation of signage controls also highlighted opposition from some parts of the community to brothels being located in the suburbs near churches, schools and child care centres. Formal comment sought from the public on the Draft Central City Plan undertaken in August-September 2011 elicited a number of comments about the location of brothels, with some people expressing a preference for no brothels and others suggesting they be concentrated in a small area.

92. In summary, staff have considered the areas in which brothels should be allowed to establish, with reference to the District Plan and the Draft Central City Plan and bearing in mind the nature of the activity. Staff have also taken into consideration the views of the community obtained through previous consultation. In general terms, it is recommended that:

- Other than SOOBs, brothels **not** be allowed within residential areas, or in small retail strips and shopping centres where the surrounding environment is predominantly residential.
- Brothels should be allowed within:
    - a selected area of the Commercial Business Zone in the City Plan;
    - the Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan;
    - the Central City Core and Central City Fringe Zones of the Draft Central City Plan and;
    - two areas in the Mixed Use Zones of the Draft Central City Plan.

Exceptions for SOOBs and existing premises

93. Staff recommend that an exception be made for small owner-operated brothels as these businesses are already operating across the city without any obvious problems. Making small owner-operated brothels subject to the same location requirements as other brothels could drive them underground, contrary to the intention of the PRA, and create the risk of further judicial review.

94. With regards to existing premises outside the zones allowed by the proposed bylaw, the Council can choose to provide a timeframe (for example five years) for those businesses to relocate, after which they would be in breach of the bylaw. However staff consider this to be a high risk option. Existing premises were originally exempt from the 2004 Bylaw. There have been no complaints about pre-earthquake operator-run brothels. Specifically, there have been no complaints about the remaining pre-earthquake brothel still operating at its original premise at 464 Worcester St. Staff consider that there is little reason to require existing premises to meet the proposed location requirements of the bylaw and that it is reasonable to make an exception for existing businesses of prostitution that are currently located out of the proposed areas. Existing brothels should be allowed to continue operating, regardless of location.[10] However, consideration should be given to whether the Council should provide a limited period of time for these existing brothels to relocate, after which the bylaw would apply and they would need to cease to operate

[10] As noted earlier, there are only two brothels known to be operating: one at 464 Worcester Street and the other at 484 Tuam Street.

17 Cont'd

Signage advertising commercial sexual services

95. The Council determined at its 22 September 2011 meeting that a bylaw is the most appropriate way to address the perceived problem of signage advertising commercial sexual services and to prevent the public display of signage that is likely to cause a nuisance or serious offence to ordinary members of the public, or is incompatible with the existing character or use of certain areas in the Council's district.

96. The earthquakes have created complexity in identifying areas in which signage advertising commercial sexual services would not be out of character. The Draft Central City Plan and rebuild will change the original nature of the district. Staff recommend that the areas in which signage be permitted align with the proposed areas for the location of brothels, as set out in Attachments 3, 4 and 5 and discussed above. This includes a selected area of the Commercial Business Zone in the City Plan, the Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan and the proposed Central City Core, Central City Fringe and two areas in the Mixed Use Zones of the Draft Central City Plan. As there is no evidence that SOOBs have ever sought to provide signage in suburban areas, a prohibition in the rest of the district is considered reasonable.

97. In order to reduce the risk of signage causing offence to ordinary members of the public, it is proposed that any bylaw regulate signage by requiring that only one sign be displayed and that signs:

- be attached to the premises at which the commercial sexual services are provided;
- clearly display the number of the premises to which the sign relates;
- not be offensive;
- not display any pictorial image;
- not exceed 0.3 square metres in surface area; and
- not be illuminated by any flashing light.

98. The proposed controls are very similar to those in the 2004 Bylaw. The 2004 Bylaw also required that any signs be attached to the premises they are advertising and provided for no pictorial images on signs, a maximum sign size and no illumination of signs. Continuing these controls would ensure that any sign a business uses will be relatively small and discreet. Applying similar controls to the proposed bylaw would also mean that any new bylaw should be easily applied and understood.

99. There are two proposed differences from the 2004 Bylaw. First, the 2004 Bylaw enabled the display of two signs where a building had multiple street frontages. It is considered that a single sign should be sufficient. Second, the 2004 Bylaw only enabled the sign to include the name of the business, the name of the person conducting the business and the street number. Legal advice suggests that this requirement may be too restrictive in that it effectively prohibits the advertising of commercial sexual services. It is proposed that this requirement be replaced with a new requirement that the sign not be offensive.

PREFERRED OPTIONS

100. It is proposed that the bylaw require that all brothels, other than existing known brothels and SOOBs, be located within the Central City Core, Central City Fringe and two areas in the Mixed Use Zones of the Draft Central City Plan (see **Attachment 3)**, a selected area of the Commercial Business Zone in the City Plan (see **Attachment 4)**, and the Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan (see **Attachment 5**).

17 Cont'd

101. The preferred option for addressing the perceived problem with signage advertising commercial sexual services is to develop a bylaw that prohibits signage outside the areas mapped in Attachments 3, 4 and 5 **and** regulates signage within these areas by requiring that only one sign be displayed, and that signs:

- be attached to the premises at which the commercial sexual services are provided;
- clearly display the number of the premises to which the sign relates;
- not be offensive;
- not display any pictorial image;
- not exceed 0.3 square metres in surface area; and
- not be illuminated by any flashing light.

ASSESSMENT OF OPTIONS

The Preferred Option

102. Brothels would be allowed in a selected area of the Commercial Business Zone in the City Plan, the Lyttelton Town Centre Zone in the Proposed Banks Peninsula District Plan and the proposed Central City Core, Central City Fringe and two areas in the Mixed Use Zones of the Draft Central City Plan, with exceptions to SOOBs and existing brothels. Signage advertising commercial sexual services would be prohibited outside these areas and regulated within these areas.

	Benefits (current and future)	**Costs (current and future)**
Social	Reduces the risk of brothels being a nuisance or causing serious offence to the public. Reduces the risk of signs advertising commercial sexual services being a nuisance or causing serious offence to the public. Clear and unambiguous information for the public on where brothels (other than SOOBs) are permitted to locate.	Some may consider that allowing the location of SOOBs in residential areas carries social costs.
Cultural	Nil	Nil
Environmental	Brothels allowed to locate in areas which have broadly compatible District Plan zones.	Nil
Economic	Existing brothels outside the defined areas are not required to close or relocate.	Restricts brothel businesses from operating outside these zones which may affect their business profitability. Restricts brothels ability to advertise commercial sexual services using signage which may affect their business profitability.

17 Cont'd

Extent to which community outcomes are achieved:
Providing clear areas where brothels are allowed to locate and advertise commercial sexual services will help ensure the location of brothels is compatible with the character and use of areas within the district and does not cause offence to ordinary members of the public, contributing to a safer and better designed city.

Impact on the Council's capacity and responsibilities:
There will likely be little change to the Council's administrative responsibilities. Clear guidance around the location of brothels may provide a benefit to the Council's Enforcement Officers who respond to complaints about the location and operation of brothels. Excluding existing, known brothels and SOOBs avoids the likely issues and potential legal consequences of trying to close them down. Council can still use generic rules in the District Plan as a basis for enforcement as well as bylaw regulations.

Effects on Maori:
None that are significantly different from the rest of the community.

Consistency with existing Council policies:
Not applicable

Views and preferences of persons affected or likely to have an interest:
The New Zealand Police advised that they are unaware of any problems associated with the location of brothels, or indeed any nuisances from such sources. Community and Public Health representatives, who operate as Brothel Inspectors under the PRA, advised that they do not consider there are issues with either the location of brothels or signage.

Some brothel operators advised they are unlikely to install further signage as they wish to keep signage discrete. The local branch of the Prostitutes Collective advised that, following the February 22 earthquake, many sex workers are now working in SOOBs and that, in their view, many sex workers are unlikely to return to working in operator-run brothels. One brothel owner who is still operating has informed that most businesses would prefer to reopen in the central city when it is open.

Previous consultations on this issue have indicated strong community opposition to brothels being located in residential areas. Formal comment sought from the public on the Draft Central City Plan undertaken in August-September 2011 elicited a number of comments about the location of brothels. Many people expressed their concern about brothels lowering the tone of the central city, with some expressing a preference for no brothels and others suggesting they be concentrated in a small area.

Other relevant matters:
None

Maintain the Status Quo (if not the preferred option)

103. The location of brothels and signage advertising commercial sexual would continue to be subject to the same district plan rules that apply to all businesses.

	Benefits (current and future)	**Costs (current and future)**
Social	Nil	There may be a risk of brothels being a nuisance or causing serious offence to the public in non-residential areas. There may be a risk of signs advertising commercial sexual services being a nuisance or causing serious offence to the public.
Cultural	Nil	Nil
Environmental	Nil	Nil
Economic	Nil	Nil

17 Cont'd

Extent to which community outcomes are achieved:
Ability of brothels to be located anywhere, including residential areas, other than SOOBs, are permitted to locate may increase perceptions of some parts of the city being particularly unsafe, which does not support the community outcome of being a safer city.

Impact on the Council's capacity and responsibilities:
There would be no change to the Council's administrative responsibilities. The Council's Enforcement Officers who respond to complaints about the location and operation of brothels will continue to base decisions on the district plan. However, there is the possibility of more complaints if brothels choose to relocate out of the central city and/or residential areas.

Effects on Maori:
None that are significantly different from the rest of the community.

Consistency with existing Council policies
Not applicable

Views and preferences of persons affected or likely to have an interest:
The New Zealand Police advised that they are unaware of any problems associated with the location of brothels, or indeed any nuisances from such sources. Community and Public Health representatives, who operate as Brothel Inspectors under the PRA, advised that they do not consider there are issues with either the location of brothels or signage.

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Other relevant matters:
None

Regulating the location of brothels and signage in the City Plan
Summary of legal advice

In the context of the advice being focussed on the District Plan as a method for regulating the location of brothels and associated signage, key points to consider are as follows:

- The Council can legally include provisions in its City Plan on the location of brothels and control of signage associated with brothels, *only* if the actual or potential effects of the use of that land as a brothel, or signage associated with a brothel, constitute valid effects on the environment under the RMA.

- Therefore the Council would need to identify actual or potential effects on the environment (such as traffic, parking and noise), rather than perceived effects including an adverse social effect that may only be the result of people's attitudes, or social stigma related to, the location of brothels and associated signage.

- While section 15(1) and (2) Prostitution Reform Act 2002 considerations suggest that nuisance, offence and character/incompatibility matters *could* be relevant under the RMA, they still require an objective view to be taken of such effects and, in any event, they are not mandatory considerations for plan changes. There is considerable doubt as to whether impacts on the views or preferences of some parts of society as to what is socially or morally appropriate are matters that should be regulated under the RMA.

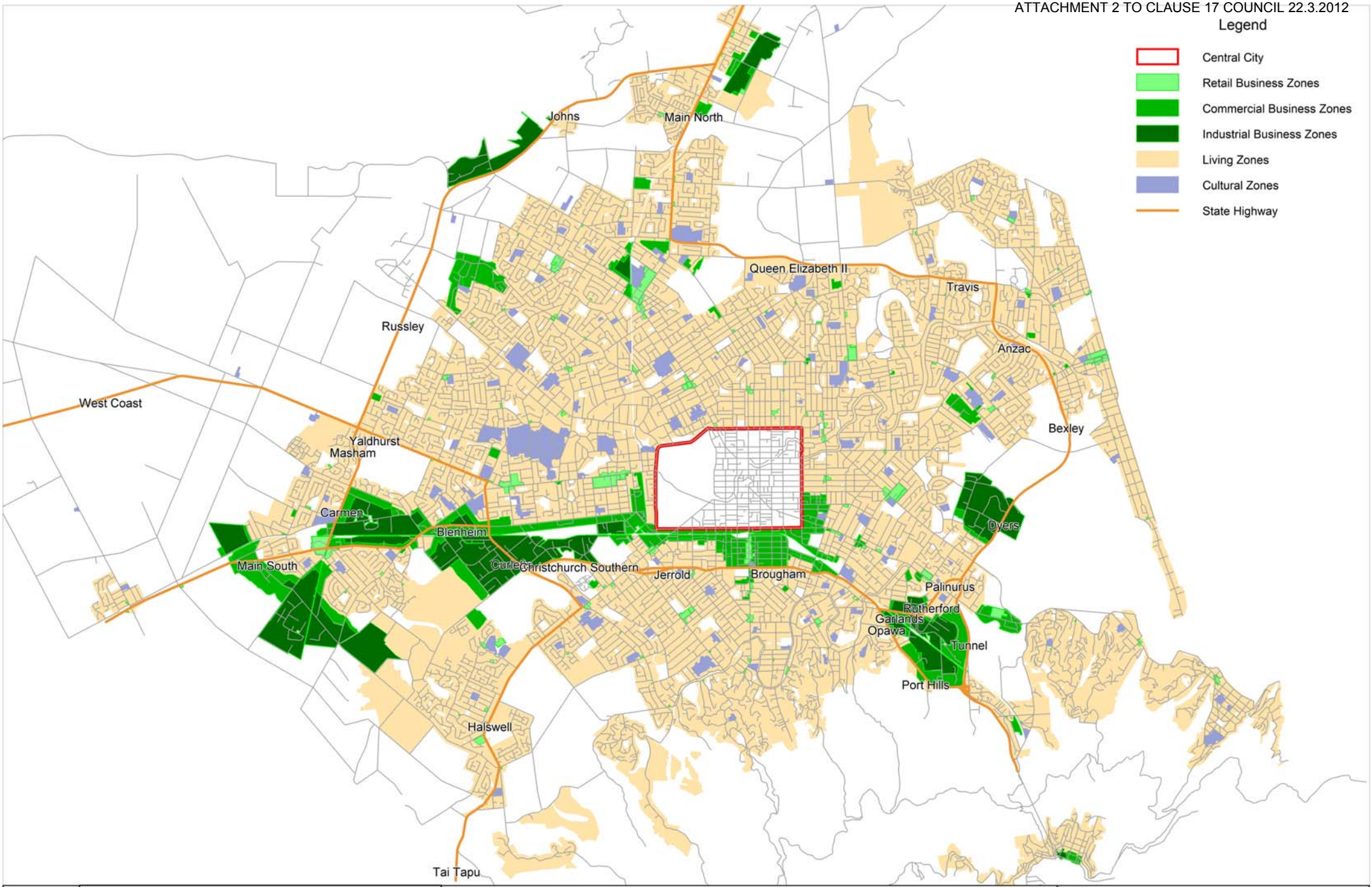
- Through section 32 of the RMA, the Council would have to evaluate the benefits and costs of policies, rules or other methods, and examine the extent to which the objectives of the plan change were the most appropriate way to achieve the purpose of the RMA. A certain level of evidence is therefore required to justify section 32. If there is "*insufficient or uncertain information*" about the subject matter of the plan change, the Council must identify the risks of acting or not acting.

- Given there is limited information available at this point as to the extent and relevant RMA effects of brothels relocating into sensitive areas (and hence the benefits and costs of regulating such activity), at a preliminary level, a plan change addressing this issue may struggle to cross the evidential threshold. Mere suspicion or innuendo about the issue would not be sufficient.

- The Council would therefore then have to sufficiently identify the risk of acting, or not acting. Again, at this point in time, it is uncertain whether the Council would be in a position to sufficiently identify such a risk, irrespective of whether the effects which are of concern can be validly addressed through RMA regulation.

- Finally, a section 32 report would also have to examine whether the plan change was the most appropriate way to achieve the purpose of the RMA, compared to a bylaw under the Local Government Act 2002. Over and above issues identified earlier, factors relevant to this assessment would include enforcement issues and section 86B of the RMA, which provides that a rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified (subject to the ability of the Court to order a different date when the plan change takes legal effect). Therefore brothel owners/operators could get around any new plan provisions by lodging consent applications under the existing plan provisions, before a decision is made on submissions.

Attachment 2

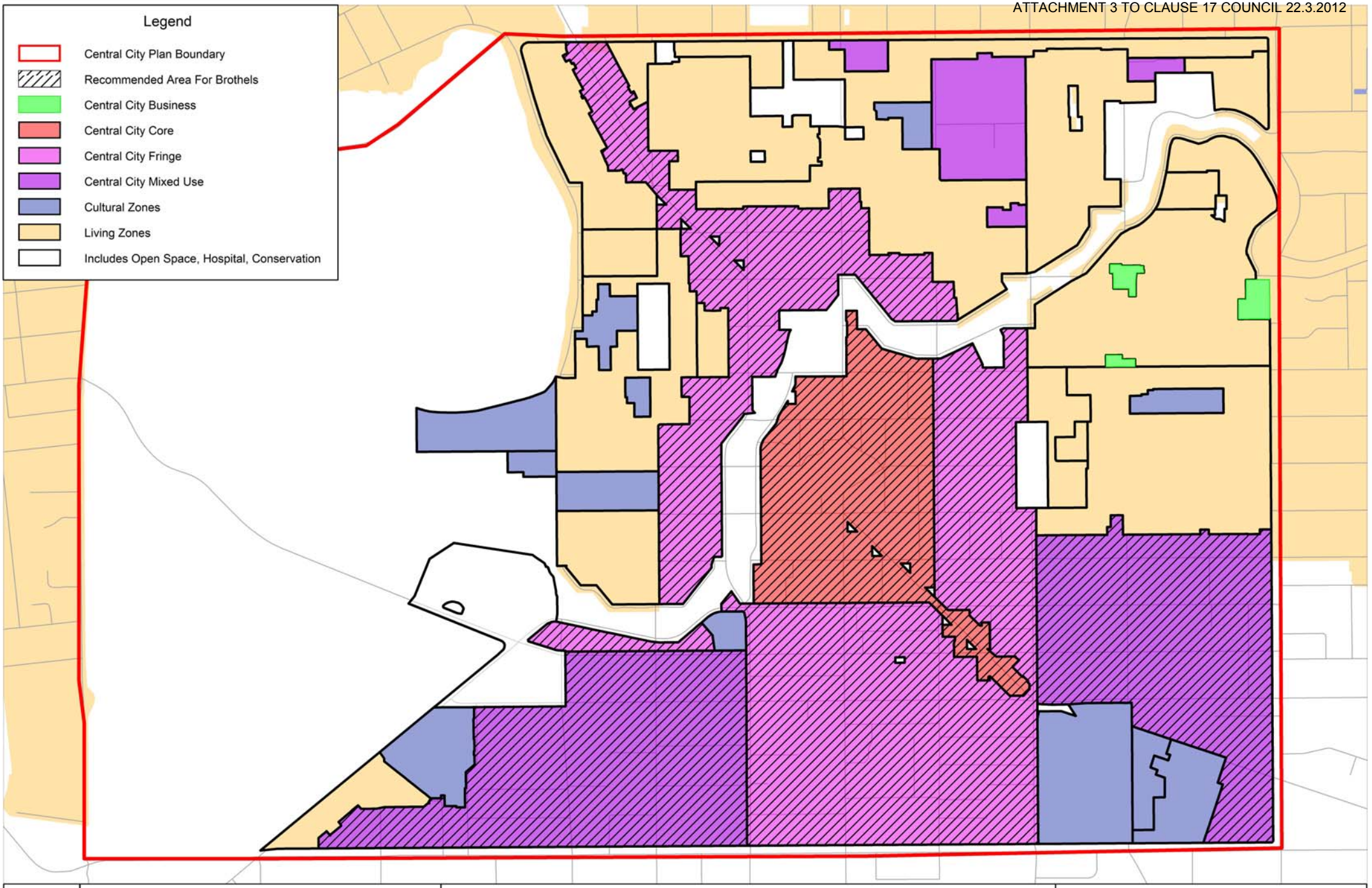


Christchurch City Council

Disclaimer:
Thematic boundary mapping is intended for visual guidance only. Christchurch City Council does not guarantee the accuracy of the data or information contained in this plan.

Possible Areas where brothels are permitted: Business Zones [Outside Central City]

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:72,500
Last Updated: March 2012



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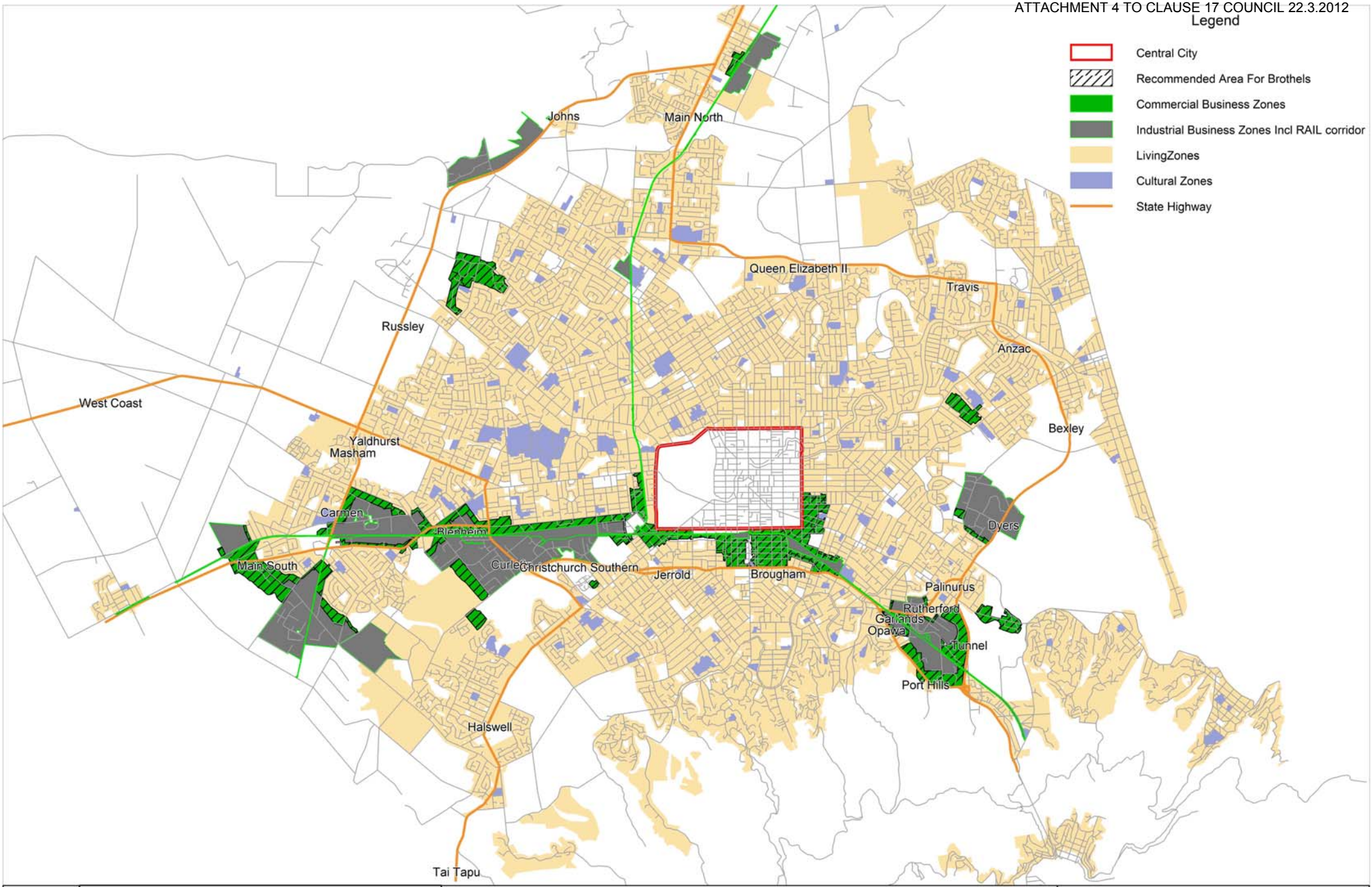
Possible areas where brothels are permitted:Central City

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:8,800
Last Updated: March 2012



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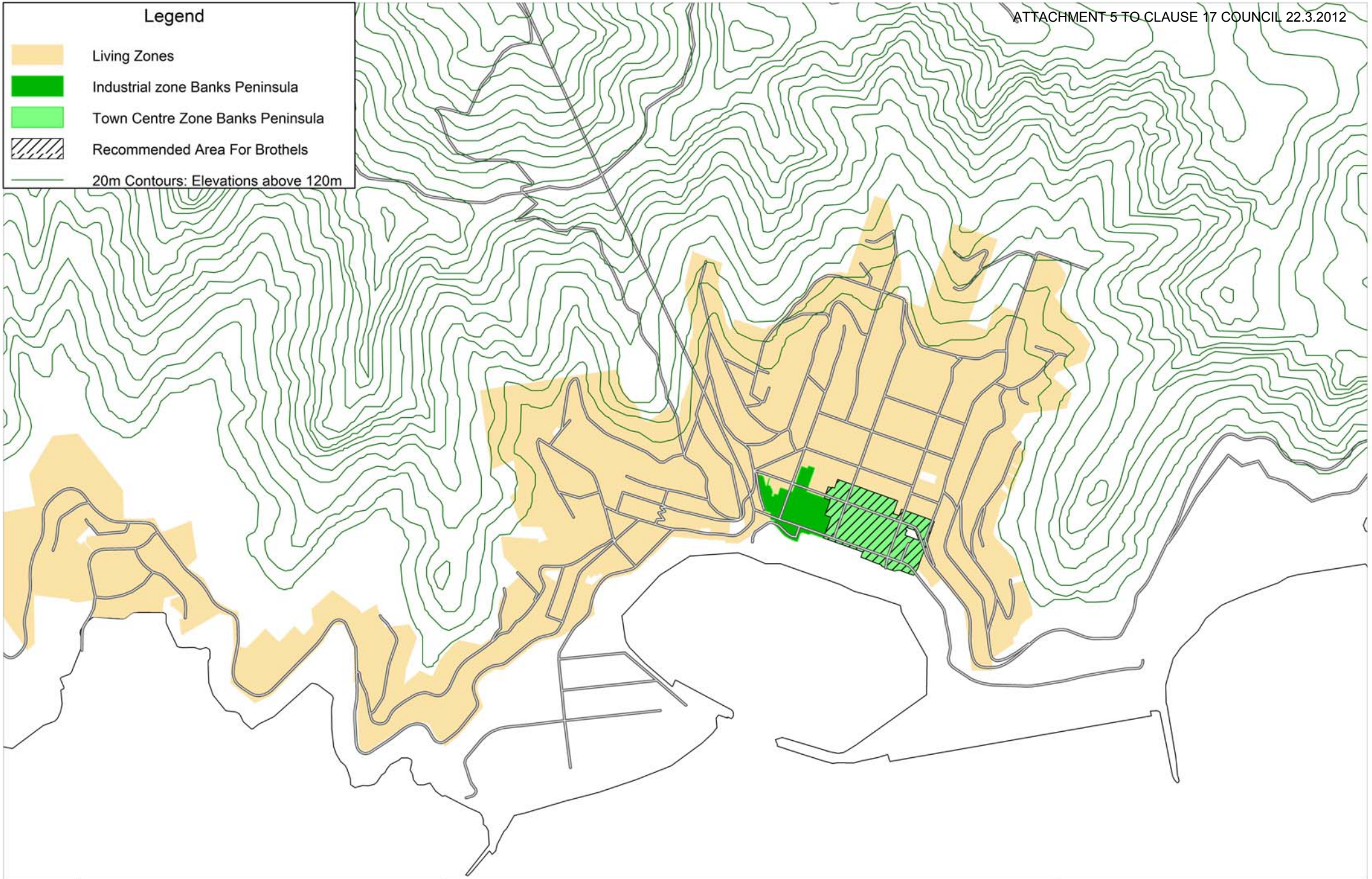
Possible Areas where brothels are permitted: Recommended Business Zones [Outside Central City]

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:72,500
Last Updated: March 2012

Attachment 5



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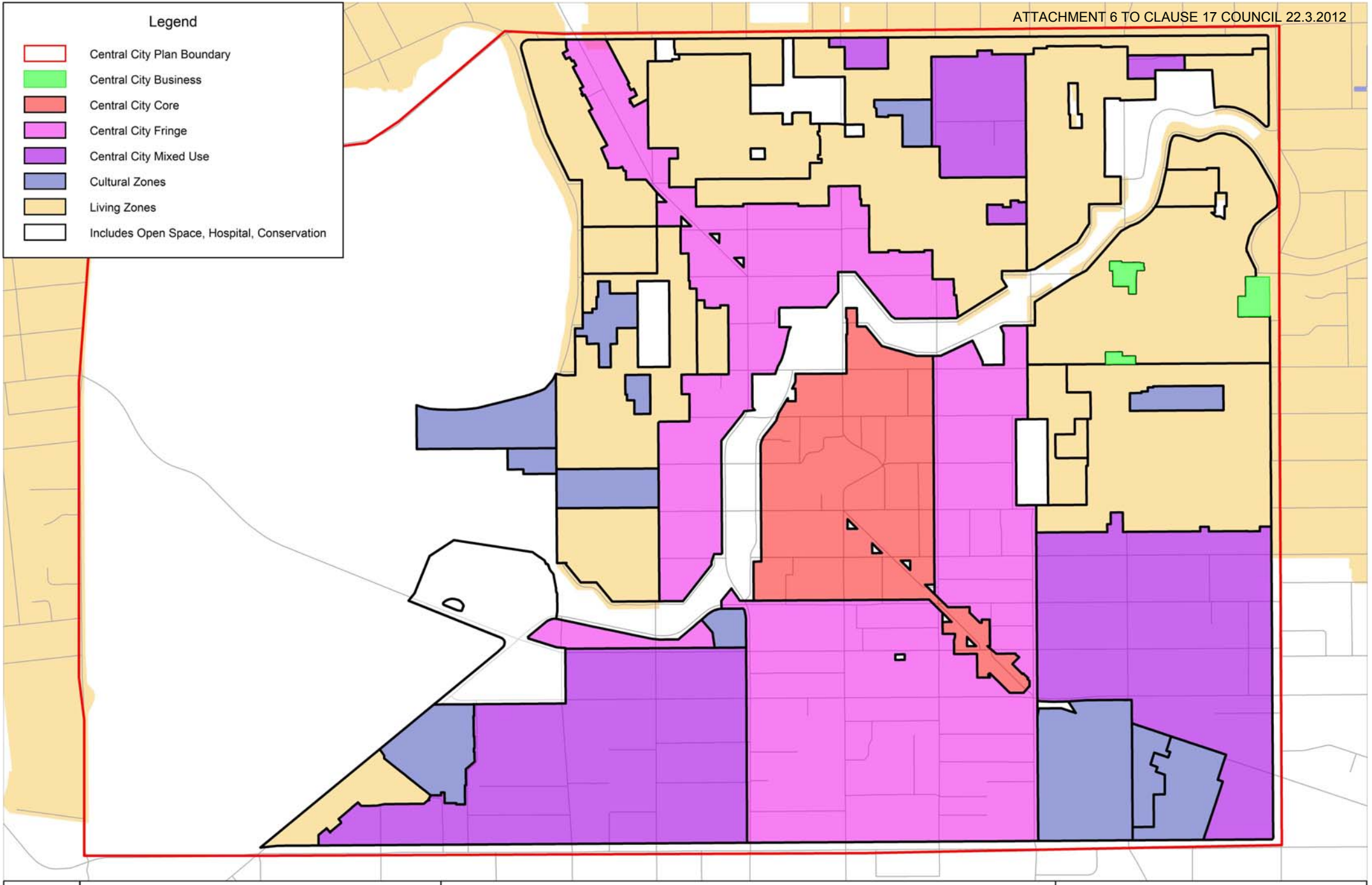
Possible areas where brothels are permitted: Lyttelton Town Centre and Industrial Zone

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:8,800
Last Updated: March 2012

Attachment 6

ATTACHMENT 6 TO CLAUSE 17 COUNCIL 22.3.2012



Christchurch City Council

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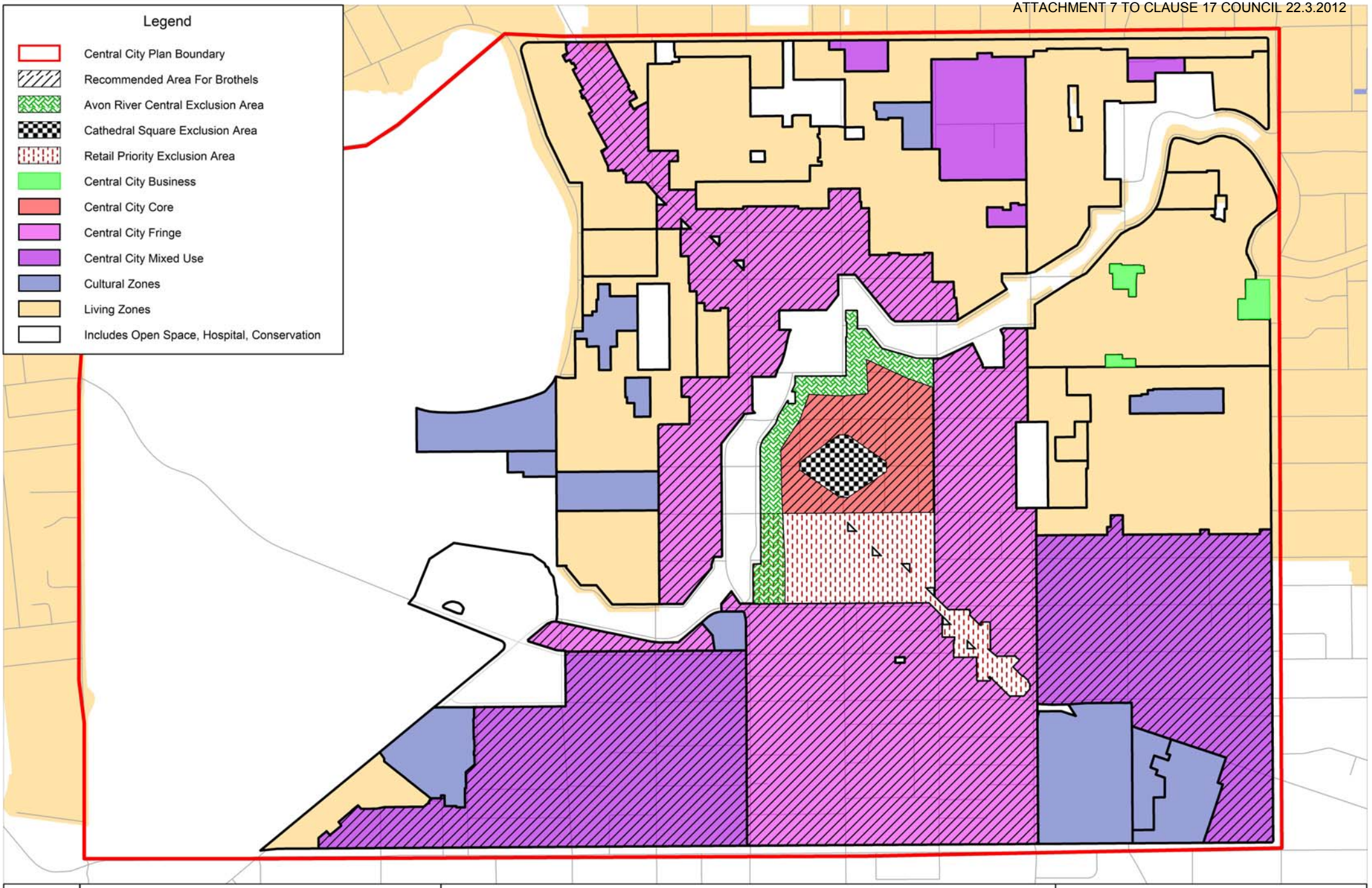
Possible areas where brothels are permitted:Central City

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:8,800
Last Updated: March 2012

Attachment 7



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Possible areas where brothels are permitted:Central City

WorkSpace: 602BrothelLocationExclusionByCityPlanZoneProximity.gws
Layout:a3
Scale:1:8,800
Last Updated: March 2012